

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment ) DOCKET NO. 930003-GU  
(PGA) Clause. ) ORDER NO. PSC-93-0533-CFO-GU  
\_\_\_\_\_ ) ISSUED: 04/07/93

ORDER REGARDING PEOPLES' REQUEST FOR  
CONFIDENTIALITY OF PORTIONS OF COMPOSITE EXHIBITS HMG-1 AND HMG-2

Peoples Gas System, Inc. (Peoples or PGS) filed a request (and an addendum to its request) for confidentiality concerning certain portions of its Composite Exhibits HMG-1 and HMG-2 filed in this docket. Composite Exhibit HMG-1 consists of Schedules E-1/PFS-O, E-3P(a) through (g), E-4P, and E-5P. HMG-2 consists of Schedules E-1/PFS-O, E-2, E-3P(a) through (g), E-4P, and E-5. The confidential information is located in Document Nos. 7485-92 and 8591-92. PGS states that this information is intended to be and is treated by the Utility 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 purposes of this filing, we have required Peoples to re-estimate the quantities and cost of gas it will purchase from FGT during the next six-months. FGT's purchased gas adjustment is subject to FERC review, and Peoples' future cost estimates will have no effect on FGT's adjustment level during the future period. On the other hand, purchases made from persons other than FGT are currently based primarily on negotiations between Peoples' affiliate (Gator Gas Marketing, Inc.) and numerous producers and gas marketing companies. Since "open access" became effective on the FGT system on August 1, 1990, gas supplies were made available to Gator, the affiliate responsible for Peoples' non-FGT purchases, from these other suppliers. The prices paid by Gator vary,

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depending on the length of the purchasing period, the season or seasons that the purchases will be made, the quantities involved, and whether the purchase will be made on a firm or interruptible basis. Gas prices can vary from producer-to-producer or marketer-to-marketer, even when non-price terms and conditions are not significantly different. Gator also makes purchases for sale to several of Peoples' large industrial customers who choose not to make purchases from Peoples' system supply.

PGS argues that the information in line 9 on column K of the Schedules E-3P(a)-(g) in Composite Exhibit HMG-1 is contractual information, 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. I agree. The information shows the weighted average prices Peoples paid or projects to pay Gator and Seminole Gas Marketing, Inc. (another affiliate of Peoples) for gas during the period April through September 1992 (Schedule E-3P(g)), and by month during that period (Schedules E-3P(a)-(f)). Knowledge of these prices would give competing suppliers information with which to potentially or actually control the pricing of gas by enabling the competitors either to all quote a particular price (which would in all likelihood equal or exceed the price Peoples has paid or has projected it will pay), or it would enable them to adhere to a price offered by an affiliate of Peoples. Even though this information is the weighted average price, most suppliers would most likely refuse to sell gas at a price less than the weighted average cost. In fact, such a supplier would probably be less likely to make any price concessions. 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 argues that disclosure of the information in line 9 of columns E-J, and lines 1-8 of columns E-K of the Schedule E-3P(a)-(g) in Composite Exhibit HMG-1 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. I agree. The data consists of algebraic functions of the price per therm Peoples has paid or has projected it will pay its affiliates in the future. The publication of these columns together, or independently, would allow a supplier to derive Peoples' purchase price of gas for the six-month period.

Peoples also seeks confidential treatment of the information in line 46d in the columns B-H for Schedule E-1/PFS-O in Composite Exhibit HMG-1. Peoples argues that this information is contractual data, the disclosure of which "would impair the efforts of [Peoples] to contract for goods or service on favorable terms." Section 366.093(3)(d), Florida Statutes. I agree. The information shows the weighted average price Peoples has paid or projects it will pay Gator and Seminole during the period April through September 1992. Knowledge of these prices would give other competing suppliers information with which to potentially or actual control gas prices either by all quoting a particular price or by adhering to a price offered by a Peoples' affiliate. Despite the fact that this information is the weighted average price, a supplier who may have sold gas at a price lower than the weighted average cost would most likely refuse to do so. In fact, such a supplier would be less likely to make price concessions, and could simply refuse to sell gas at a price less than the weighted average price. 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 confidentiality for lines 8d and 28d of columns B-H on Schedule E-1/PFS-O in Composite Exhibit HMG-1. Peoples argues that disclosure of this information would 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. I agree. The total projected cost figures for Peoples' purchases from its affiliates shown on Line 5 can be divided by the therms it projects to purchase from its affiliates on Line 25, to determine the projected weighted average cost or price on Line 41. Thus, the publication of the information on Lines 5 and 25 together, or independently, would allow a supplier to derive the purchase price of gas Peoples has paid or has projected it will pay its affiliates in the future.

PGS requests confidential classification for the information in lines 1-6, 8a-8c, 9a-13, 22-26, 28a-28c, 29a-33, 40-44, 46a-46c, and 47a-51 on columns B-H on Schedule E-1/PFS-O in Composite Exhibit HMG-1. Peoples argues that disclosure of this information would 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. I agree. The data consists of algebraic functions of the price per therm Peoples projects it will pay its

affiliates for gas during the future six-month period. Since the figures for total transportation cost (line 15), total transportation (line 35), total cents-per-therm transportation cost (line 53), and the PGA factor and true-up have been publicly disclosed, the requested data could be used to derive the purchase price of gas Peoples has paid or projects it will pay its affiliates during the six-month period.

Peoples seeks confidentiality for lines 1-9 of columns E-K on Schedule E-3P(a)-(g) in Composite Exhibit HMG-2. Peoples has offered the same justification for this information in Composite Exhibit HMG-2 as it did for the same type of information on the same type of form in Composite Exhibit HMG-1. I find this information on Schedule E-3P(a)-(g) in Composite Exhibit HMG-2 to be confidential for the same reasons that we found the information to be confidential as it relates to Schedule E-3P(a)-(g) in Composite Exhibit HMG-1.

In addition, PGS requests confidential treatment for lines 46d, 8d, 28d, 1-6, 8a-8c, 9a-13, 22-26, 28a-28c, 29a-33, 40-44, 46a-46c, and 47a-51 on Schedule E-1/PFS-O, in Composite Exhibit HMG-2. Peoples has offered the same justification for this information in Composite Exhibit HMG-2 as it did for the same type of information on the same type of form in Composite Exhibit HMG-1. I find this information on Schedule E-1/PFS-O in Composite Exhibit HMG-2 to be confidential for the same reasons that we found the information to be confidential as it relates to Schedule E-1/PFS-O in Composite Exhibit HMG-1.

Peoples requests that the proprietary information discussed above be treated as confidential until January 9, 1994. I 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. 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

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above in Document Nos. 7485-92 and 8591-92 shall be afforded confidential treatment. It is further

ORDERED that the proprietary confidential business information discussed above shall be afforded confidential treatment until January 9, 1994.

By ORDER of Chairman J. Terry Deason, as Prehearing Officer, this 7th day of April, 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,

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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.