

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: April 6th, 2005

**ODYSSEY MANUFACTURING COMPANY'S
RESPONSE TO MOTION TO CLARIFY**

Odyssey Manufacturing Company ("Odyssey"), by and through its undersigned counsel, and pursuant to Rule 28-106.204(1), Florida Administrative Code, hereby responds to the Motion to Clarify Order No. PSC-05-0343-CFO-EI filed by Allied Universal Corporation and Chemical Formulators, Inc. ("Allied/CFI"), and in support states the following:

1. Allied/CFI seek not to clarify but in effect, to reconsider Order No. PSC-05-0343-CFO-EI, which granted their request for confidential classification.
2. Allied/CFI now seek to declassify certain portions of its Amended Petition on the purported grounds that the classified information contained therein has been made public record by the parties and the Commission in certain other documents. The information for which Allied/CFI seek declassification relates to its allegations that Odyssey is exempt from payment of fuel charges and other adjustment clause costs.
3. Allied/CFI's allegations are just that, allegations. The fact that the Commission Staff, in its September 23, 2004, Recommendation, and the Commission itself, in its Order Dismissing Allied/CFI's Petition to Vacate, merely refer to such allegations does not lend any credence to them.
4. Allied/CFI's other references to pages of said Staff Recommendation, Order, and Tampa Electric Company's Motion to Dismiss, do nothing more than describe certain aspects of Order No. 98-1081-FOF-EI, commonly known as the CISR Order, and Order No. PSC-01-1003-AS-

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EI, the Settlement Order. Allied/CFI's reliance on them in their Motion as justification to declassify the aforesaid excerpts of their own Amended Petition is specious.

5. In addition to their own Response to Motions to Dismiss, the fact of the matter is that in their Initial Brief in the pending appeal before the Florida Supreme Court (Case No. SC04-2329), Allied/CFI freely raise their allegations (sometimes characterized as established fact) regarding Odyssey's purported exemption from fuel charges and other adjustment clause charges. See in particular pp. 12 (including footnote 5), 14, 19, 28, 29 and 35 of the Initial Brief. The motivation behind the instant Motion is therefore suspect.

6. It is Odyssey's contention that Allied/CFI's Motion is nothing more than an attempt to highlight one of their pet theories in this protracted litigation during the pendency of the instant appeal. By doing so, Allied/CFI once again needlessly impose burdens and costs, on Odyssey, and on the Commission.

7. Accordingly, Odyssey respectfully requests the Commission, in disposing of Allied/CFI's Motion, to consider the foregoing and take particular care in not allowing Allied/CFI to improperly bolster their pending appeal by confusing allegations with established fact, contrary to the law governing the PSC's confidential treatment of information.

Respectfully submitted this 6th day of April, 2005.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response to Motion to Clarify has been furnished via U.S. Mail to the following on this 6th day of April, 2005:

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