

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment ) DOCKET NO. 970003-GU  
(PGA) Clause. ) ORDER NO. PSC-97-0417-CFO-GU  
\_\_\_\_\_ ) ISSUED: April 14, 1997

**ORDER GRANTING IN PART AND DENYING IN PART**  
**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 certain audit workpapers resulting from a Commission audit of People's purchased gas adjustment (PGA) for the twelve month period ended September 30, 1996. (Document Nos. 13254-96 and 13523-96).

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." Rule 25-22.006(4)(c), Florida Administrative Code, provides that 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 (1995).

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 disclosure of that 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 ability to contract for goods or services on favorable terms.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Peoples seeks confidential treatment for information in four areas: (1) the names of customers to which Peoples sold gas during the period; (2) the amount, price, and total cost of gas Peoples purchased from individual suppliers during the period, and related information which could lead to the calculation of any of this data; (3) the names of Peoples' gas suppliers; and (4) salaries of Peoples' gas accounting and gas transportation employees during the period. Peoples asserts that the information in the first three areas 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 asserts that the information in the fourth area, salaries, is proprietary confidential information, the disclosure of which will cause the Company and its ratepayers harm.

First, 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, provide competitors with a list of prospective customers, and allow a third party to interject itself as a middleman between Peoples and the customer. In any case, Peoples asserts, it is reasonably likely that the end result would be increased gas prices, the cost of which Peoples would have to recover from its ratepayers.

Second, Peoples seeks confidential treatment of information showing the terms purchased from each supplier during the period and the total cost of the volume purchased, and information which would allow one to calculate the total cost of the volume 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 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 one particular supplier. In addition, Peoples asserts that suppliers who might otherwise have been willing to sell at a lower price might be less likely to make such price concessions. According to Peoples, the result is reasonably likely to be higher gas prices which Peoples would have to recover from its ratepayers.

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Third, Peoples seeks confidential treatment of the names of its suppliers. Peoples asserts that release of this information would provide a list of prospective suppliers and allow a third party to interject itself as a middleman between Peoples and the supplier. Peoples argues that the end result is reasonably likely to be higher gas prices, the cost of which Peoples would be required to recover from its ratepayers.

Fourth, Peoples seeks confidential treatment of the salaries and other compensation of its gas accounting and gas transportation employees. Peoples asserts that release of this information would be detrimental to Peoples and its ratepayers, because it would provide competitors with information regarding the salary structure of Peoples and, possibly, an advantage in hiring a Peoples employee. Peoples argues that the loss of any of these employees would require Peoples to replace the employee and incur recruiting and training expenses, possibly increasing its PGA related payroll expenses. As a likely result of these increased costs, Peoples asserts, Peoples would have a higher cost of gas which it would be required to recover 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.

For the reasons stated above, I find that confidential treatment shall be given to information regarding the names of customers to which Peoples sold gas during the period; the amount, price, and total cost of gas Peoples purchased from individual suppliers during the period, and related information which could lead to the calculation of any of this data; and the names of Peoples' gas suppliers.

Further, I find that confidential treatment should not be given to information regarding the salaries and compensation of Peoples' gas accounting and gas transportation employees during the period. Section 366.093(3)(f), Florida Statutes, provides that proprietary confidential business information includes, "[e]mployee personnel information unrelated to compensation, duties, qualifications, or responsibilities." This section specifically excludes employee compensation from being qualified as proprietary confidential business information that should be provided confidential treatment.

The specific information for which Peoples requested confidential treatment is listed in the table below, where it is identified by workpaper number, line, and column. Following each item is my finding to grant or deny Peoples' request as to that item and a brief statement of the reason for my finding.

Documents No. 13254-96 and No. 13523-96				
Staff Work paper Number	Line(s)	Column(s)	Finding	Reason
Index	25		Grant	Reports the contacts or names of gas customers
41-3/1	1-41,43	Dec 1995	Grant	Reports the contacts or names of gas customers
41-3/2	1-41,43	Dec 1995	Grant	Reports the contacts or names of gas customers
41-3/3	1-49,51	June 1995	Grant	Reports the contacts or names of gas customers
41-3/4	1-49,51	June 1995	Grant	Reports the contacts or names of gas customers
43-1A (1 of 6)	9,18-30	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas
43-1A (1 of 6)	9-11,18-30	A	Grant	Provides names of gas suppliers
43-1A (2 of 6)	9,19-34	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas
43-1A (2 of 6)	9-11,19-37	A	Grant	Provides names of gas suppliers
43-1A (3 of 6)	10,20-39	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas

Documents No. 13254-96 and No. 13523-96				
Staff Work paper Number	Line(s)	Column(s)	Finding	Reason
43-1A (3 of 6)	10-12,20-39	A	Grant	Provides names of gas suppliers
43-1A (4 of 6)	10,20-37	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas
43-1A (4 of 6)	10-12,20-37	A	Grant	Provides names of gas suppliers
43-1A (5 of 6)	9,18-35	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas
43-1A (5 of 6)	9-11,18-35	A	Grant	Provides names of gas suppliers
43-1A (6 of 6)	11,23-42	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas
43-1A (6 of 6)	11-13,23-42	A	Grant	Provides names of gas suppliers
43-1B (1 of 6)	10,19-31	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas
43-1B (1 of 6)	10-12,19-31	A	Grant	Provides names of gas suppliers
43-1B (1 of 6)	11	F	Grant	Provides information that would allow calculation of total sales price

Documents No. 13254-96 and No. 13523-96				
Staff Work paper Number	Line(s)	Column(s)	Finding	Reason
43-1B (2 of 6)	9,18-27	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas
43-1B (2 of 6)	9-11,18-27	A	Grant	Provides names of gas suppliers
43-1B (2 of 6)	10	F	Grant	Provides information that would allow calculation of total sales price
43-1B (3 of 6)	9,27-35	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas
43-1B (3 of 6)	9-11,27-37	A	Grant	Provides names of gas suppliers
43-1B (3 of 6)	9	F	Grant	Provides information that would allow calculation of total sales price
43-1B (4 of 6)	9,21-28	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas
43-1B (4 of 6)	9-11,21-28	A	Grant	Provides names of gas suppliers
43-1B (4 of 6)	10	F	Grant	Provides information that would allow calculation of total sales price
43-1B (5 of 6)	9,21-29	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas
43-1B (5 of 6)	9-11,21-29	A	Grant	Provides names of gas suppliers

Documents No. 13254-96 and No. 13523-96				
Staff Work paper Number	Line(s)	Column(s)	Finding	Reason
43-1B (5 of 6)	10	F	Grant	Provides information that would allow calculation of total sales price
43-1B (6 of 6)	8,22-28, 30-32	C,E	Grant	Reports, for individual suppliers; the amounts purchased, total sales price, or per unit price of gas
43-1B (6 of 6)	8-10,22-32	A	Grant	Provides names of gas suppliers
43-1B (6 of 6)	9	F	Grant	Provides information that would allow calculation of total sales price
10-13/3 (1 OF 4)	1-35	Customer	Grant	Reports the contacts or names of gas customers
10-13/3 (2 OF 4)	1	Customer	Grant	Reports the contacts or names of gas customers
10-13/3 (3 OF 4)	1	Customer	Grant	Reports the contacts or names of gas customers
10-13/3 (4 OF 4)	1-6	Customer	Grant	Reports the contacts or names of gas customers
10-13/5 (1 OF 4)	1-35	Customer	Grant	Reports the contacts or names of gas customers
10-13/5 (2 OF 4)	1	Customer	Grant	Reports the contacts or names of gas customers
10-13/5 (3 OF 4)	1,2	Customer	Grant	Reports the contacts or names of gas customers
10-13/5 (4 OF 4)	1,2	Customer	Grant	Reports the contacts or names of gas customers
10-13/6	4-6,9,11		Grant	Reports the contacts or names of gas customers
10-13/7	1,2		Grant	Reports the contacts or names of gas customers

Documents No. 13254-96 and No. 13523-96				
Staff Work paper Number	Line(s)	Column(s)	Finding	Reason
10-14/1 (1 of 2)	1,2		Deny	Reports employee salary and other compensation information
10-14/1 (2 of 2)	1-11		Deny	Reports employee salary and other compensation information
43-4/4	1-17		Deny	Reports employee salary and other compensation information

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, Documents No. 13254-96 and 13523-96, is granted in part and denied in part, as discussed in the body of this Order. It is further

ORDERED that the information granted confidential treatment herein, if it has not been granted confidential treatment by previous order of this Commission, 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



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ORDERED that the information granted confidential treatment herein, if it has been granted confidential treatment by previous order of this Commission, shall be declassified on the date specified by the order in which confidential treatment was originally granted. It is further

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 14th day of April, 1997.

  
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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 120.569(1), 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 25-22.0376, 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.