

ORIGINAL



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
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Room 812
Tallahassee, Florida 32399-1400
850-488-9330

October 7, 2002

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

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COMMISSION
CLERK
02 OCT -7 PM 4:23

RE: Docket No. 020384-GU

Dear Ms. Bayó:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Motion To Strike Testimony Or In The Alternative, Motion To Compel Expedited Production And Responsive Answers To Discovery Requests And To Extend Filing Data For Testimony, with attachments. Also enclosed is Motion only, on diskette.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office. Thanks for your assistance.

Sincerely,

H.F. Rick Mann
Associate Public Counsel

AUS _____
CAF _____
CMP _____
COM 5 HFM/pwd
CTR _____ Enclosures
ECR _____
GCL _____
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MMS _____
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OTH _____

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DOCUMENT NUMBER-DATE

10834 OCT-7 02

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate)
increase by Tampa Electric)
Company d/b/a Peoples Gas)
System.)

Docket No. 020384-GU

Filed: October 7, 2002

**CITIZENS' MOTION TO STRIKE TESTIMONY, OR IN THE ALTERNATIVE,
EXPEDITED MOTION TO COMPEL PRODUCTION AND RESPONSIVE
ANSWERS TO DISCOVERY REQUESTS AND TO EXTEND
FILING DATE FOR TESTIMONY**

The Citizens of Florida, by and through Jack Shreve, Public Counsel, file this Motion to Strike Testimony, or in the Alternative, to Compel Production and Responsive Answers to Discovery Requests, and to Extend Filing Date for Intervenor Testimony.

Background

1-A. On August 21, 2002, the Citizens served on Tampa Electric Company d/b/a Peoples Gas System ("Peoples" or "PGS"), by facsimile and by U.S. mail, its first set of Requests for Production of Documents ("A" attached). On September 3, 2002, the Citizens were served with Peoples' Consolidated Objections to Citizens' discovery requests ("B" attached). Citizens responded to Peoples' Consolidated Objections on September 9, 2002 ("C" attached). On September 23, Peoples filed its Response to Citizens' First Set of Requests for Productions of Documents ("D" attached), and Citizens reviewed, in Tampa, those documents that were produced by Peoples.

1-B. On August 30, 2002, the Citizens served their second set of interrogatories on Peoples. On September 30, 2002, Peoples served their answers to the interrogatories ("E" attached).

2. This motion seeks from the Prehearing Officer an order requiring Peoples to produce those documents asked for in Citizens' first production request, to which the Citizens are entitled, and yet are being withheld from Citizens by Peoples. Specifically, The Citizens seek production of numbers 2, 4, 12, 15, and 17. Citizens also seek an order requiring Peoples to answer interrogatories number 50, 51, 52, and 53, in a responsive manner.

Peoples must provide to Citizens responsive documents from TECO Energy, Inc., Tampa Electric Company, and TECO Partners.

DOCUMENT FILED DATE

10834 OCT-7-02

FPSC-COMMISSION CLERK

3. In its production of documents requests, the Citizens included a request for records of TECO Energy, Inc., Tampa Electric Company, and TECO Partners, as companies that should provide documents in their possession, custody or control that are responsive to these requests.

4. The Citizens originally requested production of records from Peoples' affiliates in twenty-four (24) of its seventy-one (71) production requests. After discussions with Peoples' counsel, the Citizens modified numerous requests for affiliate records. Nevertheless, Citizens must insist upon the production of records pursuant to five requests, to which the Citizens are entitled.

5. Peoples responded to those production requests by stating that it does not have within its possession, custody or control documents responsive to the respective requests. No other objection was cited.

6. It is difficult to imagine a more compelling case requiring Peoples to provide responsive documents from these affiliated companies - - its parents and sister companies. Peoples Gas System, a Commission-regulated utility, is asking the Public Service Commission to allow Peoples to charge its utility customers, through its utility rates, for more than \$24.7 Million (\$24,700,000) in costs that Peoples alleges are allocated or directly charged to it by its own affiliated companies - - including its ultimate parent, TECO Energy, Inc.

7. In requesting a rate increase of over \$22 Million, Peoples is "acting as one" with its parent corporations and its other affiliates in this case. See Order Granting in Part Motion to Compel, Requiring In Camera Review, and Denying Request for Oral Argument, Order No. PSC-01-1725-PCO-EI, issued August 23, 2001, in Docket #010827-EI. In this recent decision, the Prehearing Officer stated that:

Whether a subsidiary may be compelled to obtain documents from a parent company or affiliate for discovery depends on consideration of three factors: 1) the corporate structure; 2) the non-party's connection to the transaction at issue; and, 3) the degree to which the non-party will benefit from an outcome favorable to the corporate party to the litigation. See Afros S.P.A. v. Krauss-Mafei Corp., 113 F.R.D. 127, 130 (D. Del. 1986). With respect to the first factor, "[w]hether a subsidiary is wholly or partially owned by the parent, the overlap of directors, officers, and employees, or the financial relationship between the corporations all aid in the analysis of control." Afros at 131. With respect to the second factor, courts focus on the degree to which the non-party participated in the transaction at issue, and how relevant the requested documents are to the litigation. See id. at 131-2. With respect to the third factor, if the non-party will receive a benefit from the litigation, that fact must be weighed along with others in determining control. See id. at 132.

Order No. PSC-01-1725-PCO-EI at 5.

8. Those factors are easily met in this case. There exists a complex web of financial relationships among the companies in this case. MFR schedule C-31 (Outside Professional Services), for example, shows that included in the historic 2001 base year, is \$502,750 in direct charges from TECO BGA for engineering services; \$8.31 Million in allocated charges from TECO Partners for sales and marketing services; \$13.09 Million in allocated charges from Tampa Electric Company for various services; and \$2.8 Million in allocated charges from the ultimate parent, TECO Energy, Inc. for various services. These charges of \$24.7 Million, out of a total \$26.3 Million, by Peoples' own affiliates, are then trended forward, and increased, for Peoples' projected test year, all to be paid by Peoples' utility customers.

9. Section 366.093(1), Florida Statutes (2001), provides in part that: "(1) The Commission shall continue to have reasonable access to all public utility records and records of the utility's affiliated companies, including its parent company regarding transactions or cost allocations among the utility and such affiliated companies, and such records necessary to ensure that a utility's ratepayers do not subsidize nonutility activities."

10. It is the Citizens' responsibility to ensure that the Commission has before it the necessary information and documentation regarding any of these allocations to Peoples from its sister and parent companies to accurately determine whether the costs claimed by Peoples are reasonable and appropriate and should be included in or excluded from Peoples' requested \$22 Million increase in utility rates.

11. To that end, the Citizens request Peoples' production of all documents of TECO Energy, Inc., Tampa Electric Company, and TECO Partners, pursuant to request numbers 2, 4, 12, 15 and 17, in Citizens' first set of requests for production of documents.

12. In request number 2, Citizens seek for Tampa Electric Company: *Budgets. Provide a copy of all capital, expense, and revenue budget reports provided to management of Tampa Electric, TECO Energy and affiliates of PGS for the years 2000, 2001, 2002, and 2003. This includes monthly, quarterly, annual and year-to-date budget documents.*

Citizens were denied production of these documents.

13. In request number 4, Citizens seek from Tampa Electric Company: *Budget Variance. Provide a copy of all budget variance and budget explanations reports provided to management of Tampa Electric, TECO Energy and PGS affiliates for the years 2000, 2001, 2002, and 2003. This includes monthly, quarterly, annual and year-to-date budget documents.*

Citizens were denied production of these documents.

14. In request number **12**, Citizens seek from TECO Energy, Inc. and from Tampa Electric Company:

Budget to Actual. For Peoples Gas System, its affiliated sister companies, business units, operating systems, parents, and the ultimate parent provide the following: Copies of all budgets and historical financial statements presented to the board of directors or senior management for or during the years 2000, 2001, and 2002.

Citizens were denied production of these documents.

15. In request number **15**, Citizens modified its original request after discussions with Peoples' counsel, from:

Internal Audit. For Tampa Electric, TECO Energy and PGS affiliates, provide the following: Copies of all internal audit reports for the years 1999, 2000, 2001, and 2002.

To: *Internal Audit. Provide the actual reports that pertain to allocations to or from Peoples Gas System and provide a LIST of All reports for Tampa Electric Company, TECO Energy, Inc., and PGS affiliates that charge or allocate costs to Peoples Gas.*

From the list provided to Citizens there were requested two reports of TECO Energy, Inc.:

- 1) 4/9/02 Restricted Stock Plan Agreed-Upon Procedures; and
- 2) 5/29/02 Treasury Dept. Total Debt-To-Capitalization Ratio Audit.

Citizens were denied production of either report.

16. In request number **17**, Citizens modified its original request of:
Operating Plans. For Tampa Electric, TECO Energy and PGS affiliates, provide the following: Copies of all narrative and financial operating plans which describe the corporate goals and objectives for the years 2000, 2001, 2002, and 2003.

To: *Operating Plans. Provide the actual operating plans for TECO Energy and Tampa Electric Company and only those plans of other affiliates, which discuss Peoples Gas.*

Citizens have been refused production of the operating plans of TECO Energy, Inc. and of Tampa Electric Company.

17. The information contained in the records relating to numbers **2**, **4**, **12**, and **17**, is needed to review the reasonableness of those charges by affiliates and to help determine whether or not the amount included in the 2003 projected test year is reasonable and appropriate.

18. The information contained in the records relating to number **15**, is needed to assist in determining whether the level included in the projected test year is reasonable and appropriate, and to learn whether there are any additional issues in the Capital Structure the Citizens must address before this Commission.

Peoples must provide responsive answers to Citizens' Second Set of Interrogatories.

19. Citizens' Interrogatory number **50** requested an explanation and a rationale specifically for the increase in 2003 amounts in Account 874 – Mains & Service Expense. It was requested that this increase was to be explained in relation to the three-year and the five-year average expenses provided by Peoples. The “response,” which is nonresponsive, consisted of a discussion about how the costs for O&M overall have declined in general. This included an attachment depicting O&M costs for the years 1997 through 2001.

20. Interrogatory numbers **51** and **52** requested the same as number **50** - - explanations and rationales specifically for accounts 878 and 890, respectively. Peoples' nonresponsive answers referenced Peoples' response to number **50**.

21. Interrogatory number **53** requested that Peoples identify and provide a rationale for the specific costs that were projected to increase in 2003, over those costs identified in Peoples' historical three-year and five-year averages in Account 902 – Meter Reading Expense. The “response,” which is nonresponsive, referred to some failed efforts of Peoples, as well as the fact that the customer base has increased. Peoples additionally claimed - - without any foundation - - that it was reasonable and useful to project the 2003 expense level from the 2001 base year.

22. Not one of these four interrogatories was answered in a responsive manner. Peoples was asked specific questions about specific accounts, and chose to ignore the question and wander off into their own philosophy about how, overall, things look better. Nonetheless, each of those specific accounts identifies a specific cost attributed to it in 2001 and significant increases in those costs for the projected test year, 2003. Valid or not, there have to be reasons for those increases and Peoples has chosen not to divulge them.

23. The unjustified delay in receiving these documents and answers on the date due in accordance with the Florida Rules of Civil Procedure has had an adverse impact upon the timing of Citizens' witnesses in preparing their testimony for the October 14, 2002, scheduled deadline for filing. Accordingly Citizens ask that the scheduled date for filing be extended.

24. Counsel for Citizens has consulted with Counsel for Peoples. Citizens' counsel is authorized to represent that Peoples' Counsel does not object to an extension of time for filing, as long as Peoples receives a like extension for filing rebuttal to said testimony.

25. The Commission Rules refer parties to the Florida Rules of Civil Procedure for direction in filing motions. The Florida Rules of Civil Procedure do not address the issue of whether a Motion for Extension of Time tolls the time until disposition of the motion by the Prehearing Officer. The Florida Rules of Appellate Procedure, however, do afford guidance in this area that is critical to Citizens' opportunity to present its case before the Commission. While recognizing that the Prehearing Officer is not bound by these Rules, Citizens ask that he consider them here as instructional. Fla. R. App. P. 9.300(b), provides that service of a motion shall toll the time schedule of any proceeding in the court until disposition of the motion.

26. This Rule provides an equitable resolution of conflict during the appeals process, just as Citizens' conflict with Peoples Gas System is deserving of an equitable resolution here. Citizens' discovery was served on Peoples with time for Citizens to prepare its testimony. Production was due on September 23; interrogatory responses were due September 30; and the last date for filing Intervenor testimony is scheduled for October 14, 2002. Counsel for both parties have worked diligently in an effort to allow Citizens access to those documents and responses to which Citizens are entitled and which have an impact on Citizens' case. Nonetheless, Citizens have not received the requested information as itemized in this Motion.

27. Consequently, it is imperative that the time for filing testimony be tolled while the Prehearing Officer deliberates on Citizens' motion and Peoples' response. It is with that intent and that intent alone - - to allow Citizens the opportunity to consider and incorporate this information, or even the lack of said information if the Prehearing Officer denies this motion to strike or alternatively to compel production - - that Citizens pray for a tolling of the scheduled time for filing testimony.

WHEREFORE, the Citizens request that the Prehearing Officer order any testimony regarding the costs, charges and/or expenses associated with production of documents requests numbers **2, 4, 12, 15, and 17**, and with interrogatories numbers **50, 51, 52, and 53**, be stricken as unsupported by evidence withheld from the Commission.

Alternatively, Citizens request that the Prehearing Officer order Peoples Gas System to provide on an expedited basis, all responsive documents in the possession, custody or control of TECO Energy, Inc., Tampa Electric Company and TECO Partners, Inc., associated with production of documents requests numbers **2, 4, 12, 15, and 17**; and that responsive answers be provided by Peoples to interrogatories numbers **50, 51, 52, and 53**.

Further, whether the Prehearing Officer orders the associated testimony stricken, or orders the expedited production of documents and answers to interrogatories from Peoples, the unjustified delay in having to deal with these circumstances has an adverse impact upon the timing of Citizens' witnesses in preparing their testimony for filing as scheduled in this case. Accordingly Citizens ask that the scheduled date for filing be extended to October 25, 2002.

Respectfully submitted this 7th day of October, 2002,

H F. Rick Mann
Associate Public Counsel
Fla. Bar No. 0763225

A handwritten signature in black ink, appearing to read "H. F. Mann", written in a cursive style.

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Attorney for the Citizens
of the State of Florida

**DOCKET NO. 020384-GU
CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail, hand-delivery*, or facsimile** to the following parties on this 7th day of October, 2002.



H F. Rick Mann

Adrienne Vining*
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Fla. Public Service Commission
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Tallahassee, FL 32399-0850

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Regulatory Affairs
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Matthew Costa
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P.O. Box 111
Tampa, FL 33601-0111

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate)
increase by Tampa Electric)
Company d/b/a Peoples Gas)
System.)

Docket No. 020384-GU

Filed: August 21, 2002

**CITIZENS FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO
PEOPLES GAS SYSTEM (Nos. 1-71)**

Pursuant to § 350.0611(1), Fla. Stat. (2000), Fla. Admin. Code R. 28-106.206, and Fla. R. Civ. P. 1.350, Florida's Citizens ("Citizens"), by and through Jack Shreve, Public Counsel, request Tampa Electric Company d/b/a Peoples Gas System ("PGS" or "Company") to produce the following documents for inspection and copying at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, on or before Friday, September 20, 2002, or at such other time and place as may be mutually agreed upon by counsel.

DEFINITIONS

1. The terms "document" or "documents" are meant to have the broadest possible meaning under applicable law and includes, but is not necessarily limited to, any written, recorded, filmed or graphic matter, whether produced, reproduced, or on paper, e-mail, cards, tapes, film, electronic facsimile, computer storage device or any other media, including, but not limited to, memoranda, notes, minutes, records,

DOCUMENTS REQUESTED

1. Budgets. Provide a copy of all capital, expense, and revenue budget reports provided to management of Peoples Gas System for the years 2000, 2001, 2002, and 2003. This includes monthly, annual and year-to-date budget documents in the most detailed format available.

2. Budgets. Provide a copy of all capital, expense, and revenue budget reports provided to management of Tampa Electric, TECO Energy and affiliates of PGS for the years 2000, 2001, 2002, and 2003. This includes monthly, annual and year-to-date budget documents in the most detailed format available.

3. Budget Variance. Provide a copy of all budget variance and budget explanations reports provided to management of Peoples Gas System for the years 2000, 2001, 2002, and 2003. This includes monthly, quarterly, annual and year-to-date budget documents.

4. Budget Variance. Provide a copy of all budget variance and budget explanations reports provided to management of Tampa Electric, TECO Energy and PGS affiliates for the years 2000, 2001, 2002, and 2003. This includes monthly, quarterly, annual and year-to-date budget documents.

limited to, documents pertaining to budget procedures, policies, assumptions and the time frames for budget deadlines for the various operations, systems and departments for the years 2000, 2001, 2002, and 2003.

11. Budget. For Tampa Electric, TECO Energy and PGS affiliates, provide the following: Copies of all budget instructions, budget directives, and budget manuals. This includes, but is not limited to, documents pertaining to budget procedures, policies, assumptions and the time frames for budget deadlines for the various operations, systems and departments for the years 2000, 2001, 2002, and 2003.

12. Budget to Actual. For Peoples Gas System, its affiliated sister companies, business units, operating systems, parents, and the ultimate parent provide the following: Copies of all budgets and historical financial statements presented to the board of directors or senior management for or during the years 2000, 2001, and 2002.

13. Management Audit. For Peoples Gas System, its affiliated sister companies, business units, operating systems, parents, and the ultimate parent provide the following: Copies of all management and performance audits for the years 1999, 2000, 2001, and 2002.

14. Internal Audit. For Peoples Gas System, provide the following: Copies of all internal audit reports for the years 1999, 2000, 2001, and 2002.

15. Internal Audit. For Tampa Electric, TECO Energy and PGS affiliates, provide the following: Copies of all internal audit reports for the years 1999, 2000, 2001, and 2002.

16. Operating Plans. For Peoples Gas System, provide the following: Copies of all narrative and financial operating plans which describe the corporate goals and objectives for the years 2000, 2001, 2002, and 2003.

17. Operating Plans. For Tampa Electric, TECO Energy and PGS affiliates, provide the following: Copies of all narrative and financial operating plans which describe the corporate goals and objectives for the years 2000, 2001, 2002, and 2003.

18. Strategic Plans. For Peoples Gas System, provide the following: Copies of all (short range and long range) strategic plans and reports prepared during the years 2000, 2001, and 2002.

19. Operating Plans. For Peoples Gas System, provide the following: Copies of all five-year financial operating statements and plans for the years 1999, 2000, 2001, 2002, and 2003.

20. Major Project Progress Reports. For Peoples Gas System, provide the following: Copies of each Major Projects Report for the years 1999, 2000, 2001, 2002, and 2003.

71. Professional Services. Refer to pages 60, 60a, 60b and 60c of the 2000, and page 60 of the 2001, Peoples Gas Systems Annual Report of Natural Gas Utilities. Provide the invoices for the costs included on this page.



H F. Rick Mann
Associate Public Counsel
Fla. Bar No. 0763225

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Room 812
Tallahassee, FL 32399-1400

(850) 488-9330

Attorney for Florida's Citizens

**DOCKET NO. 020384-GU
CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.

Mail or hand-delivery* to the following parties on this 21th day August, 2002.



H F. Rick Mann

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IN REPLY REFER TO:

August 30, 2002

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e-mail: aw@macfar.com

VIA FEDERAL EXPRESS

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2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED

SEP 03 2002

Office of
Public Counsel

Re: Docket No. 020384-GU -- Application for a rate increase by Tampa Electric Company d/b/a PEOPLES GAS SYSTEM


Dear Ms. Bayo:

Enclosed herewith for filing in the above docket on behalf of Peoples Gas System, please find the original and 20 copies of Peoples' Consolidated Objections to Citizens' First Set of Interrogatories (Nos. 1-49) and First Set of Requests for Production of Documents (Nos. 1-71), together with a diskette containing the document.

Please acknowledge your receipt and the date of filing of the enclosures on the enclosed duplicate copy of this letter, and return the same to me in the envelope provided.

Thank you for your assistance.

Sincerely,



Ansley Watson, Jr.

cc: Parties of Record
Matthew R. Costa, Esquire
Ms. Angela Llewellyn

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate increase)
by Tampa Electric Company d/b/a)
Peoples Gas System)
_____)

Docket No. 020384-GU

Submitted for Filing:
9-3-02

RECEIVED

SEP 03 2002

Office of
Public Counsel

**PEOPLES GAS SYSTEM'S
CONSOLIDATED OBJECTIONS TO CITIZENS'
FIRST SET OF INTERROGATORIES (NOS. 1-49)
AND FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS (NOS. 1-71)**

Peoples Gas System ("Peoples" or the "Company") hereby submits the following consolidated objections to the Citizens' First Set of Interrogatories (Nos. 1-49) (the "Interrogatories") and First Set of Requests for Production of Documents (Nos. 1-71) (the "Requests") to Peoples:

I. PRELIMINARY NATURE OF OBJECTIONS

The objections stated herein are preliminary in nature and are filed pursuant to the requirement that objections be served within ten days of service of discovery requests. If additional grounds for objection are discovered as Peoples develops its responses, Peoples reserves the right to supplement or modify its objections up to the time it serves its responses. Peoples reserves the right to file a motion with the Commission seeking a protective order at the time its response is due if Peoples determines such an order is necessary with respect to any of the information requested of the Company.

II. GENERAL OBJECTIONS

1. Peoples objects to each Interrogatory and Request to the extent it calls for production or disclosure of information protected by the attorney-client privilege, the work

product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. Peoples does not intend in any way to waive any such privilege or protection.

2. Peoples objects to any Interrogatory or Request that seeks the production of confidential or proprietary business information and/or the compilation of information that is considered confidential or proprietary business information. Peoples has not had sufficient time to determine the extent to which the Requests call for the disclosure of such information. However, if it so determines, it will either file a motion for protective order requesting confidential classification and procedures for protection or take other actions to protect the confidential information requested. Peoples does not intend in any way to waive claims of confidentiality.

3. Peoples objects to each Interrogatory and Request to the extent that the same exceed the proper scope of the Commission's inquiry about utility affiliates and/or the proper scope of discovery. Under Sections 366.05(9) and 366.093(1), *Florida Statutes*, the jurisdiction of the Commission with respect to the parent and affiliates of a utility is limited. Further, the scope of discovery from a party is limited to documents within the possession, custody or control of that party. See, e.g., *Southern Bell Telephone and Telegraph Co. v. Deason*, 632 So.2d 1377 (Fla. 1994). Peoples' parent and affiliates are not parties to the proceeding in this docket.

4. Peoples objects to each Interrogatory and Request to the extent that it seeks information that is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

5. Peoples objects to the instructions and to each Interrogatory and Request to the extent that they purport to impose upon Peoples obligations that Peoples does not have under the law or applicable rules of procedure.

6. Peoples conducts its utility operations throughout the State of Florida, and maintains a number of different offices and other locations throughout its service areas. In the course of its business, Peoples' employees create numerous documents that are not subject to the Commission's or other governmental record retention requirements. These documents are kept in numerous locations and moved from one location to another as employees change jobs or as the Company's business is reorganized. Therefore, it is possible that not every relevant responsive document can reasonably be consulted in developing Peoples's responses. Rather, Peoples's responses will provide all the information that Peoples is able to obtain after a reasonable and diligent search conducted in connection with the Citizens' Requests. To the extent that the Requests purport to require more, Peoples objects on the grounds that compliance would impose undue burden or expense on Peoples.

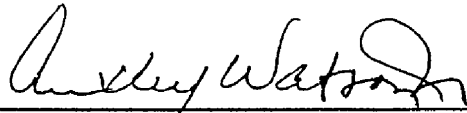
7. Peoples objects to the request that responsive documents be produced at the Offices of the Public Counsel in Tallahassee. Peoples is required only to produce documents at a reasonable time, place, and manner. The documents requested by the

Citizens' Requests are exceedingly voluminous, and the production of the same as set forth in the Request would impose undue burden or expense on Peoples.

8. Peoples objects to the Interrogatories and Requests to the extent that they require Peoples to create documents which do not already exist.

9. Peoples asserts the foregoing general objections with respect to each of the Requests as though separately stated as to each.

Respectfully submitted this 30th day of August, 2002.



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and

Matthew R. Costa
Legal Department
TECO Energy, Inc.
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Tampa, Florida 33601-0111

Attorneys for Peoples Gas System

CERTIFICATE OF SERVICE

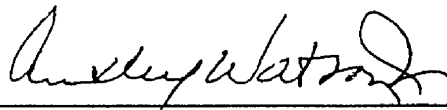
I HEREBY CERTIFY that a true and correct copy of Peoples Gas System's Consolidated Objections to Citizens' First Set of Interrogatories (Nos. 1-49) and First Set of Requests for Production of Documents (Nos. 1-71) has been furnished by regular U.S. Mail this 30th day of August, 2002, to the following:

H. F. Rick Mann, Esquire
Office of Public Counsel
c/o The Florida Legislature
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IN REPLY REFER TO

August 30, 2002

Ansley Watson, Jr.
P.O. Box 1531
Tampa, Florida 33601
e-mail: aw@macfar.com

VIA FEDERAL EXPRESS

Blanca S. Bayo, Director
Division of Commission Clerk & Administrative Services
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED

SEP 03 2002

Office of
Public Counsel

Re: Docket No. 020384-GU -- Application for a rate increase by Tampa
Electric Company d/b/a PEOPLES GAS SYSTEM

Dear Ms. Bayo:

Enclosed herewith for filing in the above docket on behalf of Peoples Gas System, please find the original and 20 copies of Peoples' Consolidated Objections to Citizens' First Set of Interrogatories (Nos. 1-49) and First Set of Requests for Production of Documents (Nos. 1-71), together with a diskette containing the document.

Please acknowledge your receipt and the date of filing of the enclosures on the enclosed duplicate copy of this letter, and return the same to me in the envelope provided.

Thank you for your assistance.

Sincerely,



Ansley Watson, Jr.

cc: Parties of Record
Matthew R. Costa, Esquire
Ms. Angela Llewellyn

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate)
increase by Tampa Electric)
Company d/b/a Peoples Gas)
System.)

Docket No. 020384-GU

Filed: September 9, 2002

**CITIZENS' RESPONSE TO PEOPLES GAS SYSTEM'S CONSOLIDATED
OBJECTIONS TO CITIZENS' FIRST SET OF INTERROGATORIES (Nos. 1-49)
AND FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS (Nos. 1-71)**

The Citizens of Florida, by and through Jack Shreve, Public Counsel, file this Response to Peoples Gas System's Consolidated Objections to Citizens' First Set of Interrogatories (Nos. 1-49) and First Set of Requests for Production of Documents (Nos. 1-71)

1. On August 21, 2002, Citizens of Florida ("Citizens") served, by U.S. Mail, our first set of interrogatories and our first set of requests for production of documents on Tampa Electric Company d/b/a Peoples Gas System ("PGS" or "Peoples"). On September 3, 2002, the Citizens were served with Peoples' "Consolidated Objections" to our discovery requests.

2. The Company acknowledges that these objections are "preliminary in nature" and are filed to comply with the requirements of the Commission's Order Establishing Procedure, No. PSC-02-1031-PCO-GU, dated July 30, 2002. That Order requires that any objection to or request for clarification of discovery be made within ten (10) days of service.

3. Unfortunately, that apparently has not provided PGS with sufficient time to

review all of the possible documents or answers in response that would meet the parameters of Citizens' discovery requests.

4. Peoples' objections address all of Citizens' interrogatories and requests for production as a group, by vaguely citing to "any that seeks," or "each to the extent that it calls for," answers or documents that PGS thinks might be objectionable, once it has had an opportunity to consider its possible responses. Furthermore, Peoples claims that these generalized objections to still unidentified discovery requests should apply "with respect to each of the Requests as though separately stated as to each."

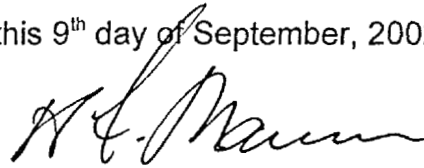
5. Citizens assert that these "Consolidated," "Preliminary," "General," objections are in no way "stated as to each," inasmuch as they fail to identify any specific discovery request. Citizens believe that these objections are thus inapplicable to Citizens' discovery requests.

6. Under the circumstances, Peoples' objections do not require any further answer or action by Citizens to maintain the full force of its discovery requests. In the event that Peoples fails to respond, or objects, to any specific discovery request, Citizens reserve the right to address the same as provided for in the applicable rules of the Florida Rules of Civil Procedure.

7. Citizens trust that the continuing, open dialogue between Peoples and Citizens regarding discovery will resolve any and all concerns of both parties without necessitating intervention by this Commission.

8. However, until such time as PGS files a specific objection, or fails to respond, to an identified discovery request, Citizens cannot, and do not intend to, attempt to respond with a prayer for intercession by this Commission.

Respectfully submitted this 9th day of September, 2002,



H F. Rick Mann
Associate Public Counsel
Fla. Bar No. 0763225

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Attorney for the Citizens
of the State of Florida

DOCKET NO. 020384-GU
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.

Mail, hand-delivery*, or facsimile** to the following parties on this 9th day September,
2002.



H F. Rick Mann

Adrienne Vining*
Office of General Counsel
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Matthew Costa
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P.O. Box 111
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a rate increase by :
Tampa Electric Company d/b/a Peoples :
Gas System;

Docket No. 020384-GU

Submitted for Filing:
9-23-02

PEOPLES' RESPONSE TO CITIZENS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO PEOPLES GAS SYSTEM (Nos. 1-71)

Peoples Gas System ("Peoples" or the "Company"), by its undersigned attorneys, files its Response to the Citizens' First Set of Requests for Production of Documents (Nos. 1-71) (the "Request") and, as to the correspondingly numbered categories of the Request, says:

1. Peoples will produce the documents requested for the years 2000, 2001, and 2002 (up to the date of production) which are within its possession, custody or control. Peoples has none of the documents requested for the year 2003. Copies of a portion of the documents requested in this category have been sent to the Office of Public Counsel,¹ and the remainder will be made available for inspection and copying at Peoples' offices in Tampa.²

2. Peoples does not have within its possession, custody or control documents responsive to this request, except certain documents to be produced in response to Category 1 of the Request.

¹ One set of all copies of documents which this Response indicates have been "sent to the Office of Public Counsel" has been held by Peoples for hand delivery on September 23, 2002 to counsel for the Citizens' in Tampa, and another set of such copies has been mailed to Public Counsel's consultants, Larkin & Associates, in Livonia, Michigan, pursuant to instructions of counsel for the Citizens.

² All documents which this Response indicates will be made available in Tampa will be made available from September 23-27, 2002, at the location in Tampa indicated in the response to each category of the Request.

3. Peoples will make available for inspection and copying at Peoples' offices in Tampa the documents requested which are within its possession, custody or control. ~~Access to certain of the documents requested in this category is available only~~ electronically, and arrangements for such access will be provided at Peoples' offices in Tampa. Peoples has none of the documents requested for the year 2003.

4. Peoples does not have within its possession, custody or control documents responsive to this request, except certain documents to be produced in response to Category 3 of the Request.

5. This category of the Request has been withdrawn by the Citizens by letter dated August 30, 2002.

6. Peoples is not aware of any documents showing or discussing details of nonrecurring expenses or costs during 1999, 2000, 2001 or 2002.

7. The trial balances for the Company at December 31, 2000, December 31, 2001 and April 30, 2002, and for Tampa Electric Company at April 30, 2002, will be made available for inspection and copying at Peoples' offices in Tampa. Peoples does not have within its possession, custody or control the trial balances of any other affiliated companies (including its ultimate parent company) as of the above dates.

8. Certain documents responsive to this category of the Request are also responsive to, and will be produced by Peoples in accordance with the responses to, Categories 3 and 9 of the Request. Copies of additional documents responsive to this category of the Request have been sent to the Office of Public Counsel.

9. Certain documents responsive to this category of the Request are also responsive to, and will be produced by Peoples in accordance with the responses to, ~~Categories 8 and 10 of the Request. Peoples will make available for inspection and~~ copying at Peoples' offices in Tampa additional documents which are responsive to this category of the request which are within its possession, custody or control.

10. Peoples will make available for inspection and copying at Peoples' offices in Tampa the documents requested which are within its possession, custody or control.

11. With the exception of an annual memorandum from the Controller for TECO Energy, Inc. regarding Shared Services Budget Schedule (copies of which have been sent to the Office of Public Counsel), Peoples does not have within its possession, custody or control the documents requested, and has been advised that nothing in any of the documents requested for Tampa Electric Company in this category of the Request relates to Peoples.

12. Certain documents for Peoples responsive to this category of the Request are also responsive to, and will be produced by Peoples in accordance with the response to, Category 8 of the Request. Copies of additional documents for Peoples responsive to this category of the Request have been sent to the Office of Public Counsel. Peoples does not have within its possession, custody or control the documents requested for any of its affiliated companies (including its ultimate parent company), and has been advised that nothing in any of the documents requested for Tampa Electric Company in this category of the Request relates to Peoples.

13. There were no management or performance audits of Peoples for any of the years specified in this category of the Request. Peoples does not have within its possession, custody or control the documents requested for any of its affiliated companies (including its ultimate parent company) (if any), and has been advised that there were no management or performance audits of Tampa Electric Company for any of the years specified in this category of the Request.

14. Copies of documents responsive to this category of the Request have been sent to the Office of Public Counsel.

15. Peoples has sent to the Office of Public Counsel a list (prepared by TECO Energy Audit Services) of internal audit reports for Tampa Electric Company, TECO Energy, Inc., and Peoples' affiliates that charge or allocate costs to Peoples, together with one of such reports which involves allocation of costs to Peoples.

16. Certain documents for Peoples responsive to this category of the Request are also responsive to, and will be produced by Peoples in accordance with the response to, Category 12 of the Request. Copies of additional documents responsive to this category of the Request have been sent to the Office of Public Counsel.

17. Peoples does not have within its possession, custody or control the documents requested for any of its affiliated companies (including its ultimate parent company) (if any), and has been advised that nothing in the documents requested in this category of the Request for Tampa Electric Company relates to Peoples.

71. Peoples will make available for inspection and copying at Peoples' offices in Tampa the documents requested (as modified by the Citizens by letter dated August 30, 2002, and by e-mail dated September 12, 2002).

ANSLEY WATSON, JR.
Macfarlane Ferguson & McMullen
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(813) 273-4321

and

MATTHEW R. COSTA
Legal Department
TECO Energy, Inc.
P. O. Box 111
Tampa, Florida 33601-1531
(813) 228-4938

Attorneys for Peoples Gas System

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Response will be hand delivered on September 23, 2002 in Tampa to H. F. Rick Mann, Esquire, Office of Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400, and that a copy of said Response has been furnished by hand delivery* or Federal Express** to the following, this 20th day of September, 2002:

John W. McWhirter, Jr., Esquire*
McWhirter, Reeves, McGlothlin *et al.*
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Tampa, Florida 33601-3350

Donna DeRonne**
Larkin & Associates, PLLC
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Adrienne E. Vining, Esquire**
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Vicki Gordon Kaufman, Esquire**
Timothy J. Perry, Esquire
McWhirter, Reeves, McGlothlin *et al.*
117 S. Gadsden Street
Tallahassee, Florida 32301

Ansley Watson, Jr.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a rate increase by :
Tampa Electric Company d/b/a Peoples :
Gas System :

Docket No. 020384-GU

Served:
9-30-02

**ANSWERS TO CITIZENS'
SECOND SET OF INTERROGATORIES
TO PEOPLES GAS SYSTEM (Nos. 50-65)**

PEOPLES GAS SYSTEM
DOCKET NO. 020384-GU
CITIZEN'S 2nd SET OF INTERROGATORIES
INTERROGATORY NO. 50
PAGE 1 OF 2

50. Expenses. The Company's projected 2003 expense for Account 874-Mains & Service Expense is \$5,137,555. The historical three-and-five year average for this account is \$4,290,031 and \$4,100,574, respectively. Provide an explanation as to what the increases for 2003 can be attributed and rationale for the increase.
- A. The Company does not manage its business based on the individual "FERC" account categories (or functions). Rather, the Company manages the resources required to perform the various tasks required in the due course of business from day to day, month to month, and year to year. By "resources", the Company is referring to expense categories such as payroll, outside services, materials and supplies, and employee-related expenses.

Accordingly, there is no direct response to the Citizens' interrogatory because the Company did not specifically build its 2003 projection by FERC account. Rather, the Company employed the trending methodology prescribed by the Commission Staff in building its 2003 projected O&M expense.

The Company has prepared an analysis of O&M expense for the 5-year period from 1997 through 2001 in order to determine reasonableness (see attached). In this analysis, it can be seen that in most categories and in total, the Company has successfully managed its O&M expense on a per customer basis either flat or declining over this period. This is primarily because of various cost-saving measures.

While the Company has successfully managed costs from its operations, the Company believes that its 2001 O&M expense represents a level of spending from which further cost reductions are not possible without jeopardizing the integrity of the system. Accordingly, the Company believes that it will experience normal expense trends as provided in the analysis at MFR schedules G-2, pages 10 through 19 (i.e. inflationary growth, inflation plus customer growth, etc.). The Company believes that its O&M expense as proposed in the MFRs for the 2003 projected test year represents a fair and reasonable estimate of the prudent expense the Company will incur. (P. Higgins)

Analysis of O&M per Customer by Expense

Peoples Gas System Docket No. 020384-GU Citizens' 2nd Set of Interrogatories Interrogatory No. 50 Page 2 of 2

O&M Expenses

	1997	1998	1999	2000	2001
Distribution Expenses					
Operation	\$ 12,060,524	\$ 10,800,693	\$ 9,429,201	\$ 10,117,291	\$ 10,296,068
Maintenance	4,933,498	3,913,823	3,022,691	3,510,436	3,424,034
Total	\$ 16,994,022	\$ 14,714,516	\$ 12,451,892	\$ 13,627,727	\$ 13,720,102
Customer Accts Expenses	\$ 8,618,955	\$ 5,991,072	\$ 7,275,721	\$ 8,090,290	\$ 7,294,637
Sales Expenses	\$ 2,396,216	\$ 3,860,325	\$ 3,442,694	\$ 3,854,874	\$ 8,707,844
Admin & General Expenses					
Operation	\$ 29,996,424	\$ 32,326,673	\$ 28,906,825	\$ 29,984,503	\$ 26,367,635
Allocated	(7,313,642)	(3,312,105)	(4,662,663)	(4,976,435)	(3,929,787)
Maintenance	223,788	237,327	222,776	262,775	242,360
Total	\$ 22,906,570	\$ 29,251,895	\$ 24,466,938	\$ 25,270,843	\$ 22,680,208
Total O&M Expense excluding EC	\$ 50,915,763	\$ 53,817,808	\$ 47,637,245	\$ 50,843,734	\$ 52,402,791
Average No. Customers	234,745	239,626	246,692	256,252	266,589

O&M per Customer by Expense

	1997	1998	1999	2000	2001
Distribution Expenses					
Operation	\$ 51	\$ 45	\$ 38	\$ 39	\$ 39
Maintenance	21	16	12	14	13
Total	\$ 72	\$ 61	\$ 50	\$ 53	\$ 51
Customer Accts Expenses	\$ 37	\$ 25	\$ 29	\$ 32	\$ 27
Sales Expenses	\$ 10	\$ 16	\$ 14	\$ 15	\$ 33
Admin & General Expenses					
Operation	\$ 128	\$ 135	\$ 117	\$ 117	\$ 99
Allocated	(31)	(14)	(19)	(19)	(15)
Maintenance	1	1	1	1	1
Total	\$ 98	\$ 122	\$ 99	\$ 99	\$ 85
O&M per Customer excluding EC	\$ 217	\$ 225	\$ 193	\$ 198	\$ 197

**PEOPLES GAS SYSTEM
DOCKET NO. 020384-GU
CITIZEN'S 2nd SET OF INTERROGATORIES
INTERROGATORY NO. 51
PAGE 1 OF 1**

- 51.** Expenses. The Company's projected 2003 expense for Account 878-Meter & House Regulator Expense, is \$2,542,300. Historically, the costs have shown a decline and a leveling off. The historical three-and-five year average for this account is \$2,015,066 and \$2,188,506, respectively. Provide an explanation as to what costs are projected for 2002, to increase significantly and the rationale for the increase, especially considering the historical trend.
- A.** See Peoples answer to Citizens' Interrogatory No. 50. (P. Higgins)

**PEOPLES GAS SYSTEM
DOCKET NO. 020384-GU
CITIZEN'S 2nd SET OF INTERROGATORIES
INTERROGATORY NO. 52
PAGE 1 OF 1**

- 52.** Expenses. The Company's projected 2003 expense for Account 890-Maintenance of Meas. & Reg. Station Equip.-Industrial, is \$490,894. The historical three-and-five year average is \$331,632 and \$276,647, respectively. Provide and explanation as to what costs are projected for 2003 to increase significantly and your rationale for the increase.
- A.** See Peoples answer to Citizens' Interrogatory No. 50. (P. Higgins)

PEOPLES GAS SYSTEM
DOCKET NO. 020384-GU
CITIZEN'S 2nd SET OF INTERROGATORIES
INTERROGATORY NO. 53
PAGE 1 OF 1

53. Expenses. The Company's projected 2003 expense for Account 902-Meter Reading Expense, is \$1,945,909. The historical three-and-five year average is \$1,662,856 and \$1,603,805, respectively. Please explain what costs are projected for 2003 to have increase significantly and provide your rationale for this increase

A. During the period in question, the Company made two distinctly different efforts to reduce costs associated with the meter reading function. First, the Company tried outsourcing meter reading to third party contractors in nearly all its locations. While the Company did achieve some costs reductions, this effort was largely unsuccessful from the standpoint of customer service. The Company still does some outsourcing, but only on a limited basis.

The Company also implemented a pilot program to change from monthly to bi-monthly meter reading during this period. In doing so, the Company was required to develop complicated mathematical algorithms in order to provide estimated customer consumption for the "in-between" months when the customers' meters were not read. While this program did result in cost savings, the Company experienced difficulty and negative customer response as a result of large unexplained fluctuations in customers' bills from month to month. Basically, the billing algorithm which tried to correlate degree days with gas consumption did not work as other non-quantifiable factors affect consumption patterns besides weather. As a result, the bi-monthly meter-reading program was abandoned, and the Company now reads meters on a monthly basis.

Finally, while the review of a 3-year or 5-year average expense is a logical analytical test, customer growth over this period accounts for some of the increased cost of meter reading. In 1997, the Company had an average number of customers of less than 235,000. In the 2003 projected test year, the Company projects an average of over 292,000. The increase of nearly 25% in its customer base will naturally lead to larger costs for meter reading.

In conclusion, the Company believes that the 2001 historic base year expense level for account 902 is reasonable and useful for projecting the 2003 expense level. Accordingly, the Company has projected this expense as shown on MFR schedule G-2, Page 14 of 31. (P. Higgins)

PEOPLES GAS SYSTEM
DOCKET NO. 020384-GU
CITIZEN'S 2nd SET OF INTERROGATORIES
INTERROGATORY NO. 54
PAGE 1 OF 1

54. Expense. Customer Records & Collection Expense, Account 903, decreased from \$5.1 million in 2000 to \$3.8 million in 2001. In the projected test year 2003, the cost increases to \$4.4 million. Identify and explain what specific costs are fluctuating from year-to-year and why.

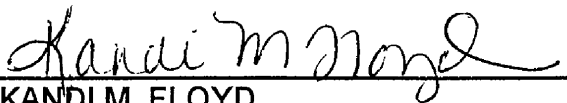
A. In 1998, the Company transitioned from 15 local call centers to one centralized call center, and most recently to four regionalized call centers. The expense level in 2000 was largely the result of abandoning the centralized call center concept. The concept proved extremely difficult to manage, more costly than initially anticipated, and very unpopular from a customer-service standpoint. In the transition to four regionalized customer response centers in the last half of 2000, there was some overlap in costs which occurred as a result of the setting up of the regionalized call centers while the centralized call center was still fully functioning. As a result, the expense level in 2000 was unusually high.

This transition was completed in early 2001, however, and therefore the expense level in 2001 is representative of the cost structure now in place and expected to be in place in the projected test year. The Company used the trending methodology as prescribed by the Commission Staff to project this expense for 2003 as shown on MFR schedule G-2, Page 14. The Company believes this is a reasonable approach in determining this cost for 2003. (P. Higgins)

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

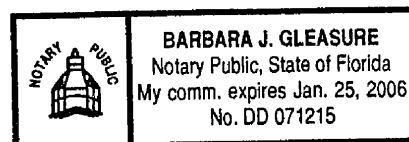
Before me, the undersigned authority, personally appeared Kandi M. Floyd who, being first duly sworn, says that she is the Regulatory Administrator of Peoples Gas System; that she is the person under whose supervision the foregoing Answers to the Citizens' Second Set of Interrogatories to Peoples Gas System (Nos. 50-65) have been prepared; that said Answers, insofar as said Answers are within her knowledge, are true; and that insofar as they are derived from or dependent upon the knowledge of others, she believes them to be true.


KANDI M. FLOYD

Sworn to and subscribed before me this 30th day of September, 2002.


Notary Public – State of Florida at Large

My Commission expires:



CERTIFICATE OF SERVICE

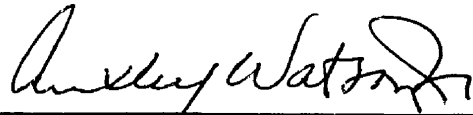
I HEREBY CERTIFY that the original of Peoples' Answers to the Citizens' Second Set of Interrogatories to Peoples Gas System (Nos. 50-65) has been furnished via Federal Express to H. F. Rick Mann, Esquire, Office of Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400, and that a copy of said Answers has been furnished by hand delivery* or Federal Express** to the following, this 30th day of September, 2002:

John W. McWhirter, Jr., Esquire*
McWhirter, Reeves, McGlothlin *et al.*
P. O. Box 3350
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