

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment ) DOCKET NO. 930003-GU  
(PGA) Clause. ) ORDER NO. PSC-93-0536-CFO-GU  
\_\_\_\_\_ ) ISSUED: 04/08/93

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

On October 2, 1992, Peoples Gas System, Inc. (Peoples or PGS) filed a request for confidentiality for its revised estimate for the period of October, 1992, through March, 1993. The confidential information is located in Document No. 11504-92. 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.

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. 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, 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.

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FPSC-RECORDS/REPORTING

"Open access" on FGT's system has enabled PGS 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.

Peoples seeks confidential classification for the information on line 46d in the columns Original Estimate, Revised Estimate, and Difference Amount 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 has projected and reprojected that it will pay 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. I agree.

Concerning Schedule A-1/MF-AO, Peoples also seeks confidential classification of the information on lines 8d and 28d in the columns Original Estimate, Revised Estimate, and Difference Amount. 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 projections on line 8d can be divided by the terms to be purchased on line 28d to derive the weighted average cost or price on line 46d. Thus, the publication of the information on lines 8d and 28d together, or independently, could allow a supplier to derive the

purchase price of gas paid by Peoples. I agree that the information on lines 8d and 28d is proprietary confidential business information.

In addition, PGS requests confidentiality for lines 1, 2, 5, 6, 8a-8c, 9a-9c, 12, 13, 22, 23, 25, 26, 28a-28c, 29a-29c, 32, 33, 40, 41, 43, 44, 46a-46c, 47a-47c, 50, and 51 for the columns Original Estimate, Revised Estimate, and Difference Amount 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. I agree. The data found in the columns specified are algebraic functions of the price per therm Peoples expects to pay 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 35), "Total Cents-Per-Therm Cost of Gas Purchased" (line 45), "Total Cents-Per-Therm Transportation Cost" (line 53), and the PGA factor and true-up, have been disclosed. These public figures could be used in conjunction with the proprietary information to derive Peoples' projected purchase price.

Peoples requests that the proprietary information discussed above be treated as confidential until April 2, 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 above in Document No. 11504-92 shall be afforded confidential treatment. It is further

ORDERED that the proprietary confidential business information discussed above shall be afforded confidential treatment until April 2, 1994.

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By ORDER of Chairman J. Terry Deason, as Prehearing Officer,  
this 8th 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, 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.