

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase    )  
by Peoples Gas System.            )  
\_\_\_\_\_)

DOCKET NO. 080318-GU

Submitted for Filing:  
10-6-08

**PEOPLES GAS SYSTEM'S OBJECTIONS AND RESPONSE TO  
CITIZENS' THIRD REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 76-106)**

Peoples Gas System ("Peoples" or the "Company") submits the following Objections and Response to Citizens' Third Request for the Production of Documents (Nos. 76-106).

**I. Introduction**

Citizens Third Request for Production of Documents (Nos. 76-106) served by the Office of Public Counsel ("OPC") on September 4, 2008 is part of a series of discovery requests propounded by OPC. Peoples has made immediate and continuing efforts to identify documents responsive to this request. Despite the objections stated below, Peoples will either provides scanned copies of documents responsive to the request to OPC at its offices on a CD or produce any confidential documents in the office of Ausley & McMullen in Tallahassee. Some of the documents sought by OPC's Third Request are duplicative of documents produced by the Company in response to prior requests.

The objections which follow are necessary because of the collectively expansive nature of the multiple requests served by the OPC and because the process of assembly and review is incomplete as of the date of this pleading.

## **II. General Objections.**

Peoples asserts the following general objections to Citizens' Third Request for Production of Documents (Nos. 76-106):

1. Peoples objects to each and every individual discovery request, to the extent it calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. Peoples in no way intends to waive any such privilege or protection. The nature of any such document(s) will be described in a privilege log filed/prepared by Peoples.

2. Peoples objects to each individual request to the extent it requires production of information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. Peoples in no way intends to waive claims of confidentiality and will only produce such information subject to protective order and the Commission's rule on confidentiality. Peoples will file a request for a protective order prior to providing copies of confidential documents to OPC and will provide non-disclosure agreements for any of OPC's outside consultants. Documents which are confidential will be identified and separated for review.

3. Peoples objects to any definitions or instructions accompanying the discovery request to the extent that they are inconsistent with and expand the scope of discovery specified in the Florida Rules of Civil Procedure that are incorporated into the Model Rules of Procedure or the Commission's rules on discovery. If some question

arises as to Peoples' discovery obligations, Peoples will comply with applicable rules and not with any of the definitions or instructions accompanying the discovery requests that are inconsistent with or exceed the requirements of those rules. Furthermore, Peoples objects to any discovery request that calls for Peoples to create data or information that it otherwise does not have because there is no such requirement under the applicable rules and law.

4. Peoples objects to any definition or instruction in any discovery request that seeks production of documents from persons or entities who are not parties to this proceeding or that are not subject to discovery under applicable rules.

5. Peoples is a large operation with employees located in many different locations throughout Florida. In the course of its business, Peoples creates numerous documents that are not subject to Florida Public Service Commission or other governmental record retention requirements. These documents are kept in numerous locations and are sometimes moved from site to site as employees change jobs or as the operations of the Company are reorganized. Therefore, it is possible that not every relevant document may have been reviewed or considered in developing Peoples' responses to the discovery requests. Rather, Peoples will provide all the information that Peoples has obtained after a good faith, reasonable and diligent search conducted in connection with these discovery requests. To the extent that the discovery requests propose to require more, Peoples objects to the requests individually and collectively on the grounds that compliance would impose an undue burden or expense on the Company.

6. Peoples objects to each discovery request to the extent that it seeks information that is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

7. Peoples objects to each and every discovery request to the extent it is vague, ambiguous, overly broad, burdensome, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests.

8. Peoples objects on grounds of relevancy to each discovery request seeking information relating to transactions or other business activity of Peoples' non-regulated affiliates where Peoples was not a party to the transaction or a participant in the business activity.

9. Peoples expressly reserves and does not waive any objections it may have to the admissibility, authenticity or relevancy of the information provided in its responses to the subject discovery requests.

10. Peoples objects to any attempt by the party seeking discovery to evade any numerical limitations set on interrogatories or requests for production of documents by asking multiple independent discovery requests within single individual discovery requests and subparts thereof. By making these general objections at this time, Peoples does not waive or relinquish its right to assert additional general and specific objections to the subject discovery at the time Peoples' response is due.

11. Peoples objects to the time and place designated for production on grounds that producing documents that may be responsive to the requests at the specified time and place would require the Company to transport, or to copy and ship,

voluminous documents to Tallahassee, copies of which the OPC may not even elect to request be copied after inspection. As such, Peoples' compliance with the time and place designated for production would be burdensome on Peoples. If the documents requested are voluminous, the Company will produce documents that may be responsive to the requests at its offices in Tampa, Florida at a mutually agreeable time and date after October 6, 2008. The Company will scan onto a CD specific documents identified by OPC.

12. The Company objects to duplicative productions of documents produced in response to previous OPC requests for production.

### **III. Specific Objections and Responses.**

In addition to the general objections set forth above, which are incorporated herein by reference, Peoples asserts the following specific objections and responses to the correspondingly numbered categories of the request.

76. Please provide copies of all presentations made to rating agencies and/or investment firms by TECO Energy, Tampa Electric or Peoples between January 1, 2007 and the present.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Documents responsive to this category of the Request will be produced by Tampa Electric Company ("Tampa Electric") in response to Category 69 of the Citizens' Second Request for Production of Documents to Tampa Electric in Docket No. 080317-EI.

77. Please provide copies of all prospectuses for any security issuances by TECO Energy, Tampa Electric or Peoples since January 1, 2007.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Documents responsive to this category of the Request will be produced by Tampa Electric Company ("Tampa Electric") in response to Category 70 of the Citizens' Second Request for Production of Documents to Tampa Electric in Docket No. 080317-EI.

78. Please provide a copy of all studies performed by TECO Energy, Tampa Electric or Peoples or by consultants or investment firms hired by TECO or Peoples to assess (1) TECO Energy, Tampa Electric or Peoples financial performance, (2) the performance of TECO Energy, Tampa Electric or Peoples relative to other utilities, or (3) the adequacy of Peoples' return on equity or overall rate of return.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Peoples has no documents responsive to this category of the Request. Documents responsive to this category of the Request will be produced by Tampa Electric Company ("Tampa Electric") in response to Category 71 of the Citizens' Second Request for Production of Documents to Tampa Electric in Docket No. 080317-EI.

79. Please provide a copy of credit reports for TECO Energy, Tampa Electric or Peoples that the major credit rating agencies published since January 1, 2007.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Peoples has no documents responsive to this category of the Request. Documents responsive to this category of the Request will be produced by Tampa Electric Company ("Tampa Electric") in response to Category 72 of the Citizens' Second Request for Production of Documents to Tampa Electric in Docket No. 080317-EI.

80. Please provide a copy of all correspondence between TECO Energy, Tampa Electric or Peoples and any of the three major bond rating agencies (S&P, Moody's, and Fitch) from January 1, 2006 to the present. These should include copies of letters, reports, presentations, emails, and notes from telephone conversations.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Peoples has no documents responsive to this category of the Request. Documents responsive to this category of the Request will be produced by Tampa Electric Company ("Tampa Electric") in response to Category 73 of the Citizens' Second Request for Production of Documents to Tampa Electric in Docket No. 080317-EI.

81. Please provide all associated source documents and work papers associated with the breakdown in the expected return on different assets classes (bonds, US stocks, international stocks, etc) of pension plan assets for TECO Energy, Tampa Electric and/or Peoples.

**Objections and Response:** Peoples hereby incorporates its general objections by reference and will produce documents responsive to this category of the request consistent with its general objections.

82. Please provide copies of all associated work papers and source documents used to calculate Peoples' authorized and earned return on common equity, including all adjustments to net income and/or common equity, for gas operations over the past ten years. Please provide a copy in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact.

**Objections and Response:** Peoples hereby incorporates its general objections by reference and will produce documents responsive to this category of the request consistent with its general objections. Documents responsive to this category of the Request have been previously produced by Peoples in response to Category 6 of Citizens' First Request for Production of Documents to Peoples.

83. Please provide a list of the publications of Dr. Donald Murry.

**Objections and Response:** Peoples hereby incorporates its general objections by reference and will produce documents responsive to this category of the request consistent with its general objections.

84. Please provide copies of the publications cited in the footnotes of Dr. Murry's testimony.



**Objections and Response:** Peoples hereby incorporates its general objections by reference. Documents responsive to this category of the Request have been previously produced by Peoples in response to Category 46 of Citizens' First Request for Production of Documents to Peoples.

85. With respect to page 11, lines 1-7, of the direct testimony of Dr. Murry, please provide a copy of the current Blue Chip Financial Forecasts.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Documents responsive to this category of the Request have been previously produced by Peoples in response to Category 46 of Citizens' First Request for Production of Documents to Peoples.

86. With reference to page 16, lines 1-12 of the direct testimony of Dr. Murry, and Exhibit\_(DAM-5), please provide in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact a copy of the data, source documents, and work papers that were used to develop and/or support:

- a) The capital structure presented in Exhibit\_(DAM-5);
- b) All adjustments that were made to the capitalizations as of December 31, 2007 and pro forma December 31, 2008 to arrive at the projected test-year capitalization;
- c) The monthly amounts of short-term debt used and projected to be used in developing the test-year capital structure; and

- d) The monthly cash flow and capitalization amounts, including all actual and pro forma financings.

**Objections and Response:** Peoples hereby incorporates its general objections by reference.

- a) Documents responsive to this subcategory of the Request have been previously produced by Peoples in response to Category 47 of Citizens' First Request for Production of Documents to Peoples.
- b) For December 2007, the requested adjustments are provided on MFR Schedule D-10. For December 2008, documents responsive to this subcategory of the Request have been previously produced by Peoples in response to Category 47 of Citizens' First Request for Production of Documents to Peoples, and electronic versions for both dates requested were included among such documents.
- c) Monthly short-term debt balances are contained on the balance sheets in the line item titled "Notes Payable." Historical data for 2007 is contained in MFR Schedule B-1. Projected data for 2008 and 2009 are contained in MFR Schedule G-1, pages 6 and 8. Electronic versions for all years have been previously produced by Peoples in response to Category 47 of Citizens' First Request for Production of Documents to Peoples.
- d) Monthly long-term debt balances and equity amounts are contained on the balance sheets. Historical data for 2007 is contained in MFR Schedule B-1. Projected data for 2008 and 2009 are contained in MFR Schedule G-1, pages 6 and 8. Any financings planned, either equity or long-term debt,

are described in both the MFRs and in the direct testimonies of Paul Higgins and Gordon Gillette. Electronic versions for all years have been previously produced by Peoples in response to Category 47 of Citizens' First Request for Production of Documents to Peoples.

87. With reference to page 16, lines 13-25 of the direct testimony of Dr. Murry, and Exhibit\_(DAM-6), please provide copies of the data, source documents, and work papers used to develop the capital structure ratios for the regulated subsidiaries of the proxy group regulated subsidiary companies. Please provide copies of the source documents, work papers, and data in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Documents responsive to this category of the Request have been previously produced by Peoples in response to Category 46 of Citizens' First Request for Production of Documents to Peoples.

88. With reference to page 18, lines 6-12, of the direct testimony of Dr. Murry, please provide the following data, including all work papers used in determining the debt cost rates, in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact.

a) All data, work papers, source documents, and calculations used in computing the short-term and long-term cost rates of 4.50% and 7.20%, respectively;

- b) All details (issue date, debt amounts, underwriter, underwriting spread, SEC filings, etc.) associated with all actual and pro forma financings used in determining the Company's short-term and long-term debt cost rates; and
- c) The methodology, computations, and associated work papers used to compute the debt cost rates for pro forma long-term financings, intercompany loans, and for short-term debt.

**Objections and Response:** Peoples hereby incorporates its general objections by reference.

- a) Documents responsive to this subcategory of the Request have been previously produced by Peoples in response to Categories 46 and 47 of Citizens' First Request for Production of Documents to Peoples.
- b) Documents responsive to this subcategory of the Request have been previously produced by Peoples in response to Categories 46 and 47 of Citizens' First Request for Production of Documents to Peoples. Additional detailed documents are contained in file cabinets maintained in the Treasury Department of TECO Energy, Inc., and Peoples will coordinate with the OPC the production of such documents for inspection at a mutually agreeable time.
- c) For short-term debt, documents responsive to this subcategory of the Request have been previously produced by Peoples in response to Categories 46 and 47 of Citizens' First Request for Production of Documents to Peoples. For long-term debt, the only issue in either 2008

or 2009 included in the Company's projections occurred in May 2008, and 2008 budget data was changed to reflect the actual debt issue (*i.e.*, such data is no longer "projected"). Other documents responsive to this subcategory of the Request will be produced as described in b) above. No new long-term debt was projected to be issued in the 2009 projected test year.

89. With reference to page 18, lines 13-18, of the direct testimony of Dr. Murry, please provide: (1) all data, work papers, source documents, and calculations used in computing the retail customer deposit and commercial customer deposit costs of 6.0% and 7.0%, respectively; (2) the data, including all work papers used in determining the deposit cost rates, in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact.

**Objections and Response:** Peoples has no documents responsive to this category of the Request. The referenced customer deposit rates are prescribed by Rule 25-7.083(5), *Florida Administrative Code*.

90. With reference to page 21, line 9 to page 22, line 12 of the direct testimony of Dr. Murry, and Exhibit\_(DAM-8), please provide a copy of the reports listed on page 22, lines 5-12 of the direct testimony of Dr. Murry and all studies performed comparing the business risk of Peoples Gas and the companies in the proxy group.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Documents responsive to this category of the Request

have been previously produced by Peoples in response to Category 46 of Citizens' First Request for Production of Documents to Peoples.

91. With respect to page 22, lines 19-22, of the direct testimony of Dr. Murry, please provide a copy of the data and work papers used in determining that the comparable companies have an expected return on equity of 11.5%.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Documents responsive to this category of the Request have been previously produced by Peoples in response to Category 46 of Citizens' First Request for Production of Documents to Peoples.

92. With respect to page 27, lines 23-25, of the direct testimony of Dr. Murry, please provide a copy of all studies that provide empirical evidence that the DCF will not provide "enough cushion so that the realized return will be sufficient to attract and maintain capital."

**Objections and Response:** Peoples hereby incorporates its general objections by reference and will produce documents responsive to this category of the request consistent with its general objections.

93. With respect to page 28, line 6 to page 29, line 4, of the direct testimony of Dr. Murry, please provide a copy of:

- a) All explicit statements (known to Dr. Murry) which have been made by regulators and analysts which explicitly recognize that the marginal cost

nature of the DCF model results in an understatement of the equity cost rate; and

- b) In conjunction with (a), provide a copy of the statements supporting the idea that flotation cost, market pressure, or market value – book value adjustments are made to account for the DCF understatement of the equity cost rate.

**Objections and Response:** Peoples hereby incorporates its general objections by reference.

- a) Please see the direct testimony of Dr. Murry, page 27, line 20, through page 31, line 18. Documents responsive to this subcategory of the Request have been previously produced by Peoples in response to Category 46 of Citizens' First Request for Production of Documents to Peoples.
- b) Documents responsive to this subcategory of the Request will be produced in response to Category 92 of the Request.

94. With respect to page 39, lines 22 through page 40, line 5, of the direct testimony of Dr. Murry, please provide a copy of all studies which indicate that the CAPM understates the equity cost rate for companies with betas less than 1.0.

**Objections and Response:** Peoples hereby incorporates its general objections by reference and will produce documents responsive to this category of the request consistent with its general objections.

95. With respect to page 42, lines 1-6, of the direct testimony of Dr. Murry, please provide in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact a copy of the Ibbotson study and the data used in the Ibbotson study.

**Objections and Response:** Peoples hereby incorporates its general objections by reference and will produce documents responsive to this category of the request consistent with its general objections. Dr. Murry does not have the data used in the Ibbotson study.

96. With respect to page 47, lines 17-22, of the direct testimony of Dr. Murry, please provide a copy of all studies that compare the customer usage for Peoples Gas relative to that of the companies in the comparable group of gas companies.

**Objections and Response:** Neither Peoples nor Dr. Murry has any documents responsive to this category of the Request.

97. Please provide a copy of all studies that compare the business risk, financial risk, and overall investment risk of Peoples Gas relative to that of the companies in the comparable group of gas companies.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. While it is not limited to the following, please refer to the direct testimony of Dr. Murry, page 18, line 19, through page 22, line 12, and Dr. Murry's Exhibits \_\_\_(DAM-5) through \_\_\_(DAM-8).



98. With respect to page 50, lines 3-14 of the direct testimony of Dr. Murry, and Exhibit\_(DAM-25), please provide a copy of the data, work papers, and source documents in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact, used:

- a) In calculating the interest coverage ratio for Peoples Gas; and
- b) The average interest coverage ratios for the comparable companies.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Documents responsive to this subcategory of the Request have been previously produced by Peoples in response to Category 46 of Citizens' First Request for Production of Documents to Peoples.

99. Please provide a copy of all data, source documents, and work papers used in the development of Dr. Murry's Exhibit Nos. DAM-1 through DAM-25.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Documents responsive to this subcategory of the Request have been previously produced by Peoples in response to Category 46 of Citizens' First Request for Production of Documents to Peoples.

100. Please provide electronic copies of Dr. Murry's Exhibit Nos. DAM-1 through DAM-25 in electronic format (Microsoft Excel), with all data and formulas intact.

**Objections and Response:** Peoples hereby incorporates its general objections by reference and will produce documents responsive to this category of the Request. Documents responsive to this subcategory of the Request have

been previously produced by Peoples in response to Category 46 of Citizens' First Request for Production of Documents to Peoples.

101. With reference to page 4, lines 9-12, of the direct testimony of Mr. Gillette, please provide a copy in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact. of the data, source documents, and work papers used to develop:

- a) The 13-month average capital structure;
- b) The details, assumptions, and the magnitude of all adjustments that were made to the capitalizations as of December 31, 2007 and proforma December 31, 2008 to arrive at the proposed capital structure;
- c) The monthly cash flow and capitalization amounts and ratios, including short-term debt and all actual and pro forma financings; and
- d) The timing and amounts of the dividends to be paid by Peoples Gas to TECO, as well as the equity infusions to be made by TECO into Peoples Gas.

**Objections and Response:** Peoples hereby incorporates its general objections by reference.

- a) - c) See Peoples' response to Category 86 of the Request.
- d) For dividends declared by Peoples to TECO Energy, data is provided on MFR Schedule G-2, pages 4 and 5. Equity infusions can be identified by examination of "Additional Capital" line items on MFR Schedule G-1, pages 6

and 8 and are further described in the direct testimony of Gordon Gillette and Paul Higgins.

See also Peoples' answer to Citizens' Interrogatory No. 103 to Peoples.

102. Please provide in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact, the data supporting the quarterly capitalization amounts and ratios, including and excluding short-term debt, for the past three years for Peoples Gas.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Documents responsive to this category of the Request have been previously produced by Peoples in response to Category 6 of Citizens' First Request for Production of Documents to Peoples. Peoples will also produce documents responsive to this category of the Request in response to Category 82 of the Request. See also Peoples' answer to Citizens' Interrogatory No. 101 to Peoples.

103. With respect to page 4, lines 21-25, of the direct testimony of Mr. Gillette, please provide a copy of all studies performed detailing the costs and benefits of achieving an A bond rating for the Company.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Peoples has no documents responsive to this category of the Request. However, the specific reasoning for targeting an A bond rating

may be found in the direct testimony of Gordon Gillette. Additionally, please see the Company's answer to Citizens' Interrogatory No. 102 to Peoples.

104. With reference to page 5, lines 8-17 of the direct testimony of Mr. Gillette, and MFR Schedule G-3 and D-11, please provide a copy of the data, source documents, and work papers in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact, used to develop the EBIT/interest ratios.

**Objections and Response:** Peoples hereby incorporates its general objections by reference. Documents responsive to this category of the Request have been previously produced by Peoples in response to Category 47 of Citizens' First Request for Production of Documents to Peoples.

105. With reference to page 6, lines 1-4, of the direct testimony of Mr. Gillette, please provide a copy of the associated data, source documents, and work papers in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact to reflect:

- a) The annual earnings of Peoples Gas, the annual dividends paid by Peoples Gas to TECO, and the annual equity infusions made by TECO into Peoples Gas, for the years 2005-2007;
- b) The projected annual earnings of Peoples Gas, the projected annual dividends to be paid by Peoples Gas to TECO, and the projected annual equity infusions made by TECO into Peoples Gas, for the years 2008-2009.

**Objections and Response:** Peoples hereby incorporates its general objections by reference.

- a) Documents responsive to this category of the Request have been previously produced by Peoples in response to Category 3 of Citizens' First Request for Production of Documents to Peoples.
- b) Documents responsive to this category of the Request have been previously produced by Peoples in response to Categories 1 and 17 of Citizens' First Request for Production of Documents to Peoples. Earnings and dividends projections are included in MFR Schedule G-2, pages 4 and 5, and equity infusions can be identified by examination of "Additional Capital" line items on MFR Schedule G-1, pages 6 and 8, and are further described in the direct testimony of Gordon Gillette and Paul Higgins.

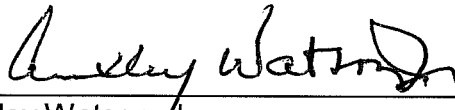
106. With reference to page 6, lines 5-12, of the direct testimony of Mr. Gillette, please provide a copy in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact, of the associated data, source documents, and work papers that support the Company's argument that the parent company debt was not used to purchase equity of Peoples Gas.

**Objections and Response:** Peoples hereby incorporates its general objections by reference and will produce documents responsive to this category of the Request. Documents responsive to this category of the Request have been previously produced by Peoples in response to Category 47 of Citizens' First Request for Production of Documents to Peoples, and by Tampa Electric in

response to Category 95 of Citizens' Third Request for Production of Documents  
to Tampa Electric.

DATED this 6th day of October, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ansley Watson, Jr.", written over a horizontal line.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objections and Response to Citizens' Third Request for Production of Documents (Nos. 76-106), filed on behalf of Peoples Gas System, has been furnished electronically and by regular mail to the following, this 6th day of October, 2008:


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