BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment (PGA True-Up).	DOCKET NO. 950003-GU ORDER NO. PSC-95-1078-CFO-GU ISSUED: August 29, 1995

ORDER REGARDING PEOPLES' REQUEST FOR CONFIDENTIAL TREATMENT OF CERTAIN PORTIONS OF ITS JUNE 1995, PGA FILINGS

On July 20, 1995, Peoples Gas System, Inc. (Peoples) filed a request for confidentiality concerning certain portions of its PGA filings for the month of June, 1995. The confidential information is located in Document No. 06883-95.

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 10 and 15 - 21 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 10 and 15 - 21 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, listed in column L ("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-3, Peoples also seeks confidential treatment for lines 10 - 21 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 treatment for the information in lines 1 - 18 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 - 18 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 in lines 1 - 17, and 19 - 24 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 seeks confidential treatment for lines 12 and 23 - 36 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 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, Peoples seeks confidential treatment for lines 12 - 14, and 23 - 36 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 June 1995 Invoices For Gas Purchased, page 9 of 15, lines 1 - 11 and 26; the entire May Invoice (Pages 1 - 10); and the entire sheet for the Prior Period Adj.

Also, Peoples seeks confidential treatment for the information highlighted on its June 1995 Accruals For Gas Purchased Report (Pages 1 - 7), lines 1 - 4 and 9 - 12 of Column C "Rate"; lines

1 - 4, 8 - 12, and 15 - 16 of Columns B and D "Thrm/Acrd"; lines 1 - 4 and 9 - 12 of Column A "Supplier".

In addition, Peoples seeks confidential treatment for certain information highlighted on its May Actual/Accrual Reconciliation of Gas Purchased Report (Pages 1 - 2), lines 1 - 34 of Column D "Rate"; lines 1 - 34 and 93 - 95 of Columns C and E "Thrm/Dollr"; lines 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33 of Column A "Supplier".

Peoples argues that disclosure of this information would impair its efforts to contract for goods or services on favorable terms. In general, the information highlighted in the above three paragraphs consists of the rates at which purchases were made, the volumes purchased (stated in therms, MMBtu and/or MCF), the total cost of the purchase, and the names of the acquiring shippers or suppliers. Since it is the rates at which the purchases were made which Peoples seeks to protect from disclosure, it is also necessary to protect the volumes and total costs of the purchases in order to prevent the use of such information to calculate the rates. Peoples also considers the volumes purchased from any particular supplier to be proprietary and confidential information.

Knowledge of the prices Peoples 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 would in all likelihood equal or exceed the price Peoples paid), or by adhering to a price offered by a particular supplier. 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.

Knowledge of the names of suppliers (other than FGT, City of Sunrise, and SFCA) would be detrimental to the interests of Peoples and its ratepayers since it would provide competitors with a list of prospective suppliers. Moreover, a third party could use such information to interject itself as a middleman between Peoples and the FGT customer. In either case, the end result is reasonably likely to be higher book-out transaction costs and/or FGT imbalance charges, 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, phone and fax numbers, contact persons, logos, bank accounts, and miscellaneous numerical references. 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 ratepayer.

Peoples also requests confidential treatment of June 1995's "Cash-out/Book-out" page 2 of 2, highlighted sections. Peoples argues that knowledge of the average book-out Price Per Therm during a month would give other FGT customers information with which to potentially or actually control the pricing of booked-out imbalances either by all quoting a particular price, or by adhering to a price offered to a particular FGT customer in the past. As a result, an FGT customer which might have been willing to trade imbalances at a Price Per Therm more favorable to Peoples than the price reflected in these lines would likely refuse to do so. The end result is reasonably likely to be higher book-out transaction costs and/or FGT imbalance charges, and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Knowledge of the names of FGT customers that traded imbalances would be detrimental to the interests of Peoples and its ratepayers since it would provide other FGT customers with a list of prospective imbalance traders. Moreover, a third party could use such information to interject itself as a middleman between Peoples and the FGT customer. In either case, the end result is reasonably likely to be higher book-out transaction costs and/or FGT imbalance charges, and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Peoples has also requested confidential treatment of all addresses, phone and fax numbers, contact persons, logos, and miscellaneous numerical references. To the extent such information might indicate, to persons knowledgeable in the industry, the identity of the otherwise undisclosed FGT customer, Peoples requests confidential treatment of it.

Peoples has requested that the proprietary information discussed above be treated as confidential until February 20, 1997. 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

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the requested information in Document No. 06883-95 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 February 20, 1997. 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 J. Terry Deason, as Prehearing Officer, this 29th day of August, 1995.

J. TERRY DEASON, 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.

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.