BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment (PGA) Clause.) DOCKET NO. 920003-GU
) ORDER NO. PSC-92-0305-PCO-GU
) ISSUED: 5/7/92

ORDER REGARDING PEOPLES' REQUEST FOR CONFIDENTIAL TREATMENT OF CERTAIN PORTIONS OF ITS SEPTEMBER, 1991 PGA FILINGS

BY THE COMMISSION:

Peoples Gas System, Inc. (Peoples or PGS) filed a request (and an addendum to its request) for confidentiality concerning certain portions of its PGA filings for the month of September, 1991. The confidential information is located in Document No. 11052-91. PGS states that this information is intended to be and is treated by PGS and its affiliates as proprietary, and that it has not been publicly disclosed.

There is a presumption in the law of the State of Florida 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 this Commission's view that a request for specified confidential classification of documents must meet a very high burden. The Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

For the monthly gas filing, we require Peoples to show the quantity and cost of gas purchased from Florida Gas Transmission Company (FGT) during September of 1991, and for the period from April to September of 1991. PGS 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, the price PGS pays gas suppliers other than FGT are primarily the result of negotiations. "Open access" on FGT's system has enabled Gator Gas Marketing (Gator), a PGS affiliate, to purchase gas from suppliers other than FGT. Gator negotiates varying prices, depending on the length of the purchasing period, the

season or seasons of the purchase, the quantities involved, and whether the purchase is made on a firm or an 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. Gator also buys gas to sell directly to several of Peoples' large industrial customers.

Specifically, PGS seeks confidential classification for the column total cents per therm in lines 7-9 of Schedule A-7P. 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. We agree. The information shows the weighted average prices Peoples paid to Gator and to Seminole Gas Marketing, Inc. (another affiliate of Peoples) for gas during September of 1991. Knowledge of the prices Peoples paid its affiliates during this period could give other competing suppliers information which could be used to control gas pricing. This is because these suppliers could all quote a particular price (which in all likelihood would equal or exceed the price paid by Peoples), or these suppliers could adhere to the price offered by a Peoples affiliate. 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. The end result of disclosure is reasonably likely to be increased gas prices, which would result in increased rates to Peoples' ratepayers.

Concerning Schedule A-7P, Peoples also seeks confidential treatment for lines 1-9 of the columns for system supply, end use, total purchased, direct supplier commodity, demand cost, and pipeline commodity charges, and for lines 1 - 6 of the column total cents per therm. PGS argues 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. We agree. This data is an algebraic function of the price per therm paid by Peoples. The publication of these columns together, or independently, could allow suppliers to derive the prices Peoples paid to its affiliates during the month.

Peoples seeks confidential classification for the information on line 41 in the columns current month (actual and difference) and in period to date (actual and difference) for Schedule A-1/MF-AO. PGS argues 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. We agree. The information shows the weighted average price Peoples paid its suppliers for the month of September 1991, and during the period April through September. Knowledge of these gas prices could give competitors information which could be used to control the price of gas. This is because these suppliers could all quote a particular price (which would in all likelihood would equal or exceed the price Peoples paid), or these suppliers could adhere to the price offered by Peoples' affiliates. 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. The end result of disclosure is reasonably likely to be increased gas prices, which result in increased rates to Peoples' ratepayers.

Concerning Schedule A-1/MF-AO, Peoples also seeks confidential classification of the information on lines 5 and 25 in the columns current month (actual and difference) and in period to date (actual and difference). PGS argues 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. We agree. The total cost figures on Line 5 can be divided by the therms purchased on Line 25 to derive the weighted average cost or price on Line 41. Thus, the publication of the information on Lines 5 and 25 together, or independently, could allow a supplier to derive the purchase price of gas paid by Peoples.

In addition, PGS requests confidentiality for lines 1-4, 6, 8-13, 22-26, 28a-32, 38-42, and 44a-48 for the columns current month (actual and difference) and period to date (actual and difference) on schedule A-1/MF-AO. 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 service on favorable terms." Section 366.093(3)(d), Florida Statutes. We agree. The data found in the column Current Month (Actual and Difference), and in the column Period to Date (Actual and Difference), are algebraic functions of the price per therm Peoples paid to its affiliates for gas. The total cost of gas purchased (Line 7), total therms purchased (Line 27), total cost of gas purchased (Line 43), and the PGA factor and true-up, have been disclosed, and these figures could be used in conjunction with the proprietary information to derive Peoples' purchase price.

PGS seeks confidential information for certain information on Schedule A-9. Specifically, Peoples seeks confidential

classification for the information on line 16 in the columns "End Use MDCQ x Days," "Total Purchased," "Direct Supplier Commodity," "Demand Cost," "Pipeline Commodity Charges," and "Total Cents Per Therm." The total shown on Line 16 in the column "Demand Cost" is the same as the information on Line 6 (Actual and Difference) for the Current Month on Schedule A-1/MF-AO. The totals shown on Line 16 in the columns entitled "End Use MDCQ x Days" and "Total Purchased" are the same as the information on line 26 (Actual and Difference) for the Current Month on Schedule A-1/MF-AO. The total shown on Line 16 in the column entitled "Total Cents Per Therm" is the same as the information on lines 39 and 42 (Actual and Difference) for the Current Month on Schedule A-1/MF-AO. We have already found that this information is confidential as it appears on Schedule A-1/MF-AO, and for the same reasons, we find this information to be confidential on Schedule A-9 as well.

On Schedule A-9, Peoples also seeks confidential treatment for the information shown on lines 1-15 in the Columns entitled "End Use MDCQ x Days" through "Total Cents Per Therm." These numbers are algebraic functions of the information shown on Line 16 in the same columns. PGS argues that publication of the information in these lines together, or independently, would allow 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. We agree.

Also, Peoples seeks confidential treatment for the information in lines 1-15 of the column entitled "Purchased For" on Schedule A-9. These lines list each of Peoples' standby sales customers. PGS argues that this is "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of [Peoples]." Section 366.09(3)(e), Florida Statutes. We agree. Disclosure of this information could be detrimental to the interests of Peoples and its ratepayers, as it would provide suppliers of competing fuels (such as oil) with a prospective customer list which consists of Peoples' largest customers.

Peoples seeks confidential treatment for certain information highlighted on its invoices for the month of September. The highlighted information consists of the rates of the purchases, the volumes purchased (stated in therms, MMBtu and/or MCF), and the total cost of the purchase. PGS argues that all highlighted 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. We agree. Disclosure of the volumes and total cost would enable competitors to calculate the rates paid by PGS.

Disclosure of the prices paid by Peoples 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. 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 1-20 in columns C and E on its Open Access Report. PGS 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. With the exception of line 21, we agree. 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. 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. 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. However, the highlighted information on line 21, the FERC filing fee, is already a matter of public record, and thus can not be given confidential treatment by us. Accordingly, we deny Peoples' request as it relates to line 21 of the Open Access Report.

Peoples requests that the proprietary information discussed above be treated as confidential until May 6, 1993. We find that the 18 months requested is necessary to allow Peoples and/or its affiliated companies time to negotiate future gas contracts. 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. We find that this time period of confidential classification will ultimately protect Peoples and its ratepayers.

It is, therefore,

ORDERED by Commissioner Betty Easley, as Prehearing Officer, that the proprietary confidential business information discussed above in Document No. 11052-91 shall be afforded confidential treatment. It is further

ORDERED that we deny Peoples Gas System's request as it relates to line 21 of the Open Access Report. It is further

ORDERED that the proprietary confidential business information discussed above shall be afforded confidential treatment until May 6, 1993.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 7th day of MAY, 1992.

Betty Easley

BETTY EASLEY, 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