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January 31, 2001

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, FL 32399-0850

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RECORDS AND REPORTING

Re: Docket No.000061-EI

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Allied Universal Corporation and Chemical Formulators, Inc. ("Allied/CFI") are: (1) the original and fifteen copies of Allied/CFI's Response in Opposition to Odyssey's Motion for Reconsideration, together with a disk in WordPerfect 6.0 format containing Allied/CFI's Response; and (2) the original and fifteen copies of Allied/CFI's Notice of Intent to Request Confidential Classification.

Please acknowledge receipt of these documents by date stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

Sincerely,

John R. Ellis
John R. Ellis

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Allied Universal Corporation and Chemical Formulators, Inc. against Tampa Electric Company for violation of Sections 366.03, 366.06(2) and 366.07, Florida Statutes, with respect to rates offered under Commercial/Industrial Service Rider tariff; petition to examine and inspect confidential information; and request for expedited relief.
_____)

Docket No. 000061-EI

Filed: January 31, 2001

ALLIED/CFI'S RESPONSE IN OPPOSITION TO ODYSSEY'S MOTION FOR RECONSIDERATION

Allied Universal Corporation ("Allied") and its affiliate, Chemical Formulators, Inc. ("CFI"), hereinafter referred to collectively as "Allied/CFI," by and through their undersigned counsel, and pursuant to Rule 25-22.376, Florida Administrative Code, and Order No. PSC-01-0231-PCO-EI, issued on January 24, 2001 ("Order on TECO's Motions to Compel"), hereby submit their response in opposition to the Motion for Reconsideration filed by Odyssey Manufacturing Company ("Odyssey"), and state:

1. This docket is set for final hearing on February 19, 2001. Allied/CFI expects and intends to proceed with the final hearing as scheduled.
2. The issues presented for decision by the Commission in this docket involve the disparity between TECO's responses to: (1) Odyssey's 1998 request for discounted rates under TECO's Commercial/Industrial Service Rider ("CISR") tariff for electric service to a liquid chlorine bleach manufacturing plant which Odyssey proposed to build; and (2) Allied/CFI's 1999 request for

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the same discounted CISR tariff rates for electric service to an essentially identical liquid chlorine bleach manufacturing plant which Allied/CFI proposed to build.

3. Therefore, the issues presented in this proceeding involve conduct which occurred at two specific times: (1) in 1998, when Odyssey requested CISR tariff rates from TECO; and (2) in 1999, when Allied/CFI requested CISR tariff rates from TECO.

4. The five issues presented to the Commission for decision in this proceeding, as stated in the draft Prehearing Order, are:

- Issue 1: Has TECO acted in violation of its CISR tariff, Commission Order No. PSC-98-1081A-FOF-EI, or relevant sections of the Florida Statutes in its response to Odyssey's request for CISR tariff rates?
- Issue 2: Has TECO acted in violation of its CISR tariff, Commission Order No. PSC-98-1081A-FOF-EI, or relevant sections of the Florida Statutes in its response to Allied's request for CISR tariff rates?
- Issue 3: Do the differences, if any, between the rates, terms and conditions stated in TECO's letter of October 18, 1999, to Allied and those agreed to between TECO and Odyssey constitute a violation of relevant Florida Statutes, the requirements of Commission Order No. PSC-00-1081A-FOF-EI, or the CISR tariff?
- Issue 4: Based on the resolution of Issues 1-3, what actions, if any, should the Commission take with respect to Odyssey, Allied and TECO?
- Issue 5: Does Allied have standing to maintain their complaint in this proceeding?

5. Odyssey's motion for reconsideration represents an attempt to begin discovery, on the eve of the final hearing, with respect to matters that are not relevant to the issues presented in this

proceeding and that are likely to result in continuance of the final hearing date if the requested discovery is permitted.

6. Since filing its Petition for Leave to Intervene on March 28, 2000, Odyssey has not served any discovery requests to any party. Instead, Odyssey has consistently maintained that it is completely indifferent on the issue of what rates should be offered for service to Allied/CFI's proposed new plant. Now, at the eleventh hour, Odyssey is requesting authorization - by way of a motion for reconsideration of the Order on TECO's Motions to Compel - to conduct discovery on a multitude of contentious new issues involving the competition between Odyssey and Allied/CFI in the Florida market for their products.

7. The discovery requests which are the subjects of the Order on TECO's Motions for Reconsideration and of Odyssey's motion for reconsideration involve conduct which is irrelevant to the issues in this proceeding. The issues in this proceeding involve TECO's responses to the requests of Odyssey and of Allied/CFI for CISR tariff rates. Opening discovery at this late date on the subject of competition between Allied/CFI, Odyssey, and all other competitors in the market for their products throughout the State of Florida since January 1, 1998, will only serve to delay and frustrate Allied/CFI's efforts to obtain a decision on the merits of the issues legitimately presented for decision by the Commission in this proceeding.

8. The subject of competition between Allied/CFI and Odyssey obviously raises multiple issues of confidentiality and trade secret protection. Before filing its motion for reconsideration, Odyssey had taken the position throughout this action that its trade secrets and confidential business information should be protected against discovery by Allied/CFI. In response, Allied/CFI has not sought discovery of any information concerning Odyssey other than: (1) the rates, terms and

conditions stated in Odyssey's Contract Service Agreement with TECO; and (2) whether Odyssey's met the CISR tariff requirements, including whether it had a viable, lower cost alternative to taking electric service from TECO. Specifically, Allied/CFI has not sought discovery or disclosure of any information concerning Odyssey's plant capacity, plant process, customers, contracts, bids for contracts, market share, revenues, products, marketing strategy, and the like.

9. The fact that non-confidential documents exist with respect to Allied/CFI's and Odyssey's bids for public contracts for sodium hypochlorite does not mean that discovery should be permitted to be conducted in this action, for the first time and on the eve of the final hearing, with respect to subject of competition between Allied/CFI, Odyssey, and others in the Florida market for their products. The attempt to conduct discovery on this contentious and irrelevant subject would be guaranteed to result in the filing of additional motions to compel and motions for protective orders, at a minimum. Whether intended or not, the certain result of the discovery sought would be to divert all counsel's time and energy from the issues which will be presented to the Commission for decision in this hearing.

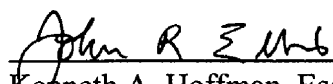
10. On January 22, 2001, Allied/CFI filed the rebuttal testimony of four witnesses demonstrating, among other matters: (1) that Allied/CFI complied with the CISR tariff requirement that an applicant must demonstrate that existence of a viable, lower cost alternative to taking electric service from TECO; (2) that Odyssey did not comply with this requirement; (3) that Allied/CFI knew that it was being offered a higher CISR tariff rate than Odyssey's, although it did not know how much higher its offered rate was; and (4) that the dollar difference in just two of the terms of the CISR tariff rates offered to and accepted by Odyssey, and the CISR tariff rates offered to and rejected by Allied/CFI, is a very substantial and significant amount over the periods of the two offers. As

stated in the prefiled rebuttal testimony of Allied/CFI's expert witness, Dr. Charles F. Phillips, no public utility should have such authority or power over the success or failure of two business competitors, and economic regulation of public utilities was undertaken in part to prevent just such price discrimination.

11. As stated in Allied/CFI's motion for reconsideration, the relevant issues in this proceeding involve the economic disadvantage to Allied/CFI's ability to compete with Odyssey if Allied/CFI's plant had been built, not the harm to Allied/CFI resulting from the fact that Allied/CFI's plant has not yet been built. Simply stated, the question is: was TECO required to offer Allied/CFI non-discriminatory rates for service to Allied/CFI's proposed new plant? And, did Odyssey qualify for CISR tariff rates? This Commission has jurisdiction over the rates to be offered, not over any claim for damages for the failure to offer non-discriminatory rates. Allied/CFI's ability to compete without a new plant, and the voluminous and extremely sensitive trade secret information as well as the voluminous non-confidential information concerning Allied/CFI's competition since 1998 with Odyssey and other companies in Florida, is not relevant to the issues presented to the Commission concerning the disparity in TECO's responses to Odyssey and to Allied/CFI. Odyssey's attempt to begin discovery at the eleventh hour on this contentious and irrelevant issue, by way of a motion for reconsideration of an Order issued with respect to discovery requests Odyssey has not served, should be rejected.

WHEREFORE, Allied/CFI requests that Odyssey's motion for reconsideration be denied.

Respectfully submitted,



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Attorneys for Allied Universal Corporation and
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Allied/CFI's Response in Opposition to Odyssey's Motion for Reconsideration was furnished by U. S. Mail or by hand delivery(*) or by facsimile telecopier (**) to the following this 31st day of January 2001:

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Marlene Stern, Esq.
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Florida Public Service Commission
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Tallahassee, Florida 32399-0850

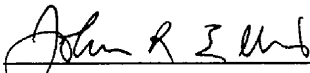
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