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March 10, 2000

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ORIGINAL

RECORDS AND  
REPORTING

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RECEIVED-FPSC

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

Re: Complaint of Allied Universal Corporation and Chemical Formulators, Inc.  
against Tampa Electric Company; FPSC Docket No. 000061-EI

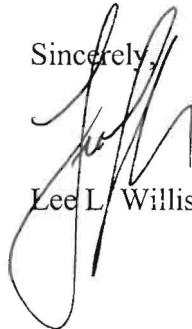
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Request of Confidential Classification of Documents related to Commercial/Industrial Service Rider Contract Service Agreement Negotiations.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,



Lee L. Willis

LLW/pp  
Enclosures

cc: All Parties of Record (w/enc.)

RECEIVED & FILED

  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

03139 MAR 10 8

FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Allied Universal Corporation )  
Chemical Formulators, Inc. against Tampa Electric )  
Company. )  
\_\_\_\_\_ )

DOCKET NO. 000061-EI  
FILED: March 10, 2000

**TAMPA ELECTRIC COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
OF DOCUMENTS RELATED TO COMMERCIAL/INDUSTRIAL  
SERVICE RIDER CONTRACT SERVICE AGREEMENT NEGOTIATIONS**

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to Rule 25-22.006, Florida Administrative Code, and Section 366.093, Florida Statutes, files this its request for specified confidential treatment of certain documents and information being supplied under separate confidential cover letter this date and relating to the confidential Commercial/Industrial Service Rider ("CISR") Contract Service Agreement ("CSA") negotiations Tampa Electric engaged in with certain industrial customers and, as grounds therefor, says:

1. This complaint proceeding was brought by Allied Universal Corporation ("Allied") and Chemical Formulators, Inc. ("CFI"), collectively referred to as Allied/CFI, against Tampa Electric Company. Allied/CFI has put forth various allegations of wrongdoing. Allied/CFI has also sought to obtain information relating to Tampa Electric's CSA negotiations with Allied/CFI on the one hand and Odyssey Manufacturing Corporation ("Odyssey"), a competitor of Allied/CFI, on the other hand.

2. On February 14, 2000 Tampa Electric filed its answer to Allied/CFI's complaint denying all Allied/CFI's various allegations of wrongdoing. That filing was accompanied by Tampa Electric's objections and motions for protective orders relative to Allied/CFI's discovery

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

requests along with a request for approval of proposed procedures for a disposition of this proceeding without disclosing confidential information and for summary disposition of the case. Those various requests remain pending and Tampa Electric incorporates herein by reference the assertions it has made in support of its motions for protective orders.

3. As Tampa Electric stated in its answers to Allied/CFI's complaint, the company is very willing to present to the Commission, on a confidential basis, information that will substantiate that the company has at all times acted in good faith, without delay, and has not favored one CISR customer over another. As the company also stated, an all important preface to such presentation is the need to ensure that the confidential terms and conditions of the CSA Tampa Electric entered into with Odyssey and the terms and conditions of the CSA proposal presented to Allied/CFI are not disclosed to anyone other than the Commission and its Staff on a confidential basis. That is the purpose of this request.

**Basis for Confidential Treatment**

4. All of the CSA related information being supplied herewith to the Commission is entitled to confidential protection. Tampa Electric's own Commission approved CISR tariff states that this information shall be made available for review by the Commission and its Staff only. In approving such tariff provision, the Commission no doubt recognized that public disclosure of CSA information can only do harm to the utility, its customers and the participating CISR customer or customers. This is particularly true here given the highly competitive nature of the bleach plant industry, as characterized in Allied/CFI's own pleadings. Both Allied/CFI and Odyssey have insisted upon having binding non-disclosure agreements with Tampa Electric before sharing any information with the company in CSA negotiations.

5. Attempting to redact confidential information from the CSA related documents would not be useful because Tampa Electric's Commission approved tariff specifically contemplates all of the information being treated confidentially when it is made available for review by the Commission and its Staff only. Consequently, Tampa Electric has submitted a single copy of these confidential documents printed on yellow paper and stamped "Confidential" to reflect that all of this information should be treated confidentially.

6. This Commission has determined that CSAs are proprietary confidential documents on a number of occasions since the advent of CISR tariffs as a means to enable electric utilities to attract or retain at risk commercial/industrial customers for the benefit of the general body of ratepayers. For example, in a recent order<sup>1</sup> involving a confidentiality classification request by Gulf Power pertaining to negotiated CSA provisions the Commission observed:

. . . Upon review, it appears that the information for which Gulf seeks confidential classification is proprietary, confidential business information which, if disclosed, would tend to harm the competitive interests of Gulf and the entity with which it has negotiated a CSA contract. It appears as if the public disclosure of this information may prevent Gulf from successfully negotiating CSAs with customers. This information is regarded as sensitive and confidential by the CISR customer because public disclosure of this information would impact the customer's ability to compete in its "native market." In the event such information is made public, it appears as if future potential CISR rider customers could avoid the risk of public disclosure of their confidential information by refusing to negotiate with Gulf. This may lead to uneconomic bypass of Gulf's facilities. Therefore, this information is entitled to confidential classification under Section 366.093(3), Florida Statutes. In accord with Section 366.093(4), Florida Statutes, this information shall be granted confidential classification for a period of 18 months from the date of the issuance of this Order.

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<sup>1</sup> Order No. PSC-99-0274-CFO-EI, issued February 11, 1999 in Docket No. 960789-EI

7. In view of the foregoing Tampa Electric asserts that public disclosure of the documents the company is submitting this date under separate confidential cover letter could only do harm to Tampa Electric's bleach plant customers who compete with one another, and ultimately to Tampa Electric and its general body of ratepayers. Accordingly, we urge that those documents be treated as confidential proprietary business information and exempt from public disclosure pursuant to the above referenced authority. A confidential review by the Commission and its Staff of the documents being supplied should provide a solid basis for the Commission's summary disposition of the complaint brought by Allied/CFI without causing the harm that public disclosure of the information in question would effect.

**Requested Duration of Confidential Treatment**

8. Tampa Electric requests that all of the confidential documents that are the subject of this request be maintained by the Commission as confidential information pending the disposition of this proceeding and then promptly returned to Tampa Electric so that none of the documents is made public. This would be the most convenient for all concerned and would minimize the time and expense the Commission would incur in having to maintain the documents in a confidential manner. If for any reason the Commission wishes to retain custody of any of the documents beyond the disposition of this proceeding, Tampa Electric requests that the CSA between Tampa Electric and Odyssey and all documents pertaining to that CSA, including information supplied by the parties during their negotiations, be classified as confidential for at least six months beyond the expiration of such CSA, which is a multi year agreement. Tampa Electric further requests that if the Commission wishes to retain custody of documents relating to Tampa Electric's CSA negotiations with Allied/CFI (which did not result in a CSA), such information should be treated as confidential at least through the closure of

Tampa Electric's CISR tariff to further subscription by eligible customers in accordance with the provisions of the CISR tariff. This will avoid the harm to Tampa Electric and its customers that would occur if the information in question were made known to the public at a time when Tampa Electric might be negotiating a CISR CSA with other at risk customers. Tampa Electric, again, believes that the most-administratively expedient alternative and the one with the least likelihood of causing competitive harm would be for the Commission to return all of the supplied documents to Tampa Electric at the conclusion of this docket.

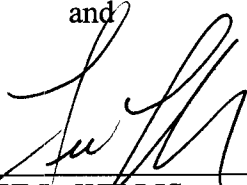
WHEREFORE, Tampa Electric submits the foregoing in support of its request for confidential classification of the documents Tampa Electric is filing this date in this proceeding under separate confidential letter of transmittal for the duration requested herein.

DATED this 10<sup>th</sup> day of March, 2000.

Respectfully submitted,

HARRY W. LONG, JR.  
Chief Counsel  
TECO Energy, Inc.  
Post Office Box 111  
Tampa, Florida 33601  
(813) 228-4111

and



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LEE L. WILLIS  
JAMES D. BEASLEY  
Ausley & Macmillan  
Post Office Box 391  
Tallahassee, FL 32302  
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Request for Confidential Classification, filed on behalf of Tampa Electric Company, has been furnished by hand delivery(\*) or U. S. Mail this 10<sup>th</sup> day of March, 2000 to the following:

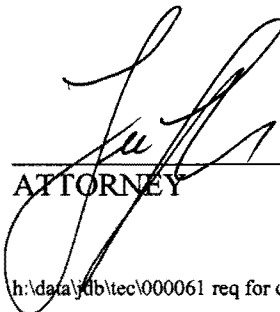
Robert V. Elias\*  
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Allied Universal Corporation  
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Miami, FL 32166-2026

Chemical Formulators, Inc  
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Tampa, FL 33611-3223

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Mr. Kenneth Hoffman  
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ATTORNEY

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