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July 23, 2004

Ms. Blanca S. Bayo, Director  
Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center, Room 110  
Tallahassee, Florida 32399-0850

**HAND DELIVERY**

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Re: Docket No. 040086-EI

Dear Ms. Bayo:

Enclosed herewith for filing on behalf of Allied Universal Corporation and Chemical Formulators, Inc. ("Allied/CFI") are the original and fifteen copies of Allied/CFI's Request for Confidential Classification.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me. Thank you for your assistance with this filing.

Sincerely,

*Martin P. McDowell for*

Kenneth A. Hoffman

CMP \_\_\_\_\_

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**ORIGINAL**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Allied Universal Corporation and )  
Chemical Formulators, Inc.'s Petition to )  
Vacate Order No. PSC-01-1003-AS-EI )  
Approving, as Modified and Clarified, the )  
Settlement Agreement between Allied )  
Universal Corporation and Chemical )  
**Formulators, Inc. and Tampa Electric** )  
Company and Request for Additional )  
Relief. )  
\_\_\_\_\_)

Docket No. 040086-EI

Filed: July 23, 2004

**ALLIED UNIVERSAL CORPORATION  
AND CHEMICAL FORMULATORS, INC.'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

Allied Universal Corporation and Chemical Formulators, Inc. ("Allied/CFI"), by and through their undersigned counsel, and pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, hereby file this Request for Confidential Classification for portions of their Amended Petition to Vacate Order No. PSC-01-1003-AS-EI Approving, as Modified and Clarified, the Settlement Agreement between Allied Universal Corporation and Chemical Formulators, Inc. and Tampa Electric Company ("TECO") and Request for Additional Relief. As grounds for this request, Allied/CFI state as follows:

1. On July 2, 2004, Allied/CFI filed an Amended Petition to Vacate Order No. PSC-01-1003-AS-EI Approving, as Modified and Clarified, the Settlement Agreement between Allied Universal Corporation and Chemical Formulators, Inc. and Tampa Electric Company and Request for Additional Relief ("Amended Petition"). Allied/CFI contemporaneously filed on July 2, 2004, a Notice of Intent to Seek Confidential Classification of portions of the Amended Petition (and Exhibits A, D and E attached thereto) on the grounds that it contained information that may be viewed by TECO or Odyssey Manufacturing Company ("Odyssey"), to constitute proprietary

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confidential business information. Such information was redacted from Allied/CFI's Amended Petition (and Exhibits A, D and E attached thereto) filed with the Commission Clerk and served on the parties. A copy of the unredacted pages of Allied/CFI's Amended Petition and Exhibits A, D and E containing the proprietary confidential business information was filed under a separate cover with the Commission Clerk.

2. Allied/CFI have noted previously in pleadings filed in this proceeding that specific rate information and information related to negotiations between Odyssey and TECO toward a Contract Service Agreement ("CSA") under TECO's Commercial Industrial Commercial Service Rider ("CISR") Tariff has been filed in the public record in the pending circuit court proceeding, Allied Universal Corporation and Chemical Formulators, Inc. v. Odyssey Manufacturing Company and Sentry Industries, Inc., Miami-Dade County Circuit Court Case No. 01-27699 CA 25. Specifically, this information was included in the filed and unredacted transcripts of depositions of two Odyssey employees, Messrs. Allman and Sidelko. Allied/CFI have further stated in the previous pleadings that due to the termination of TECO's CISR tariff program, the justification for treating CISR rate and CISR negotiation information as confidential should no longer exist.

3. On July 20, 2004, at its Regular Agenda Conference, the Commission considered a staff recommendation which addressed three pending Requests for Confidential Classification of Documents that have been filed in this docket by both Allied/CFI and Odyssey. The staff recommendation took into account the unique situation that has been created by the fact that both the Allman and Sidelko deposition transcripts have been filed in the public record of the Miami-Dade circuit court proceeding, and that the information contained in those deposition transcripts has been treated by the Commission as confidential in the past, and is presently being treated by the

Commission as confidential in Docket No. 000061-EI. The staff recommendation also noted that the Allman and Sidelko deposition transcripts were the subject of Odyssey's recently-filed Motion to Seal Documents in Court File with the Miami-Dade circuit court, which remains pending.

4. After some deliberation, the Commission unanimously voted to defer ruling on the three pending Requests for Confidential Classification in this docket. The Commission's action essentially preserves the "status quo" of treating the documents that are the subject of the Requests for Confidential Classification as confidential, pending a ruling by the Miami-Dade circuit court on Odyssey's Motion to Seal Documents in Court File.

5. In accordance with the Commission's decision to preserve the "status quo" of the confidential treatment of information filed in this docket that may be viewed by as confidential business information, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Allied/CFI hereby file this Request for Confidential Classification for portions of the Amended Petition.

6. Rule 25-22.006(4)(d), Florida Administrative Code, requires that a request for confidential classification shall include an affirmative statement that the material for which confidential classification is sought is intended to be and is treated by the utility or other person as private and has not been disclosed. As noted previously, specific rate information and information related to negotiations between Odyssey and TECO toward a CSA under TECO's CISR Tariff has been filed in the public record in the pending Miami-Dade circuit court proceeding, but is still considered confidential by the Commission.

7. Allied/CFI's Amended Petition and Exhibits A, D and E to the Amended Petition contain specific information related to and arising from negotiations between TECO and Odyssey

and the culmination of a CSA pursuant to TECO's CISR Tariff.<sup>1</sup> The Amended Petition also contains specific information related to and arising from discussions between TECO and Allied/CFI, wherein Allied/CFI sought to obtain a CSA from TECO pursuant to TECO's CISR Tariff. The redacted information in the Amended Petition (and Exhibits A, D and E to the Petition) may be viewed by TECO and Odyssey as confidential pursuant to Section 366.093(3)(d) and (e), Florida Statutes.

8. Further, TECO's Commission-approved Tariff Sheet No. 6.710 implementing TECO's CISR Tariff, provides that a CSA shall be considered a confidential document, and that the pricing levels and procedures described within the CSA, as well as information supplied by the customer through an energy audit or as a result of negotiations or information requests by the Company and any information developed by the Company in connection therewith, shall be made available for review by the Commission and its staff only, and such review shall be made under the confidentiality rules of the Commission. The CSA entered into between TECO and Odyssey has been granted confidential classification by the Commission in Order No. PSC-01-1442-CFO-EI issued July 5, 2001.

9. The portions of Allied/CFI's Amended Petition, and Exhibits A, D and E attached thereto, for which confidential classification is sought, all relate to the information as described above. Specifically, paragraph 23 of the Amended Petition includes an excerpt from a sworn affidavit of the president of Odyssey which was provided to TECO by Odyssey in the course of its

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<sup>1</sup>TECO's CISR Tariff was approved by the Commission pursuant to Order No. PSC-98-1081-FOF-EI, issued August 10, 1998, in Docket No. 980706-EI. The CISR Tariff authorizes TECO to negotiate a discount on base energy and/or base demand charges with commercial/industrial customers who can demonstrate that they have viable alternatives to taking electric service from TECO.

negotiations to secure a discounted rate under TECO's CISR Tariff. The information contained in the affidavit relating to a specific kilowatt hour rate is, or may be, entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), Florida Statutes, and pursuant to the CISR Tariff. In addition to appearing in the affidavit, which is included in Composite Exhibit A of the Amended Petition, this specific information, or discussions related to this specific rate information, appears throughout the body of the Amended Petition. See, Amended Petition at page 9, Paragraphs 23-24; Amended Petition at page 10, Paragraph 28 and 30; Amended Petition at page 11, Paragraph 31; Amended Petition at page 13, Paragraph 34; Amended Petition at page 14, Paragraphs 37, sub-parts (a), (c), (d), and (e); Amended Petition at page 14, Footnote 5; Amended Petition at page 20, paragraph 46, sub-part (l); Amended Petition at page 22, paragraph 48-49; Amended Petition at page 23, paragraph 50; Amended Petition at page 24, paragraph 52; and Composite Exhibit A, Exhibit D, and Exhibit E to the Amended Petition.

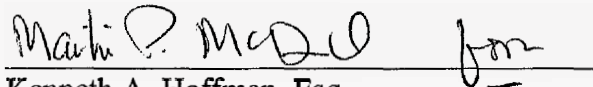
10. The remaining portions of Allied/CFI's Amended Petition for which confidential classification is sought is also, or may be also entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), Florida Statutes, and pursuant to the CISR Tariff. Specifically, it is information directly related to the negotiations between TECO and Allied/CFI, in which Allied/CFI sought to secure a discounted rate under TECO's CISR Tariff, information related to and arising from negotiations between TECO and Odyssey and the culmination of a CSA pursuant to TECO's CISR Tariff, or information related to pricing levels and procedures described within TECO's CSA. See, Amended Petition at page 2, Paragraph 5; Amended Petition at page 13, paragraph 35; Amended Petition at page 14-15, paragraph 38, sub-parts (a), (b), (c), (e), (f), and (i); Amended

Petition at page 18, paragraph 43- 44; Amended Petition at page 19-21, paragraph 46, subparts (a), (b), (c), (d) and (t); Amended Petition at page 24, paragraph 51, subpart (a).

11. Allied/CFI submit that the redacted information contained in the Amended Petition, and Exhibits A, D and E to the Amended Petition, is, or may be, proprietary confidential business information within the meaning of Section 366.093(3)(d) and (e), Florida Statutes, and pursuant to TECO's CISR Tariff. Pursuant to Section 366.093, Florida Statutes, such information may be entitled to confidential treatment and if so, is exempt from the disclosure provisions of the public records law.

WHEREFORE, for the above and foregoing reasons, Allied Universal Corporation and Chemical Formulators, Inc. respectfully ask that this Request for Confidential Classification be granted, pending further Order of the Commission.

Respectfully submitted,



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J. Stephen Menton, Esq.

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Attorneys for Allied Universal Corporation  
and Chemical Formulators, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail this 23<sup>d</sup> day of July, 2004, to the following:

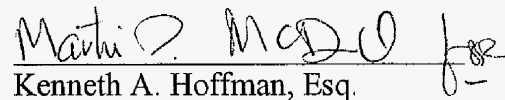
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