CORRECTED

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment (PGA) Clause.	)	DOCKET NO. 920003-GU
	)	ORDER NO. PSC-92-1244-CFO-GU
	)	ISSUED: 11/02/92

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

BY THE COMMISSION:

Peoples Gas System, Inc. (Peoples or PGS) filed a request (and addendum to its request) for confidentiality concerning certain portions of its PGA filings for the month of May, 1992. The confidential information is located in Document No. 6798-92. 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 the month and period shown. 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 the month shown. 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, Estimate, and Difference) and in Period to Date (Actual, Estimate, 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. 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. 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, Peoples argues, is reasonably likely to be increased gas prices, which result in increased rates to Peoples' ratepayers. We agree with the exception of line 41 under the column entitled "Current Month - Actual." This information is a matter of public record on file with the FERC, and accordingly, we cannot treat such information as confidential.

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, Estimate, and Difference) and in Period to Date (Actual, Estimate, 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. 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. We agree that the information on lines 5 and 25 is proprietary confidential business information, but as discussed above, line 41 under the column entitled "Current Month - Actual" is public information.

In addition, PGS requests confidentiality for lines 1-4, 6, 8a-13, 22-24, 26, 28a-32, 38-40, 42, and 44a-48 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 service 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 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. We find

the above-mentioned lines to be proprietary confidential business information with the exception of lines 38-40, 42, 44a, and 45-48 of the column entitled "Current Month - Actual." The information in the lines noted as an exception under "Current Month - Actual" shows the commodity, demand overrun, other purchases less end use contract, and total cost of gas for the FGT pipeline, transportation system supply and less end-use contract 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, we cannot treat such information as confidential.

PGS seeks confidential classification for certain information on Schedule A-9. Specifically, Peoples seeks confidential classification for the information on line 24 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 24 in the column "Demand Cost" 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 the columns entitled "End Use MDCQ x Days" and "Total Purchased" are the same as the information on line 26 (Actual) for the Current Month on Schedule A-1/MF-AO. We have already found this information to be 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. PGS also seeks confidential classification for the information shown on Line 24 in the column entitled "Total Cents Per Therm." PGS states that this information is the same as Lines 39 and 42 (Actual) for the Current Month on Schedule A-1/MF-AO. However, since we have found this information to be public information published with the FERC, the request is denied as it pertains to Line 24 for the column entitled "Total Cents Per Therm."

On Schedule A-9, Peoples also seeks confidential treatment for the information shown on lines 1-23 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 24 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 1-23 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 the information in lines 1-8 of Schedule A-10 (page 1) and for lines 1-7 and 13 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 Gator Gas Marketing for May, 1992. 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 that 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. We agree.

Also, Peoples seeks confidential classification of the information found in lines 1-8 and 10 of Schedule A-10 (page 1) and in lines 1-7 and 12 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. Accordingly, we agree with Peoples and the information it requests for Schedule A-10 should be treated as confidential.

Peoples seeks confidential treatment for certain information highlighted on its invoices for May, 1992. 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. Disclosure of the volumes and total cost would enable competitors to calculate the rates paid by PGS. We agree with the exception of the rate column on the invoices from FGT. Since the FGT rate is public information on file with the FERC, the FGT rate will not be treated as confidential on the invoices. We would like to clarify that this only applies to the FGT rate and not to the rate from third party suppliers.

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 1-19 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. 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.

Peoples requests that the proprietary information discussed above be treated as confidential until December 25, 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. 6798-92 shall be afforded confidential treatment. It is further

ORDERED that we deny Peoples Gas Systems' request, as discussed within the body of this Order, as it relates to Schedule A-1/MF-AO, lines 38-42, 44a, and 45-48 of the column entitled "Current Month - Actual"; Schedule A-9, line 24 in the column entitled "Total Cents Per Therm"; and the rate column on the invoices from FGT. It is further

ORDERED that the proprietary confidential business information discussed above shall be afforded confidential treatment until December 25, 1993.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 2nd day of November, 1992.

Betty Easley

BETTY EASLEY, Commissioner
and Prehearing Officer

(S E A L)

DLC/NRF:bmi

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.