

BEFORE THE PUBLIC SERVICE COMMISSION

In re: 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, by Allied Universal Corporation and Chemical Formulators, Inc.

DOCKET NO. 040086-EI
ORDER NO. PSC-04-0724-CFO-EI
ISSUED: July 27, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER ON REQUESTS FOR CONFIDENTIAL CLASSIFICATION

BY THE COMMISSION:

On January 30, 2004, Allied Universal Corporation and Chemical Formulators, Inc. (Allied) filed a petition to vacate Commission Order No. PSC-01-1003-AS-EI, in Docket No 000061-EI. The order had approved a comprehensive settlement agreement between Allied and Tampa Electric Company (TECO) that resolved Allied's complaint against TECO for allegedly providing preferential rates under TECO's Commercial Industrial Service Rider (CISR) tariff to Odyssey Manufacturing Company (Odyssey).¹ Allied has also filed suit against Odyssey in circuit court in Miami-Dade County for state antitrust violations and other allegations of interference with business relationships.² In the course of that proceeding, Allied has conducted depositions of several Odyssey representatives, including Odyssey's president, Mr. Sidelko, and Odyssey's employee, Mr. Allman, a former TECO employee. The circuit court proceeding is

¹ Order No. PSC-01-1003-AS-EI, issued April 24, 2001, In re: Complaint by Allied Universal Corporation and Chemical Formulators, Inc. against Tampa Electric Company for violation of Section 366.03, 366.06(2), and 366.07, F.S. with respect to rates offered under commercial/industrial service rider tariff; petition to examine and inspect confidential information; and request for expedited relief.

² Case No. 01-27699-CA-25, in the Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida.

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still pending, and the confidential status of these depositions is the subject of a dispute between Allied and Odyssey. On July 13, 2004, Odyssey filed with the circuit court a Motion to Seal Documents in Court File, alleging that Allied filed the Sidelko and Allman depositions in the public court record in violation of an Agreed Protective Order that had been issued in the case.

This Order addresses the requests that Allied and Odyssey have made in our Commission docket for confidential classification of certain information that is contained in or taken from the Sidelko and Allman depositions. The Office of Public Counsel (OPC) has also filed a Motion for Determination of the Proper Treatment of Deposition Transcript of Mr. Patrick Allman, and a Motion to Expedite Determination of the Proper Treatment of Deposition Transcript of Mr. Patrick Allman because OPC obtained an unredacted copy of the deposition from the circuit court file. In light of the outstanding questions about the confidential status of these depositions in the circuit court case and the preliminary stage of the case before us, we decline to rule on the confidentiality requests at this time. The documents in question have been, and will continue to be, treated as confidential pursuant to section 366.093, Florida Statutes, and Commission Rule 25-22.006, Florida Administrative Code, pending a definitive Commission ruling at the appropriate time. At our July 20, 2004, Agenda Conference, when we considered this matter, OPC acknowledged that our decision has rendered OPC's motions moot.

It is therefore

ORDERED by the Florida Public Service Commission that a decision on the requests for confidential classification of portions of the Allman and Sidelko depositions will not be made at this time. It is further

ORDERED that OPC's motions are moot.

By ORDER of the Florida Public Service Commission this 27th day of July, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.