BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Allied Universal Corporation and Chemical Formulators, Inc. against Tampa Electric Company for violation of Sections 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.	DOCKET NO. 000061-EI ORDER NO. PSC-01-0467-PCO-EI ISSUED: February 26, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER ON RECONSIDERATION AND CLARIFICATION OF ORDER NO. PSC-01-0231-PCO-EI

BY THE COMMISSION:

I. Background

On January 20, 2000, Allied Universal Corporation and Chemical Formulators, Inc. (Allied) filed a formal complaint against Tampa Electric Company (TECO). The complaint alleges that: 1) TECO violated Sections 366.03, 366.06(2), and 366.07, Florida Statutes, by offering discriminatory rates under its Commercial/Industrial Service Rider (CISR) tariff; and, 2) TECO breached its obligation of good faith under Order No. PSC-98-1081A-FOF-EI. Odyssey Manufacturing Company (Odyssey) and Sentry Industries (Sentry) are intervenors. They are separate companies but have the same president. Allied, Odyssey and Sentry manufacture bleach.

The questions resolved in this Order center around discovery requests made by TECO on September 14, 2000. On that date TECO served its First Set of Interrogatories (Nos. 1-24) and its First Request for Production of Documents (Nos. 1-12) to Allied. On September 25, 2000, Allied filed objections to a number of the discovery requests. On October 4, 2000, Allied provided responses to those requests for which it had no objections, and to some requests for which it had objections. On October 9, 2000, TECO filed motions to compel responses to Interrogatory Nos. 2(b)-(e),35,6,7,8,9 and 13 and to compel production of documents for requests 1,2 and 3. On October 18, 2000, Odyssey filed a response supporting TECO's motions. Allied filed a response in opposition to TECO's motions on October 23, 2000.

On January 24, 2001, the Prehearing Officer issued Order No. PSC-01-0231-PCO-EI, in which Allied was ordered to respond to Interrogatory Nos. 2(b)-(e),3,8 and 9 and requests for production of documents (PODs) 1,2 and 3. Allied was ordered to produce responses by the close of business on January 26, 2001. On January 29, 2001, Allied filed a Motion for Reconsideration, and Odyssey filed Motions for Clarification and Reconsideration, and a Request for Oral Argument. On January 31, 2001, TECO and Odyssey filed responses in opposition to Allied's Motion for Reconsideration. A ruling on Odyssey's Motion for Oral argument was not necessary because all parties were given the opportunity to present their arguments at the February 6, 2001, Agenda Conference.

The proper standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. See Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3rd DCA 1959); citing State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974).

The discovery requests that are the subject of the motions for reconsideration and clarification are provided below. A brief synopsis of Allied's objections and the basis of the rulings in the Order are also provided.

A. Interrogatories 2(b)-(e) and 3

2. For each product identified in response to Interrogatory No. 1,[1] please provide the following information:

   b. The annual volume of each product produced by Allied/CFI, by manufacturing facility;

   c. Allied/CFI's market share in Florida for each product;

   d. Allied/CFI's 15 largest customers (by volume sold) for each product; and

   e. Allied/CFI's annual gross revenue derived from the sale of each product in Florida.

3. Please identify Allied/CFI's competitors in Florida for each of the products identified in response to Interrogatory No. 1.

Allied objected to these questions on grounds of trade secret and lack of relevance. Allied claimed the requests were not relevant because they pertained to consequential damages, an issue beyond the Commission's jurisdiction.

The requests were found to be relevant to a determination of Allied's standing, an issue in this proceeding. To have standing, Allied must suffer actual and immediate harm as a result of TECO's implementation of the CISR tariff. Allied alleges in its Complaint that it suffered such harm.

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[1] Interrogatory No. 1 asks Allied to list each of the bleach products and related specialty chemicals it produces.

The information requested was found to be confidential by the Prehearing Officer and was required to be produced to TECO but not Odyssey. The information was found to be important to TECO's ability to litigate the issue of Allied's standing. The Order states that Allied would not be harmed by production to TECO because TECO is prohibited from disclosing the information by a non-disclosure agreement. The Order concludes that the harm of withholding the information from TECO is greater than the harm of producing the information to TECO, so the information was not privileged with respect to TECO.

The Order states that Allied's ability to compete in its native market would be significantly impaired if the information were disclosed to Odyssey. In addition, the Order states that disclosure to Odyssey could induce potential CISR customers to take service elsewhere rather than negotiate CISR rates and risk disclosure of trade secrets to competitors. The Order concludes that the harm of disclosing the information to Odyssey was greater than the harm of withholding the information from Odyssey so the information was deemed privileged with respect to Odyssey.

B. Interrogatory Nos. 5,6 and 7

5. Please describe in detail the substance of all conversations, correspondence, meetings, comments offers or contacts of any kind between Allied/CFI representatives who have executed the Non-Disclosure agreement in this proceeding and existing or potential customers related, in whole or in part, to Odyssey Manufacturing Company, its products, prices, operations or representatives since August 1, 2000.

6. Please describe in detail the substance of all conversations, correspondence, meetings, comments offers or contacts of any kind, other than those identified in response to Interrogatory No. 4,[2] between Allied/CFI and existing or potential customers related, in whole or in part, to Odyssey Manufacturing

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[2] Interrogatory No. 4 asks Allied to: "identify the products identified in response to Interrogatory No. 1 that Allied/CFI sells in competition with Odyssey Manufacturing Company in Florida."

Company, its products, prices, operations or representatives since August 1, 2000.

7. For each event described in response to Interrogatory Nos. 5 and 6, provide the following information:

   a. Identify the Allied/CFI representative and the Customer representative involved in each event;

   b. State when and where the event took place; and

   c. Identify any documents that refer to or memorialize the event.

Allied objected to these requests on grounds of relevance and trade secret.

TECO argued that the information was relevant because it would shed light on: 1) the genuineness of Allied's interest in locating its new plant in Tampa; and, 2) the nature and extent of any competitive disadvantage caused by Allied's negotiations with TECO for a CISR rate.

These requests were determined not relevant because they were not reasonably calculated to lead to admissible evidence on the issues in this case. The Order states that the information appears calculated to produce information on Allied's compliance with the non-disclosure agreements signed by the parties in this case. Allied first received responses to its discovery requests from TECO in August 2000, the time referred to in the interrogatories. Since that time, TECO and Odyssey alleged, on several occasions, that Allied improperly disclosed confidential information in TECO's responses. (The Order addresses improper disclosure of confidential information and that part of the Order is not being challenged.) The Order states that if TECO were interested in harm to Allied, the relevant time frame would start when Odyssey accepted a CISR rate in 1998, and could begin marketing efforts. While the requested information may possibly lead to admissible evidence, it was deemed not reasonably calculated to do so.

C. Interrogatory Nos. 8 and 9

8. List each bid or written offer made in direct competition with Odyssey Manufacturing Company by Allied/CFI since October 1, 1998, for the sale of one or more of the products identified in response to Interrogatory No. 4.

9. For each bid or offer identified in response to Interrogatory No. 8, provide the following information:

   a. The identity of the customer to whom the bid or offer was submitted;

   b. The product to be sold;

   c. The date on which the bid or offer was submitted to the customer;

   d. A detailed description of the price, terms and conditions bid or offered;

   e. An explanation of how the price offered or bid was calculated;

   f. The identity of the person or persons who formulated the bid or offer;

   g. The identity of the person or persons who presented or delivered the bid or offer to the customer;

   h. The price, terms and conditions bid or offered by Odyssey Manufacturing Company;

   I. The Customer's response to Allied/CFI's bid or the offer or current status of the bid or offer; and

   j. The substance of any communications between Allied/CFI and the customer with regard to Odyssey Manufacturing's bid or offer.

Allied objected to producing this information on grounds of relevance and trade secret.

The Prehearing Officer ruled that the information was confidential and relevant to the issue of harm to Allied as a result of TECO's implementation of the CISR tariff. The Prehearing Officer determined that Allied must produce the information to TECO but not Odyssey for the reasons provided in the discussion of Interrogatory Nos. 2 and 3.

D. Interrogatory No. 13

13. Please identify the "industry sources" referred to at page 12 of Mr. Robert M. Namoff's direct testimony who provided him information regarding Mr. Allman's position, title changes and salary level with Odyssey and who indicated that Mr. Patrick Allman was rewarded by Odyssey by providing him with a job for giving "preferential rates" while in the employ of Tampa Electric.

Allied objected on the grounds that this information is privileged as trade secrets.

The Prehearing Officer ruled that the information was confidential, and that Allied would not be required to produce it to TECO or Odyssey. The Order states that TECO's ability to litigate the case will not be significantly impaired without the information but disclosure of this type information to TECO or Odyssey could have a significant chilling effect on potential CISR customers. For this reason the harm of producing the information was deemed greater that the harm of withholding the information and it was deemed privileged.

E. PODs 1, 2 and 3

1. Provide all documents created by or for Allied/CFI that relate to the topic of competition between Allied/CFI and Odyssey Manufacturing Company ("Odyssey") in Florida, including but not limited to: market analyses, marketing strategies or evaluations of competitors, to the extent that such documents discuss or pertain to Odyssey.

2. Provide all documents created by or for Allied/CFI that relate to Allied/CFI's ability to compete in the Florida market for the sale of bleach or bleach products.

3. Provide all documents that relate to competitive bids or formal proposals made by Allied/CFI for the sale of bleach to customers in Florida, including, but not limited to: request for proposals, bids or offers submitted, work papers detailing development of bids or offers, bidding strategy, timing of submission of bids or offers, acceptance of bids or offers by customers and information with regard to competing bids or bidders.

Allied objected on grounds of trade secret privilege and lack of relevance.

The Prehearing Officer determined that the information was relevant because it could be address any competitive disadvantage that Allied suffered due to TECO's implementation of the CISR tariff.

The Prehearing Officer determined that the information was confidential, and that it should be produced to TECO but not Odyssey. Production to TECO will not harm Allied because of the non-disclosure agreement. However, withholding information from TECO would adversely affect its ability to litigate the case. The harm from withholding the information was found to be greater than the harm from disclosure, so the information was found to be discoverable. Production to Odyssey was withheld for the reasons given in the decision concerning Interrogatories 2 and 3.

II. Odyssey's Motion for Reconsideration

In its Motion for Reconsideration, Odyssey makes the general claim that the Order fails to consider the effect of its rulings on Odyssey's right to conduct discovery and cross-examination. This claim was also the subject of Odyssey's Motion for Clarification, and is addressed in Part III of this Order.

A. Odyssey's Arguments

With respect to Interrogatory Nos. 8 and 9, and POD No. 3, all pertaining to bids and bid awards, Odyssey states that the information was deemed relevant but not discoverable by Odyssey. Odyssey claims that, except for Interrogatory No. 9(e), the information sought through Interrogatories 8 and 9 is not

privileged or confidential and should be provided to Odyssey if requested through discovery.

Odyssey claims that some information requested in Interrogatories Nos. 8 and 9 has been publicly disclosed. Attached to Odyssey's Motion are three bid awards made by cities or counties to Allied. The awards state the amount of the bid award and include tables listing bids made by competitors, including Odyssey. Odyssey states that these documents show that not all the information claimed as trade secret by Allied meets the criteria for trade secret. For this reason, Odyssey claims that it should be able to discover such information and to inquire whether the alleged basis for confidential classification has any legal or factual validity.

With respect to Interrogatory No. 13, Odyssey characterizes it as a request for information on defamatory allegations made by Allied, in prefiled testimony, against a former TECO employee now working for Odyssey.

Odyssey seems to claim it was error to deny both TECO and Odyssey access to information on defamatory allegations made by Allied. Odyssey states it intends to pursue discovery on this issue in a deposition and does not want its right to such discovery foreclosed by the Order. Odyssey asserts that if the accusation is relevant enough to include in prefiled testimony then it should not be precluded from discovery for lack of relevance.

Odyssey further claims that if it cannot conduct discovery on this issue then it cannot engage in meaningful cross-examination. Odyssey states that Chapter 120 grants parties the right to conduct cross-examination. See Section 120.569(2)(j), Florida Statutes.

Odyssey further claims that neither the Order nor Allied explains how discovery of the information would cause harm to Allied.

Odyssey also seeks reconsideration of the rulings on Interrogatories 5, 6 and 7. Odyssey claims that the Order mistakenly concludes that the interrogatories are not reasonably calculated to lead to the discovery of admissible evidence. Odyssey seems to argue that the interrogatories could lead to

discovery of admissible evidence. Odyssey states that it intends to question Allied's deponents on the repeated assertions that Allied will be driven out of business by Odyssey, that there is not a level playing field between TECO and Odyssey, and that Allied is subject to unfair disadvantage in relation to Odyssey. Odyssey states that this information is also relevant to whether Allied has standing in this proceeding. Odyssey asserts that the information it intends to discover is not privileged and has been communicated to third parties.

B. Analysis

With respect to Interrogatory Nos. 8 & 9, the Order does not compel production of information that has been publicly disclosed. It compels production of confidential information only. For Allied to use the Order as a means for withholding information that is not confidential would be a violation of the Order.

Odyssey misinterprets Interrogatory No. 13. That interrogatory asks for names of industry sources; it does not ask for information which substantiates defamatory allegations.

The Order states that production of the names of industry sources would have a significant chilling effect on potential CISR customers. Allied is a potential CISR customer. If a company names sources, it runs the risk of losing those sources. This is especially true if those sources would likely become involved in litigation as is the case with Allied. Thus, the request for sources could cause significant harm to Allied and the specter of naming sources would be a significant deterrent to potential CISR customers.

The Order explains why Interrogatory Nos. 5, 6 and 7 are not reasonably calculated to lead to admissible evidence. They ask for specific information from a specific time period. That time period, which started in August 2000, corresponds to the time when TECO first produced confidential information to Allied. The time period has no relevance to the issues in this case, but has much relevance to compliance with the non-disclosure agreements. Compliance with the non-disclosure is not an issue in the case. While responses could possibly produce relevant information, they are not reasonably calculated to do so.

Odyssey's motion does not identify any point of fact or law that was overlooked or omitted. For this reason, the motion is denied.

III. Odyssey's Motion for Clarification

Odyssey requests that we adopt an interpretation of the Order as follows: "the Order does not address or determine in any way, shape or form, what information Odyssey may pursue through appropriate discovery mechanisms on a going forward basis and/or what information Complainants are bound to provide in response to discovery."

Odyssey claims that any attempt to use the Order to impede discovery by Odyssey is unfair. Odyssey explains that if it makes discovery requests similar to TECO's, its motivation for engaging in that discovery will be different than TECO's. Odyssey claims it should be free to make its own arguments on relevance or privilege. Odyssey states that it does not believe the purpose of the Order is to prejudice or prevent its future attempts at discovery.

Odyssey's Motion for Clarification is not ripe for review because Odyssey has not yet served discovery on TECO. When ruling on a motion to compel, the interests to be balanced are those of the party that served the discovery request and the party that must respond. See Order No. 00-1171-CFO-E.I., issued on June 27, 2000, in Docket No. 000061-E.I. Odyssey is in neither category. Odyssey's concerns will be ripe for adjudication if Odyssey serves discovery on Allied, Allied objects and Odyssey moves to compel responses. For this reason, Odyssey's Motion for Clarification is denied.

IV. Allied's Motion for Reconsideration

Allied seeks reconsideration of three aspects of the Order. First, Allied objects to the relevancy of some of the information found to be discoverable. Second, Allied claims that the time frame for responding to the Order is unreasonable. Finally, Allied contends certain information held discoverable should be limited to TECO's service area and to the only product Allied and Odyssey both sell, sodium hypochlorite.

A. Allied's Arguments

First, Allied contends that the type of harm at issue in this docket is 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." Allied claims that its ability to compete without a new plant is not relevant to its claim of discriminatory treatment by TECO. The issue, claims Allied, is the harm Allied would suffer if it built a new plant but had to operate the plant with higher electric charges than Odyssey. Allied claims that TECO and Odyssey have admitted that Allied would be harmed under such circumstances.

Allied contends that much of the information it is compelled by the Order to produce relates to the type of harm that is irrelevant - harm from competing without a new plant. Specifically, Allied maintains that Interrogatory Nos. 2(b)-(e), 3,8 and 9, and PODs 1,2 and 3 address the irrelevant type harm because they request business information from 1998 to the present. Allied was not operating a new plant during this period. Allied contends that the information pertains to damages, which the Commission has no jurisdiction to award, and that the discovery requests are an attempt by TECO to build a case against Allied in a different forum.

Second, Allied argues that there was error in the Order's requirement that Allied produce a voluminous amount of trade secret information within a 48 hour period, and that this burden was placed on Allied just before its witnesses were to be deposed. Allied states that it acted within its rights by objecting to produce certain information when it received TECO's discovery requests. Allied notes that it had not received all of the information it requested from TECO in February 2000, until January 4, 2001. Allied states that TECO was permitted to delay production for months, through repeated motions for reconsideration. Allied contends it was error for the Order to omit discussion of these issues of scope and timing.

Third, Allied argues that the Order improperly omitted discussion of the following: "if Allied files an action alleging damages caused by TECO's responses, under the Federal Rules of

Civil Procedure TECO (and Odyssey) would be limited to one deposition of each witness, and would be required to complete each deposition within six hours, unless it could be demonstrated on motion that additional time was required." Under such circumstances the Order allows TECO (and ultimately Odyssey) "a 'jump start' on damages discovery that is relevant only to an action which has not been filed, at a time when Allied/CFI must prepare for the final hearing in this proceeding; it would also give TECO and Odyssey an extra deposition of each Allied/CFI witness on the subject of damages."

Allied states that, in the interests making progress in this proceeding, it will produce documents in response to POD's 1,2 and 3 for the counties in TECO's service area, and will respond to POD three by providing information on sodium hypochlorite.

B. TECO's Response

TECO contends that Allied identifies no error of fact or law that warrants reconsideration. With respect to the type of harm at issue in this proceeding, TECO believes the distinction Allied makes is absurd and irrelevant. Allied claims the type harm at issue is harm to Allied's ability to compete with Odyssey if Allied built its new plant. TECO argues that harm stemming from non-existent circumstances can not support a claim for relief. TECO states that it has not admitted to harming Allied.

With respect to the Order's short time for production of information, TECO states that Allied has no right to complain. TECO states that its discovery requests were served on Allied in September 2000, and Allied did not provide any response until January 2001, even for requests to which Allied did not object. TECO contends if Allied searched its files when the discovery requests were served, as it should have, then the short response time in the Order would have posed no problem.

TECO objects to Allied's attempt to limit discovery to one product, sodium hypochlorite. TECO contends that it should be allowed to determine, through discovery, the number of products over which Allied and Odyssey compete.

Finally, TECO refutes Allied's allegation about getting a "jump start" on discovery of damages. TECO maintains that its discovery requests are aimed toward testing Allied's allegations that it has been harmed by TECO's actions.

C. Odyssey's Response

Odyssey, in its response, claims that Allied's Motion does nothing more than reargue matters considered in the Order. First Odyssey argues that Allied's claims that the discovery requests call for the disclosure of trade secret information is not correct. As Odyssey claims in its Motion for Reconsideration, there is reason to believe the information has been publicly disclosed.

Odyssey further claims that Allied's attempt to distinguish between "the fact of harm" and the "extent of harm" is disingenuous. Allied would argue that the latter is not relevant but Odyssey disagrees. Odyssey contends that Allied has devoted much energy to placing allegations of extreme harm before the Commission, and can not now claim the extent of harm is not relevant. Odyssey argues that discovery geared toward assessing the extent of harm is relevant both to the question of Allied's standing and the ability of Odyssey and TECO to refute the Allied's numerous allegations of harm.

Odyssey states that it has not admitted to facts regarding harm to Allied. Odyssey acknowledges that Mr. Sidelko's (Odyssey's president) prefiled testimony does explain some of the marketing benefits of its manufacturing process, but that is not the same as admitted harm to Allied.

Odyssey contends that TECO's discovery requests are limited to matters reasonably calculated to lead to discovery of admissible evidence, and do not serve the ulterior motive of preparing for a civil suit. Odyssey's interest in the information TECO seeks is to use it to refute allegation made by Allied in this proceeding. Odyssey further contends that Allied has no basis for requesting reconsideration of the time frames in the Order.

Finally, Odyssey argues that Allied's offer to respond to POD 3 by proving information from four counties instead of the entire

state violates the Order. Odyssey also argues that Allied's limitations on production are arbitrary and unfair.

D. Analysis

Allied identifies no issue of fact or law that was overlooked or not considered. With respect to the type of harm relevant in this proceeding, Allied's Complaint and the direct testimony of Robert Namoff allege that Allied's existing business is likely to be harmed if it can't build a new plant. See Complaint at paragraph 13, Testimony at pages 4-5. The direct testimony of Allied's president indicates that if Allied built the new plant and used the CISR rate initially offered by TECO, Allied would also suffer harm. See Direct Testimony of Robert M. Namoff at pages 4-5. Allied can not now claim that only one type of harm is at issue, when it has alleged harm both with and without the new plant.

Furthermore, to have standing Allied must suffer actual and immediate injury. See Agrico Chemical Co. v. Dept. of Environmental Protection, 406 So. 2d 478, 482 (Fla 2d DCA 1981). The Order cites this standard on page 5. Allied would not have standing if the only relevant harm occurs if the "plant had been built." This type of harm is theoretical not actual. The Order correctly assesses the type of relevant harm and Allied alleged relevant harm in its Complaint, so the Prehearing Officer did not fail to consider any relevant issue of fact or law.

The Prehearing Officer did not err in requiring discovery responses to be due within 48 hours. Rule 28-106.206 of the Florida Administrative Code allows the Prehearing Officer to issue orders on discovery to effectuate the purposes of discovery and prevent delay. The Prehearing Officer relied on this authority to set the response time, see the Order at page 12, and Allied does not question this authority. Given the fact that six depositions were scheduled for February 1 and 2, 2001, it was appropriate to assure that the information was available before the depositions. Furthermore, TECO correctly states that Allied should have searched its files to identify information responsive to all the requests, even if Allied objected to producing that information. Allied has an obligation to know which documents are responsive in a timely fashion. Allied asserted that many of the documents contained

trade secret information so it was reasonable for the Prehearing Officer to assume that Allied had conducted such a search, knew which documents were responsive and knew where they were located at the time Allied filed its objections. Finally, given the imminence of the hearing, it was reasonable to assume that Allied was prepared to respond to an order on the motions to compel. Given the above facts, the time in the Order as reasonable and there was no oversight in imposing it.

With respect to Allied's argument that the Order allows TECO to collect information relevant to a civil suit on damages, this argument is irrelevant. The Order explains how all the information that Allied must produce is relevant to this proceeding. Furthermore, the non-disclosure agreements prohibit TECO from using confidential information obtained in this proceeding in a civil suit.

Finally, Allied states that in response to PODs 1, 2 and 3, it will respond only with information from the counties in TECO's service area, and will respond to POD 3 with information on sodium hypochlorite only.

The Order overlooks the fact that Allied produces more products than Odyssey. POD 3 is not relevant for products which Allied produces but Odyssey does not. The only products relevant in this litigation are those that both companies produce in competition - sodium hypochlorite and its substitutes. For this reason, Allied shall respond to POD 3 with information pertaining to sodium hypochlorite and its substitutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion for Reconsideration and Motion for Clarification filed by Odyssey Manufacturing Company are denied. It is further

ORDERED that the Motion for Reconsideration filed by Allied Universal Corporation and Chemical Formulators, Inc., is granted in part and denied in part as described in Part III of this Order.

By ORDER of the Florida Public Service Commission this 26th day of February, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MKS

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 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. 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.