

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings
against Peoples Gas System for apparent
violations of Sections 368.01 - 05, F.S., and
Chapter 25-12, F.A.C.

DOCKET NO. 150259-GU
ORDER NO. PSC-16-0175-CFO-GU
ISSUED: May 4, 2016

ORDER GRANTING PEOPLES GAS SYSTEM'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION AND MOTION FOR
TEMPORARY PROTECTIVE ORDER (DOCUMENT NO. 01645-16)

On March 30, 2016, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Peoples Gas System (Peoples or the Company) filed a Request for Confidential Classification (Request) and Motion for Temporary Protective Order (Motion) of portions of documents provided by the Company to the Commission staff pursuant to Staff's First Data Request (Document No. 01645-16):

Peoples states that the Joint KPMG – TECO Energy Audit Services final report provided to Commission staff in response to Request 3 is proprietary confidential business information entitled to protection from public disclosure by Section 366.093(3)(b), F.S., which identifies reports of internal auditors as proprietary confidential business information. Peoples states that reports such as the one provided to Commission staff have routinely been protected from public disclosure by the Commission.

Peoples states that the documents responsive to Request 3.a. consist of engagement letters setting forth the terms and conditions of an audit to be performed by KPMG with TECO Audit Services for Peoples. The documents contain information about rates that KPMG charged Peoples for the performance of the audit (or information from which such rates could be determined). Variations to KPMG's Standard Terms and Conditions were negotiated by Peoples and KPMG. Peoples states that disclosure of this information would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms, and that information such as this has routinely been determined to be proprietary confidential business information under Section 366.093(3)(d), F.S.

Peoples states that the documents responsive to Request 3.b. consist of KPMG invoices for the conduct of the audit resulting in the final report provided to Commission staff pursuant to Request 3. Peoples states that the information on the rates KPMG charges Peoples for the performance of the audit (or information from which such rates could be determined) were negotiated by Peoples and KPMG. Peoples states that disclosure of this information would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms, and that such information has routinely been determined to be proprietary confidential business information under Section 366.093(3)(d), F.S.

Peoples states that the all the documents are intended to be and are treated as private by Peoples and have not been disclosed. Peoples requests that the information for which it seeks confidential classification not be declassified until at least 18 months after the date of the Commission's order finding the information to be proprietary confidential business information. Peoples states that such information, if publicly disclosed, could be detrimental to the Company and its customers.

Section 119.07(1), F.S., requires that every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records. Section 366.093(1), F.S., provides that upon request of a public utility, any records received by the Commission which are shown and found to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1), F.S.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3)(b) and (d), F.S., for classification as proprietary confidential business information because the information includes reports of internal auditors and information concerning bids or other contractual data that would impair Peoples' efforts to contract goods or services on favorable terms. Therefore, the information contained in Document No. 01645-16, as more specifically described in Exhibit A of Peoples' Request, shall be granted confidential classification. Section 366.093(4), F.S., provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, absent good cause shown. Accordingly, the information identified in Document No. 01645-16 shall be granted confidential classification for a period of 18 months from the issuance of this Order.

Peoples also requests that the Commission issue a temporary protective order pursuant to Rule 25-22.006(6)(c), F.A.C., for the same reasons given in support of Peoples' Request for Confidential Classification. Rule 25-22.006(6)(c), F.A.C., states that if a utility allows Public Counsel to inspect or take possession of utility information, then that "utility may request a temporary protective order exempting the information from Section 119.07(1), F.S."

Section 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from Section 119.07(1), F.S. Rule 25-22.006(6), F.A.C., codifies the Commission's policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a), F.A.C., in pertinent part, states:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter

a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure.

Peoples' Motion for Temporary Protective Order is hereby granted. As a result, this information shall be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

Based on the foregoing, it is

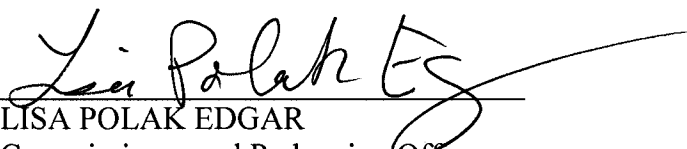
ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that Peoples Gas System's Request for Confidential Classification of Document No. 01645-16 is granted, as set forth herein. It is further

ORDERED that Document No. 01645-16 shall be granted confidential classification for a period of eighteen months from the date of the issuance of this Order. 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. It is further

ORDERED that Peoples Gas System's Motion for Temporary Protective Order is granted, as set forth herein.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 4th day of May, 2016.


LISA POLAK EDGAR
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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; or (2) 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.