BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment (PGA) Clause.) DOCKET NO. 940003-GU
) ORDER NO. PSC-94-0820-CFO-GU
) ISSUED: July 5, 1994

ORDER REGARDING PEOPLES' REQUEST FOR CONFIDENTIAL TREATMENT OF CERTAIN PORTIONS OF ITS APRIL 1994, PGA FILINGS

On May 20, 1994, Peoples Gas System, Inc. (Peoples) filed a request for confidentiality concerning certain portions of its PGA filings for the month of April, 1994. The confidential information is located in Document No. 4915-94.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." It is the Company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

For the monthly gas filing, Peoples must show the quantity and cost of gas purchased from Florida Gas Transmission Company (FGT) during the month and period shown. Peoples states that FGT's current demand and commodity rates for FTS-1 transportation service and G purchases are set forth in FGT's tariff, which is a public record held by the Federal Energy Regulatory Commission (FERC). The purchased gas adjustment, which is subject to FERC review, can have a significant effect on the price charged by FGT. This purchased gas adjustment is also a matter of public record. On the other hand, rates for purchases of gas supplies from persons other than FGT are currently based on negotiations by Peoples or its affiliates with numerous producers and gas marketing companies. "Open access" on FGT's system has enabled Peoples and its affiliates to purchase gas from suppliers other than FGT. Purchases are made by Peoples at varying prices depending on the length of the period during which purchases will be made, the season or seasons during which purchases will be made, the quantities involved, and whether the purchase is made on a firm or interruptible basis. Also, gas prices can vary from producer-to-producer or marketer-to-marketer, even when non-price terms and conditions of the purchase are not significantly different. Peoples' affiliates also make purchases for sale to several of Peoples' large industrial customers who choose not to make purchases from Peoples' system supply.

Specifically, Peoples seeks confidential classification for the information in lines 8-19 of column L ("Total Cents Per Therm") of Schedule A-3. Peoples argues that this information is contractual data, the disclosure of which "would impair the efforts of [Peoples] to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. The information shows the weighted average prices Peoples paid to its suppliers for gas during the month shown. Peoples argues that knowledge of these prices could give other competing suppliers information which could be used to control gas pricing, because these suppliers could all quote a particular price (which in all likelihood would equal or exceed the price paid by Peoples), or could adhere to the price offered by a Peoples supplier. Even though this information is the weighted average price, suppliers would most probably refuse to sell gas at prices lower than this average price. Disclosing the weighted average cost could also keep suppliers from making price concessions. Peoples argues that the end result of disclosure is reasonably likely to be increased gas prices, which would result in increased rates to Peoples' ratepayers.

Regarding Schedule A-3, Peoples also seeks confidential treatment for lines 1-20 of columns E-K ("System Supply", "End Use", "Total Purchased", "Commodity Third Party", "Commodity Cost/Pipeline", "Demand Cost", and "Other Charges"). This data is an algebraic function of the price per therm paid by Peoples on lines 7-19 of column K ("Total Cents Per Therm"). Peoples argues that the publication of these columns together, or independently, could allow suppliers to derive the prices Peoples paid to its suppliers during the month. Peoples asserts that disclosure of this information could enable a supplier to derive contractual information which "would impair the efforts of [Peoples] to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

Regarding Schedule A-7P, Peoples also seeks confidential treatment for lines 8-19 of column B ("Purchased From"). Peoples argues that disclosing the names of Peoples suppliers would be detrimental to the interests of Peoples and its ratepayers since it would provide competitors with a list of prospective suppliers. Peoples also argues that a third party could use such information to interject itself as a middleman between Peoples and the supplier. In either case, Peoples argues, the end result is reasonably likely to be increased gas prices, and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Peoples seeks confidential classification for the information on line 31 in the columns "Current Month" (Actual, Estimate, and Difference) and in "Period to Date" (Actual, Estimate, and Difference) for Schedule A-1 and in Schedule A-1 Supporting Detail on line 24. Peoples argues that this information is contractual data which, if made public, "would impair the efforts of [Peoples] to contract for goods or service on favorable terms." Section 366.093(3)(d), Florida Statutes. The information shows the weighted average price Peoples paid its suppliers for the month and period shown. Peoples argues that knowledge of these gas prices could give competing suppliers information which could be used to control the price of gas, because these suppliers could all quote a particular price (which in all likelihood equal or exceed the price Peoples paid), or could adhere to the price offered by Peoples' suppliers. Even though this information is the weighted average price, other suppliers would most probably refuse to sell gas at prices lower than this average price. Disclosing the weighted average cost could also keep such suppliers from making price concessions. The end result of disclosure, Peoples asserts, is reasonably likely to be increased gas prices which result in increased rates to Peoples' ratepayer.

Peoples also seeks confidential classification of the information on lines 4 and 18 in the columns "Current Month" (Actual, Estimate, and Difference) and in "Period to Date" (Actual, Estimate, and Difference) on Schedule A-1 and in Schedule A-1 Supporting Detail on line 8. Peoples argues that this information could permit a supplier to determine contractual information which, if made public, "would impair the efforts of [Peoples] to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. The total cost figures on line 8b can be divided by the therms purchased on line 28b to derive the weighted average cost or price on line 44b. Peoples asserts that the publication of the information on lines 8b and 28b together, or independently, could allow a supplier to derive the purchase price of gas paid by Peoples.

In addition, Peoples requests confidentiality for lines 1, 2, 3, 5, 7-9, 15-17, 19, and 21-23 for the columns "Current Month" (Actual, Estimate, and Difference) and "Period to Date" (Actual, Estimate and Difference) on Schedule A-1 and in Schedule A-1 Supporting Detail on lines 1-4, 8, 17-20, 25-29, and 32. Peoples argues that disclosure of this information could permit a supplier to determine contractual information which, if made public, "would impair the efforts of [Peoples] to contract for goods or services

on favorable terms." Section 366.093(3)(d), Florida Statutes. The specified items are algebraic functions of the price per therm Peoples paid to its suppliers for gas. "Total Cost of Gas Purchased" (line 11), "Total Therm Sales" (line 14), "Total Therms Purchased" (line 24), "Total Cents-Per-Therm Cost of Gas Purchased" (line 37), "Total Therm Sales" (line 40), and the PGA factor and true-up have been disclosed, and Peoples argues that these figures could be used in conjunction with the proprietary information to derive Peoples' purchase price.

Peoples seeks confidential treatment for the information in lines 1-27 and 37 of Schedule A-4 for columns G and H, entitled "Wellhead Price" and "Citygate Price." Peoples asserts that this information is contractual information which, if made public, "would impair the efforts of [Peoples] to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. The information on all lines in column G consists of the invoice price per MMBtu paid for gas by Peoples for the involved month. The information on all lines in column H consists of the delivered price per MMBtu paid by Peoples for such gas, which is the invoice price plus charges for transportation. Peoples states that knowledge of the prices paid to its gas suppliers during this month would give other competing suppliers information with which to potentially or actually control the pricing of gas either by all quoting a particular price, which could equal or exceed the price Peoples paid, or by adhering to a price offered by a particular supplier. A supplier which might have been willing to sell gas at a price less than the price reflected in any individual invoice would likely refuse to do so. Such a supplier would be less likely to make any price concessions which it might have previously made or would be willing to make, and could simply refuse to sell at a price less than an individual price paid by Peoples. The end result, Peoples asserts, is reasonably likely to be increased gas prices, and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Peoples seeks confidential classification of the information found in lines 1-27 and 36 of Schedule A-4 of columns C-F (entitled respectively "Gross Amount," "Net Amount," "Monthly Gross," and "Monthly Net"). Peoples maintains that since it is the rates (or prices) at which the purchases were made which Peoples seeks to protect from disclosure, it is also necessary to protect the volumes or amounts of the purchases in order to prevent the use of such information to calculate the rates or prices.

Also, Peoples requests confidential classification of the information found on lines 1-17 and 19-27 of Schedule A-4 of columns A and B (entitled "Producer Name," and "Receipt Point"). Peoples indicates that publishing the names of suppliers and the respective receipt points at which the purchased gas is delivered to Peoples would be detrimental to the interests of Peoples and its ratepayers since it would provide a complete illustration of Peoples' supply infrastructure. Specifically, Peoples states that if the names in column A are made public, a third party might interject itself as a middleman between the supplier and Peoples. In addition, disclosure of the receipt points in column B would give competing vendors information that would allow them to take capacity at those points. Peoples argues that the resulting loss of available capacity for already-secured supply would increase gas transportation costs. Peoples asserts that in either case, the end result is reasonably likely to be increased gas prices and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Peoples requests confidential treatment for certain information highlighted on its gas purchase invoices for April, 1994, pages 1-12. The requested information pertains to the rates at which purchases covered by the invoices were made (except for the rates of FGT which are public), the volumes purchased (stated in therms, MMBtu and/or Mcf), and the total cost of the purchase. Since it is the rates at which the purchases were made which Peoples seeks to protect from disclosure, Peoples argues that it is also necessary to protect the volumes and costs of the purchases in order to prevent the use of such information to calculate the rates. Peoples argues that this information is contractual data which, if made public, "would impair the efforts of [Peoples] to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

Also regarding the invoices, Peoples requests confidential treatment of the prices paid by Peoples. Disclosure of this information could give competing suppliers information which would enable them to control gas pricing, either by all quoting a particular price, or by adhering to a price offered by a particular supplier. A supplier that may have been willing to sell gas at a price less than the price reflected in any individual invoice would most likely refuse to do so if these prices were disclosed. Such a supplier would be less likely to make any price concessions, and would simply refuse to sell at a price less than an individual price paid by Peoples. Peoples argues that the end result is

reasonably likely to be increased gas prices, and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Also regarding the invoices, Peoples also requests confidential treatment of the names of its suppliers (except for FGT, the City of Sunrise, and South Florida Cogeneration Associates), salespersons, and receipt points. Peoples argues that disclosure of this information would illustrate the Peoples supply infrastructure to competitors. A competing vendor could then learn where capacity was becoming available. Further, a list of suppliers and contacts would facilitate the intervention of a middleman. In either case, Peoples argues, the end result is reasonably likely to be increased gas prices and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Peoples also requests confidential treatment of all related information that tends to indicate the identity of each gas supplier. Such information includes supplier addresses, phone and fax numbers, contact persons, logos, and miscellaneous numerical references such as invoice numbers, account numbers, wire instructions, contract numbers and tax I.D. information. Since this information may indicate to persons knowledgeable in the industry the identity of the otherwise undisclosed gas supplier, Peoples has requested confidential treatment of it.

Peoples seeks confidential treatment for lines 1-3, 6-12 and 15-23 in columns C and E on its Open Access Report. Peoples argues that this information is contractual data which, if made public, "would impair the efforts of [Peoples] to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. The information in column C shows the therms purchased from each supplier for the month, and column E shows the total cost of the volumes purchased. This information could be used to calculate the actual prices Peoples paid for gas to each of its suppliers for the involved month. Peoples argues that knowledge of the prices Peoples paid to its gas suppliers during the month would give competing suppliers information with which to potentially or actually control gas pricing. Most probably, suppliers would refuse to charge prices lower than the prices which could be derived if this information were made public. Such a supplier would be less likely to make any price concessions, and could simply refuse to sell at a price less than an individual price paid by Peoples. Peoples argues that he end result is reasonably likely

to be increased gas prices, and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Also, Peoples seeks confidential treatment for lines 7-9 and 15-23 in column A on its Open Access Report. The information in column A includes descriptions of Peoples' gas suppliers. Peoples maintains that publishing the suppliers' names would be detrimental to the interests of Peoples and its ratepayers since it would provide a list of prospective suppliers. If the names were made public, a third party might try to interject itself as a middleman between the supplier and Peoples. Peoples argues that the end result is reasonably likely to be increased gas prices, and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Peoples seeks confidential treatment for the information highlighted on its April 1994 Accruals For Gas Purchased Report, pages 1-7. Peoples argues that disclosure of this information would impair its efforts to contract for goods or services on favorable terms. The information consists of rates and volumes purchased, as well as the total cost of the purchase accrued. Peoples maintains that disclosure of volumes and costs would allow the calculation of the purchase rates, which Peoples seeks to protect. Peoples also asserts that the volumes purchased from any particular supplier is proprietary and confidential information. Further, disclosure of prices paid to Peoples' suppliers would give competing suppliers information with which to control the pricing of gas, either by all quoting a particular price or by adhering to a price offered by a particular supplier. A supplier which might have been willing to sell at prices lower than that reflected in an individual invoice would then be less likely to offer previously-made price concessions. Peoples argues that the end result is reasonably likely to be increased gas prices which Peoples must recover from its ratepayers.

Further, Peoples seeks confidential treatment for the names of suppliers which appear on its April 1994 Accruals For Gas Purchased Report. Disclosure of Peoples suppliers would be detrimental to the interests of Peoples and its ratepayers since it would provide competitors with a list of gas suppliers and would facilitate the intervention of a middleman. The end result, Peoples argues, is reasonably likely to be increased gas prices, and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Peoples seeks confidential treatment for certain information highlighted on its Actual/Accrual Reconciliation of Gas Purchased Report and the corresponding invoices which are submitted to effect reconciliation with its March 1994 Accruals For Gas Purchased Report. The highlighted information in the Report and invoices is the same type of information for which Peoples previously requested confidential treatment and was granted in its March 1994 filing.

Further, Peoples requests confidential treatment for the names of the suppliers' salespersons and receipt points at which the suppliers delivered to Peoples, which appear on the Actual/Accrual Reconciliation of Gas Purchased Report. Peoples argues that publication of this information would be detrimental to the interests of Peoples and its ratepayers, providing competitors with a complete illustration of Peoples' supply infrastructure. Such information would tell a competing vendor at what points capacity was becoming available. The resulting reduction in available capacity for supply already secured would increase the cost of gas transportation. Peoples also argues that disclosure of a list of contacts would facilitate the intervention of a middleman. Peoples asserts that the end result is reasonably likely to be increased gas prices and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Peoples also requests confidential treatment of related supplier information that tends to indicate the identity of each gas supplier, including supplier addresses, logos, bank accounts, such as this information appears on the Actual/Accrual Reconciliation of Gas Purchased Report. Peoples argues that this supplier information might indicate the name of the supplier to persons knowledgeable in the trade, despite confidential treatment of the supplier's name. Peoples asserts that the end result is reasonably likely to be increased gas prices and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Peoples states that this information is intended to be and is treated by Peoples as proprietary, and that it has not been publicly disclosed.

Peoples has requested that the proprietary information discussed above be treated as confidential until November 20, 1995. According to Peoples the period requested is necessary to allow Peoples time to negotiate future gas contracts. Peoples argues that if this information were declassified at an earlier date,

competitors would have access to information which could adversely affect the ability of Peoples and its affiliates to negotiate future contracts on favorable terms. It is noted that this time period of confidential classification will ultimately protect Peoples and its ratepayers.

In consideration of the foregoing, it is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the requested information in Document No. 4915-94, shall be treated as proprietary confidential business information to the extent discussed above. It is further

ORDERED that the information discussed above shall be afforded confidential treatment until November 20, 1995. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 5th day of July, 1994.

Susan F. Clark

SUSAN F. CLARK, Commissioner and
Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. 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.