BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment (PGA) Clause.	) DOCKET NO. 930003-GU) ORDER NO. PSC-93-0827-CFO-GU) ISSUED: June 3, 1993

ORDER REGARDING PEOPLES' REQUEST FOR CONFIDENTIAL TREATMENT OF CERTAIN PORTIONS OF ITS OCTOBER, 1992, PGA FILINGS

Peoples Gas System, Inc. (Peoples) filed a request for confidentiality concerning certain portions of its PGA filings for the month of October, 1992. The confidential information is located in Document No. 14533-92, as amended by Document No. 4206-93. Peoples states that this information is intended to be and is treated by Peoples and its affiliates as proprietary, and that it has not been publicly disclosed.

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 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, 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 column K (entitled "Total Cents Per Therm") in lines 5-17 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. The information shows the weighted average prices Peoples paid to its suppliers for gas during the month shown. Peoples maintains that knowledge of the prices Peoples paid its suppliers 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, Peoples argues that 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 asserts that the end result of disclosure is reasonably likely to be increased gas prices, which would result in increased rates to Peoples' ratepayers. I agree.

Concerning Schedule A-7P, Peoples also seeks confidential treatment for lines 1-18 of columns E through J (entitled "System Supply," "End Use," "Total Purchased," "Direct Supplier Commodity," "Demand Cost," and "Pipeline Commodity Charges"). Peoples 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. This data is an algebraic function of the price per therm paid by Peoples for lines 5-17 of the column total cents per therm. Peoples asserts that the publication of these columns together, or independently, could allow suppliers to derive the prices Peoples paid to its affiliates during the month. I agree.

Concerning Schedule A-7P, Peoples also seeks confidential treatment for lines 5-17 of column B (entitled "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 asserts, 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. I agree.

Peoples seeks confidential classification for the information on line 44b in the columns Current Month (Actual, Estimate, and Difference) and in Period to Date (Actual, Estimate, and Difference) for Schedule A-1/MF-AO. Peoples 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. The information shows the weighted average price Peoples paid its suppliers for the month and period shown. Peoples asserts that knowledge of these gas prices could give competitors information which could be used to control the price of gas, because these suppliers could all quote a particular price (which would in all likelihood would equal or exceed the price Peoples paid) or could adhere to the price offered by Peoples' affiliates. Peoples maintains that 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, Peoples asserts, is reasonably likely to be increased gas prices which result in increased rates to Peoples' ratepayers. I agree.

Concerning Schedule A-1/MF-AO, Peoples also seeks confidential classification of the information on lines 8b and 28b in the columns Current Month (Actual, Estimate, and Difference) and in Period to Date (Actual, Estimate, and Difference). Peoples 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. 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. Thus, Peoples asserts, 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. I agree.

In addition, Peoples requests confidentiality for lines 1, 2, 5, 6, 8a, 9, 12, 13, 22, 23, 25, 26, 28a, 29, 31, 32, and 44a for the columns "Current Month" (Actual, Estimate, and Difference) and "Period to Date" (Actual, Estimate 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 services on favorable terms." Section 366.093(3)(d), Florida Statutes. The data found in the column "Current Month" (Actual, Estimate, and Difference), and in the column "Period to Date" (Actual, Estimate, and Difference), are algebraic functions of the price per therm Peoples paid to its suppliers for gas. The "Total Cost of Gas Purchased" (line 7), "Total Transportation Cost" (line 15), "Total Therms Purchased" (line 27), "Total "Transportation Therms" (line 33), "Total Cost of Gas Purchased" (line 43), "Total Cents-Per-Therm Transportation Cost" (line 49), 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. I find the above-mentioned lines to be proprietary confidential business information with the exception of line 44a of the column entitled "Current Month - Actual." The information in the line noted as an exception under "Current Month - Actual" shows the commodity rates for the FGT pipeline, transportation system supply and is public information. As noted above, FGT's demand and commodity rates for transportation and sales are set forth in FGT's tariff, which is on file at the FERC and which is a matter of public record, and accordingly, I cannot treat such information as confidential.

Peoples seeks confidential classification for certain information on Schedule A-9. Specifically, Peoples seeks confidential classification for the information on line 24 in columns F through J (respectively entitled "End Use DCQ x Days," "Total Purchased," "Direct Supplier Commodity," "Demand Cost," and "Pipeline Commodity Charges"). The total shown on line 24 in column I is the same as the information on line 6 (Actual) for the Current Month on Schedule A-1/MF-AO. The totals shown on line 24 in columns F and G are the same as the information on line 26 (Actual) for the Current Month on Schedule A-1/MF-AO. I have already found this information to be confidential as it appears on Schedule A-1/MF-AO. For the same reasons, I find this information to be confidential on Schedule A-9 as well, except for columns H

and J. The contents of these columns have been disclosed and consequently can not be granted confidentiality.

On Schedule A-9, Peoples also seeks confidential treatment for the information shown on lines 1-23 in columns F through J. These numbers are algebraic functions of the information shown on line 24 in the same columns. Peoples asserts 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. I agree, except for columns H and J. The contents of these columns have been disclosed and consequently can not be granted confidentiality.

Also, Peoples seeks confidential treatment for the information in lines 1-23 of column B (entitled "Purchased For") on Schedule A-9. These lines list each of Peoples' standby sales customers. Peoples 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. Peoples argues that 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. I agree.

Peoples seeks confidential treatment for the information in lines 1-17 of Schedule A-10 (page 1) and lines 19-31 and 33 of Schedule A-10 (page 2) 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 to its suppliers for the involved period. 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 it 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. I agree.

Peoples seeks confidential classification of the information found in lines 1-18 of Schedule A-10 (page 1) and lines 19-32 of Schedule A-10 (page 2) of columns C-F (entitled "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. I agree.

Also, Peoples requests confidential classification of the information found on lines 1-17 of Schedule A-10 (page 1) and lines 19-31 of Schedule A-10 (page 2) 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 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. I agree.

Peoples seeks confidential treatment for certain information highlighted on its gas purchase invoices for October, 1992. The highlighted information consists of rates at which purchases covered by the invoices were made, the volumes purchased (stated in therms, MMBtu and/or Mcf), and the total cost of the purchase. Peoples 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. Peoples argues that disclosure of the volumes and total cost would enable competitors to calculate the rates paid by Peoples. I agree. I also note that the rate column on the invoices from FGT was not highlighted for confidential treatment. Peoples correctly explains that rates for FGT are public information on file with the FERC. I recognize that this situation only applies to the FGT rates and not to the rates from third party suppliers.

Also regarding its gas purchase invoices, Peoples requests confidential treatment for the prices paid by Peoples. Disclosure of the prices paid 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. I agree.

Also regarding its gas purchase invoices, Peoples requests confidential treatment for the names of its suppliers, except for FGT and the City of Sunrise. Peoples argues that disclosing the requested suppliers, their salespersons, and their receipt points 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 asserts, 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. I agree.

Peoples seeks confidential treatment for lines 1-30 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. 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 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. I agree, except for lines 20 and 21 of column E. The contents of these lines have been disclosed and consequently can not be granted confidentiality.

Also, Peoples seeks confidential treatment for lines 11-14 and 22-30 in column A on its Open Access Report. The information in column A includes descriptions of Peoples' gas suppliers. Peoples claims that publishing the names of suppliers would be detrimental to the interests of Peoples and its ratepayers since it would provide a list of prospective suppliers. Peoples further claims that if the names were made public, a third party might try to interject itself as a middleman between the supplier and Peoples. 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. I agree.

Peoples requests that the proprietary information discussed above be treated as confidential until June 16, 1994. I find that the period 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. I find that this time period of confidential classification will ultimately protect Peoples and its ratepayers.

It is, therefore,

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that the proprietary confidential business information discussed above in Documents No. 14533-92 and 4206-93 shall be afforded confidential treatment. It is further

ORDERED that I deny Peoples Gas Systems' request, as discussed within the body of this Order, as it relates to Schedule A-1/MF-AO, line 44a of the column entitled "Current Month - Actual." It is further

ORDERED that the proprietary confidential business information discussed above shall be afforded confidential treatment until June 16, 1994.

By ORDER of Chairman J. Terry Deason, as Prehearing Officer, this 3rd day of June, 1993.

J. TERRY DEASON, Chairman 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.