

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment) DOCKET NO. 960003-GU
(PGA) Clause.) ORDER NO. PSC-96-0228-CFO-GU
_____) ISSUED: February 19, 1996

ORDER GRANTING PEOPLES GAS SYSTEM, INC.'S
REQUEST FOR CONFIDENTIAL TREATMENT
OF CERTAIN AUDIT WORKPAPERS

Pursuant to Rule 25-22.006(4), Florida Administrative Code, Peoples Gas System, Inc. (Peoples) has requested specified confidential treatment of portions of the Commission Staff's Audit Work Papers pertaining to the Commission Staff's PGA Audit for the twelve-months ending September 30, 1995 (Document Nos. 12574-95 and 12119-95).

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 the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

The Florida Legislature has determined that "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms" is proprietary confidential business information. Section 366.093(3)(d), Florida Statutes.

To establish that material is proprietary confidential business information under Section 366.093(3)(d), Florida Statutes, a utility must demonstrate (1) that the information is contractual data, and (2) that the disclosure of the data would impair the efforts of the utility to contract for goods or services on favorable terms. The Commission has previously recognized that this latter requirement does not necessitate the showing of actual impairment, or the more demanding standard of actual adverse results; instead, it must simply be shown that disclosure is "reasonably likely" to impair the company's contracting for goods or services on favorable terms.

DOCUMENT NUMBER-DATE

01890 FEB 19 96

FPSO-REG. A/C/S/REPORTING

Peoples seeks confidential treatment for information in six areas: 1) the names of customers to which Peoples sold gas during the period; 2) the price Peoples paid its suppliers and the volumes purchased; 3) the names of Peoples' suppliers; 4) the total cost of book-outs per Therm; 5) the weighted average price Peoples paid its suppliers during the period; and 6) pricing data relating to the price per therm Peoples paid its suppliers during the period. Peoples asserts that this is contractual information which it considers confidential and 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 seeks confidential treatment of the names of its customers. Peoples asserts that publication of this information would be detrimental to the interests of both Peoples and its ratepayers. Peoples argues that competitors would be able to determine each customer's consumption habits; thereby, providing competitors with a list of prospective customers. This information would also allow a third party to interject itself as a middleman between Peoples and the customer. As such, Peoples asserts that it is reasonable to assume that the end result would be increased gas prices, the cost of which Peoples would have to recover from its ratepayers.

Similarly, Peoples seeks confidential treatment of the names of its suppliers. Peoples asserts that release of this information would allow a competitor to interject itself as a middleman between Peoples and the supplier. The result would likely be higher gas prices.

Peoples also seeks confidential treatment of information relating to the therms purchased from each supplier during the period and the total cost of the amount purchased. Peoples asserts that the release of this information would allow competitors to calculate the actual prices which Peoples paid for gas to each of its suppliers. Peoples argues that knowledge of these prices would give competitors information with which to potentially or actually control the pricing of gas, either by all quoting a particular price, or by adhering to a price offered by one particular supplier. In addition, suppliers who might otherwise have been willing to sell at a lower price might be less likely to make such price concessions. The result would be higher gas prices for Peoples, which would, in turn, have to be recovered from Peoples ratepayers.

Since November 1993, the FGT interstate pipeline tariff has required the assessment of charges to those customers who are not in balance on a monthly basis ("an imbalance charge"). This practice has caused Peoples to trade ("book-out") imbalances with other interstate pipeline customers rather than having to pay less favorable FGT imbalance charges. Thus, Peoples requests confidential treatment of information relating to the total cost of book-outs. Peoples asserts that if the book-out price were known, FGT customers which might have been willing to trade imbalances at a price per therm more favorable to Peoples would be less likely to do so. The end result would likely be a higher gas price paid by Peoples which Peoples would recover from its ratepayers.

In addition, Peoples seeks confidential treatment of information relating to the weighted average price Peoples paid its suppliers during the period. Peoples asserts that release of this information would give other competing suppliers information with which to potentially or actually control the pricing of gas either by all quoting a particular price, or by adhering to a price offered by a Peoples supplier. Suppliers would be less likely to make price concessions and might simply refuse to sell at less than the weighted average price. This would result in higher gas prices for Peoples, which it would recoup from its ratepayers.

Peoples also seeks confidential treatment of data relating to the price per therm which Peoples paid its suppliers. Peoples asserts this information would allow a supplier to derive the purchase price Peoples paid its suppliers during the period. Suppliers would then be less likely to make price concessions and might simply refuse to sell at less than the weighted average price. This would result in higher gas prices for Peoples, which it would recoup from its ratepayers.

Peoples argues that the information for which it seeks confidential treatment is treated by Peoples as confidential and has not been publicly disclosed.

The specific audit workpaper numbers and lines relating to the documents that petitioner has requested confidential treatment, together with my findings, are listed in the table which follows:

Working Paper	Line	Column	Finding	Type of material
Material from documents 12119-95 and 12574-95				
41-3/1	1-34	Nov 1995	Grant	Names of customers
41-3/2	1-34	Nov 1995	Grant	"
41-3/3	1-36	Feb 1995	Grant	"
41-3/4	1-36	Feb 1995	Grant	"
41-3/5	1-39	July 1995	Grant	"
41-3/6	1-39	July 1995	Grant	"
43-1 (1 of 12)	1-4, 9-15, 19-32	C and E	Grant	Gas price purchased by volume
43-1 (1 of 12)	10-12, 19-32	A	Grant	Gas suppliers
43-1 (1 of 12)	16	E	Grant	"Book Out" price
43-1 (2 of 12)	1-4, 9-15, 19-37	C and E	Grant	Gas price purchased by volume
43-1 (2 of 12)	10-12, 22-37	A	Grant	Gas suppliers
43-1 (2 of 12)	16	E	Grant	"Book Out" price

Material from documents 12119-95 and 12574-95				
43-1 (3 of 12)	1-4,9-15, 19-39	C and E	Grant	Gas price purchased by volume
43-1 (3 of 12)	10-12, 22-39	A	Grant	Gas suppliers
43-1 (3 of 12)	16	E	Grant	"Book Out" price
43-1 (4 of 12)	1-4,9-17, 20-42	C and E	Grant	Gas price purchased by volume
43-1 (4 of 12)	10-12, 16-17, 23-42	A	Grant	Gas suppliers
43-1 (5 of 12)	1-4,9-15, 19-48	C and E	Grant	Gas price purchased by volume
43-1 (5 of 12)	10-12, 22-48	A	Grant	Gas suppliers
43-1 (5 of 12)	16	E	Grant	"Book out" price
43-1 (6 of 12)	12,24-42	C and E	Grant	Gas price purchased by volume
43-1 (6 of 12)	12-14, 16-17, 24-42	A	Grant	Gas suppliers
43-1 (7 of 12)	12,24-40	C and E	Grant	Gas price purchased by volume
43-1 (7 of 12)	12-14, 16-17, 24-40	A	Grant	Gas suppliers

Material from documents 12119-95 and 12574-95				
43-1 (8 of 12)	12,22-34	C and E	Grant	Gas price purchased by volume
43-1 (8 of 12)	12-14, 22-34	A	Grant	Gas suppliers
43-1 (9 of 12)	12,23-36	C and E	Grant	Gas price purchased by volume
43-1 (9 of 12)	12-14, 23-36	A	Grant	Gas suppliers
43-1 (10 of 12)	12,22-36	C and E	Grant	Gas price purchased by volume
43-1 (10 of 12)	12-14, 22-39	A	Grant	Gas suppliers
43-1 (11 of 12)	12,22-34	C and E	Grant	Gas price purchased by volume
43-1 (11 of 12)	12-14, 22-34	A	Grant	Gas suppliers
43-1 (12 of 12)	18-32	C and E	Grant	Gas price purchased by volume
43-1 (12 of 12)	9, 18-32	A	Grant	Gas suppliers
44-1	1-31	Customer	Grant	Names of customers
44-1/1	10-25	L	Grant	Weighted average gas price paid to suppliers
44-1/1	1-28	E-K	Grant	Allows calculation of gas price per therm
44-1/1	10-25	B	Grant	Gas suppliers

Material from documents 12119-95 and 12574-95				
44-2	1-36,38	Customer	Grant	Names of customers
44-2/1	10,15-21	L	Grant	Weighted average gas price paid to suppliers
44-2/1	10,15-21	E-K	Grant	Allows calculation of gas price per therm
44-2/1	10-21	B	Grant	Gas suppliers

Peoples requests that this information be held confidential for a period of 18 months, as allowed by Section 366.093(4), Florida Statutes. Peoples argues that this period is necessary to allow it and its affiliated companies to negotiate future gas purchase contracts. Should this information be revealed earlier, Peoples competitors would have access to information that would adversely affect Peoples ability to negotiate such contracts on favorable terms. It is noted that this time period will ultimately protect Peoples and its customers.

Based on the foregoing, it is therefore

ORDERED that Peoples Gas System, Inc.'s Request for Confidential Treatment of Certain Audit Workpapers, Document Nos. 12119-95 and 12574-95 is hereby granted. It is further

ORDERED that documents that are granted confidential treatment herein, for the first time, shall not be declassified for a period of eighteen (18) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality. It is further

ORDERED that documents that have been granted confidential treatment by previous Orders, shall be declassified on the date specified by the respective Order in which confidential treatment was originally granted. It is further

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ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 19th day of February, 1996.



J. TERRY DEASON, Commissioner 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.