

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Peoples Gas System.

DOCKET NO. 20200051-GU

In re: Petition for approval of 2020 depreciation study by Peoples Gas System.

DOCKET NO. 20200166-GU
ORDER NO. PSC-2020-0341-CFO-GU
ISSUED: October 5, 2020

ORDER GRANTING PEOPLES GAS SYSTEM'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
AND MOTION FOR TEMPORARY PROTECTIVE ORDER
(DOCUMENT NO. 03819-2020)

On July 13, 2020, and July 21, 2020, respectively, Peoples Gas System (PGS) filed a Motion for Temporary Protective Order (Motion) and a Request for Confidential Classification (Request), pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), pertaining to information provided in the Thumb drive containing responses to OPC's First Set of Interrogatories (Nos. 1-75), specifically Nos. 7, 13, 50, 64, and 65; and First Request for Production of Documents (Nos. 1-45), specifically Nos. 12, 16, 18, 19, 21, 22, 25-28, 33-35, 39, and 43 (Document No. 03819-2020). The Requests were filed in Docket Nos. 20200051-GU and 20200166-GU.

Request for Confidential Classification

PGS contends that the information identified in Exhibit A, attached to the Request, constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Specifically, PGS asserts that the information at issue contains confidential proprietary business information primarily in the form of the costs of doing business, the revenue both projected and received from doing business, and highly confidential tax, insurance, and compensation information. Further, PGS contends that the information is intended to be, and is treated as, private by PGS and has not been otherwise disclosed. For those reasons, PGS argues the information is entitled to confidential classification pursuant to Section 366.093(b)-(e), F.S.

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section

366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

- (b) Internal auditing controls and reports of internal auditors.
- (d) Information 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.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Upon review, it appears the above-referenced information in Document No. 03819-2020, as specifically detailed in Exhibit(s) A, satisfies the criteria set forth in Section 366.093(3)(b)-(e), F.S., for classification as proprietary confidential business information. The information described above and in PGS's Request appears to contain internal auditing controls and reports of internal auditors; information concerning bids or other contractual data, the disclosure of which would impair the efforts of PGS or its affiliates to contract for goods or services on favorable terms; and information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. Thus, the information identified in Document No. 03819-2020 shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of up to 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless PGS or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Motion for Temporary Protective Order

PGS also seeks protection of the documents as provided in Section 366.093, F.S., and Rule 25-22.006, F.A.C. 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., the public records law. 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

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

Ruling

Upon consideration of PGS's assertions of the confidential nature of the information contained in portions of the discovery responses, Document No. 03819-2020, PGS's 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 hereby

ORDERED by Commissioner Julie I. Brown as Prehearing Officer, that Peoples Gas System's Request for Confidential Classification of Document No. 03819-2020, as specified in Exhibit A of the request, is granted. It is further

ORDERED that the information in Document No. 03819-2020, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless PGS or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. It is further

ORDERED that Peoples Gas System's Motion for Temporary Protective Order is granted. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

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By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 5th day of October, 2020.



JULIE I. BROWN

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.

KMS

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

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appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.