

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

OCTOBER 5, 2004

RE: Docket No. 040086-EI - 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.

Issue 1: Should the Commission grant the request for oral argument?

Recommendation: Yes.

DEFERRED

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE
 10696 OCT-5 04
 FPSC-COMMISSION CLERK

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Issue 2: Should the Commission dismiss Allied's amended petition?

Recommendation: Yes. Allied's amended petition fails to state a cause of action upon which the Commission can grant the relief requested. The Commission should dismiss the amended petition with prejudice.

Issue 3: Should the Commission grant Odyssey's Motions for Attorney's Fees and Sanctions?

Recommendation: The Commission should not address Odyssey's Motions for Attorney's Fees at this time. If the Commission grants the motions to dismiss, the Commission should address the motions when its Order becomes final and any appellate proceedings are concluded. If the Commission denies the motions to dismiss, it should address the motions during the course of the hearing procedure.

Issue 4: Should this docket be closed?

Recommendation: No. If the Commission dismisses Allied's amended petition with prejudice, this docket should remain open pending consideration of the outstanding motions for attorneys fees and sanctions. If the Commission dismisses Allied's amended petition with further leave to amend, or denies the motions to dismiss, the docket should remain open for further proceedings.