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Speaker



Stephen C. Burgess
Deputy Public Counsel

June 30, 2004

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

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COMMISSION
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RE: Docket No. 040086-EI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of a Motion to Expedite Determination of the Proper Treatment of Deposition Transcript of Mr. Patrick Allman for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,


Stephen C. Burgess
Deputy Public Counsel

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Allied Universal Corporation and)	
Chemical Formulators, Inc.'s Petition to)	
Vacate Order No. PSC-01-1003-AS-EI)	Docket No. 040086-EI
Approving, as Modified and Clarified, the)	
Settlement Agreement between Allied)	Filed: June 30, 2004
Universal Corporation and Chemical)	
Formulators, Inc. and Tampa Electric)	
Company and Request for Additional)	
Relief.)	

**MOTION TO EXPEDITE DETERMINATION OF THE PROPER TREATMENT
OF DEPOSITION TRANSCRIPT OF MR. PATRICK ALLMAN**

The Citizens of the State of Florida, through their attorney, the Public Counsel, hereby file this Motion To Expedite Determination of the Proper Treatment of Deposition Transcript of Mr. Patrick Allman. As grounds, the Citizens submit:

1. The Citizens' concern in this case is simple. The Citizens are concerned that TECO may have granted Odyssey Manufacturing Company (Odyssey) a CISR rate that results in a subsidy from TECO's other customers. The Citizens intervened in this docket for the sole purpose of protecting TECO's customers from being forced into such a subsidy. Naturally, the Citizens hope and believe that the PSC likewise wants to protect the customers from a forced subsidy.

2. Mr. Patrick Allman negotiated the CISR rate on behalf of TECO. In an April 19, deposition under the jurisdiction of Dade County Circuit Court, Mr. Allman describes the specifics of the CISR rate. Based on Mr. Allman's description, it appears likely that Odyssey's CISR rate has resulted in a subsidy being forced onto TECO's other customers. Consequently, OPC is convinced that the Commission should examine the Odyssey CISR tariff to determine whether it results in a forced subsidy. OPC further

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believes that the Commission will agree with this conclusion after reading the deposition of Mr. Allman.

3. Unfortunately, there is some ambiguity as to the confidentiality status of Mr. Allman's deposition. Accordingly, the Citizens sought to have the Commission resolve any ambiguity as to the confidentiality of Mr. Allman's deposition. To that end, on May 24, 2004, the Citizens filed a Motion to Determine the Proper Treatment of Deposition of Mr. Patrick Allman. As of this date, the Commission has not ruled on that motion.

4. The Staff Recommendation issued on June 23, 2004, could have the effect of preventing the Commission from ever reaching the important issue of subsidy. If Allied's petition is dismissed, the Citizens are concerned that that action would render OPC's issues moot.

5. OPC suggests that the Commission's responsibility to the public would dictate that the proper order of issue resolution is the reverse of that recommended by Staff. As a matter of public policy the Commission is responsible for preventing and correcting improper cross-subsidies. The docket should stay open until the Commission is assured that TECO's customers are not being forced into any such subsidy. Accordingly, OPC contends that the Commission should:

- a) First, determine the confidentiality status of the April 19 deposition of Patrick Allman;
- b) Second, review the deposition to determine whether an examination of Odyssey's CISR tariff is warranted;
- c) Third, examine the Odyssey CISR rate, if warranted, to determine if any cross-subsidy is taking place;
- d) Finally, take corrective action, if warranted, and close the docket.

As a step in this direction, OPC hereby files this motion to expedite a ruling on the status of Mr. Allman's deposition.

6. OPC has contacted counsel for Odyssey and Allied and is authorized to represent that Allied has no objection to this motion, and Odyssey opposes it to the extent it has the effect of delaying the proceedings.

WHEREFORE, the Citizens of the State of Florida respectfully move the Public Service Commission to expedite its determination of the proper treatment of the April 19 deposition transcript of Mr. Patrick Allman.

Respectfully submitted,

HAROLD MCLEAN
Public Counsel

A handwritten signature in black ink, appearing to read "S. C. Burgess", with a long horizontal flourish extending to the right.

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c/o The Florida Legislature
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(850) 488-9330

Attorneys for the Citizens of the
State of Florida

CERTIFICATE OF SERVICE
DOCKET NO 040086-EI

I HEREBY CERTIFY that a true and exact copy of the above and foregoing MOTION TO EXPEDITE DETERMINATION OF THE PROPER TREATMENT OF DEPOSITION OF MR. PATRICK ALLMAN has been furnished by hand-delivery* or U.S. Mail to the following parties of record this 30th day of June, 2004.

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