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IN REPLY REFER TO:

December 11, 2002

Ansley Watson, Jr.  
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VIA FEDERAL EXPRESS

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

Re: Docket No. 020384-GU -- Petition for rate increase by PEOPLES GAS SYSTEM

Dear Ms. Bayo:

Enclosed for filing in the above docket on behalf of Peoples Gas System, please find the original and 20 copies of its Motion to Strike Portions of Citizens' Direct Testimony.

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

Thank you for your assistance.

Sincerely,



ANSLEY WATSON, JR.

- AUS \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM 4
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
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AWjr/a  
Enclosures

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13555 DEC 12 8

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**Blanca S. Bayo, Director**  
**December 11, 2002**  
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**cc: Parties of Record**  
**Ms. Angela Llewellyn**  
**Matthew R. Costa, Esquire**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 020384-GU  
Submitted for Filing:  
12-12-02

PEOPLES GAS SYSTEM'S  
MOTION TO STRIKE PORTIONS  
OF CITIZENS' DIRECT TESTIMONY

Peoples Gas System ("Peoples" or the "Company"), by its undersigned attorneys, moves the Commission to strike certain portions of the Direct Testimony of Donna DeRonne, and of the Direct Testimony of Helmuth W. Schultz, II, filed in this docket on October 21, 2002, on various grounds more specifically hereinafter set forth. In support of its motion, Peoples states as follows:

Direct Testimony of Donna DeRonne

1. Peoples moves to strike the following portions of the Direct Testimony of Donna DeRonne, filed on behalf of the Citizens:
  - a. Sentence on page 16 at lines 18-19: "I was told that the cost reductions proposed would be 10% in the first year, with additional 3% decreases thereafter."
  - b. Sentence on page 18 at lines 21-23: "As previously mentioned, PGS personnel had indicated to me that the premise for the PGS marketing employees separating into a separate company was that the result would be a first year savings of 10%."
  - c. Sentences on page 22 at lines 1-3: "As previously mentioned, I was told that part of the premise for setting up TECO Partners, Inc. was that PGS would realize an initial cost savings of 10%. That projected cost savings does not

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appear to be included in the contract provisions.”

Each portion of the testimony referenced above is clearly hearsay in that it is a statement by Ms. DeRonne regarding what she was told by another person was said by yet a third person, and in that such statement is offered in evidence to prove the truth of the matter asserted (*i.e.*, that “cost reductions . . . would be 10% in the first year,” or that “the result would be a first year savings of 10%,” or that “Peoples would realize an initial cost savings of 10%). Section 90.802, *Florida Statutes*, provides that except as provided by statute, hearsay evidence is inadmissible. Section 120.57(c), *Florida Statutes*, provides that hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but that it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

There is no testimony or documentary evidence, other than the portions of Ms. DeRonne’s direct testimony referenced above, that even suggests the first year savings of 10% to which she testifies. As such, each referenced portion of Ms. DeRonne’s direct testimony should be stricken.

2. Peoples also moves to strike, on the ground it is hearsay, and on the ground – if the portions of Ms. DeRonne’s testimony identified in paragraph 1 above are stricken – that it lacks any predicate, that portion of the sentence on page 23 at lines 17-18 which reads “. . . to reflect the cost reduction that was the purported driver behind separating PGS’s sales and marketing employees into TECO Partners, Inc.” This sentence refers to the “cost reduction” referenced in the portion of Ms. DeRonne’s testimony discussed in paragraph 1 above, and should be stricken for the same reasons set forth in that

paragraph of this motion.

Direct Testimony of Helmuth W. Schultz, III

3. Peoples moves to strike, beginning on page 25 at line 1, and continuing through page 26, line 1, both the question and the answer of Witness Schultz. The question assumes a fact not in evidence – that the “information sought” has been withheld. The answer is argumentative, and irrelevant inasmuch as it provides no facts which bear on the issues in this case. More importantly, the answer in essence reargues the Citizens’ motion to compel discovery from Peoples of Tampa Electric and TECO Energy documents, which motion was denied by the prehearing officer in Order No. PSC-02-1613-PCO-GU, issued on November 21, 2002 in this docket. Arguments regarding discovery have no place in the testimony of this witness, and add nothing to the Commission’s understanding of the issues in this case.

4. Peoples moves to strike, on page 26 at lines 3 through 13, both the question to and the answer of Witness Schultz. The question inquires regarding the witness’s “concerns” about a statement made in Peoples’ response to the Citizens’ motion to compel production by Peoples of TECO Energy and Tampa Electric documents. Whatever “concerns” the witness may have regarding what was said in that reply are irrelevant to the issues in this proceeding. The Citizens’ motion has been denied by the prehearing officer’s order referenced in paragraph 3 of this motion. This portion of Mr. Schultz’s testimony in essence seeks to reargue the merits of the Citizens’ motion to compel, is entirely inappropriate, and should be stricken in its entirety.

5. Peoples moves to strike, on page 27 at lines 21-23, the sentence which

reads: "Inasmuch as Tampa Electric has refused to provide variance explanation the reduction in 2002 from 2001 charges cannot be explained."

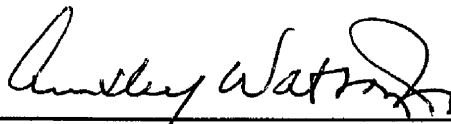
Tampa Electric did not refuse to produce anything to the Citizens because it was not asked during the discovery in this case to answer any interrogatory or to produce any documents. To the extent Peoples did not provide documents belonging to Tampa Electric, the Citizens' motion to compel production has been denied by the prehearing officer's order referenced in paragraph 3 of this motion. This portion of Mr. Schultz's testimony in essence seeks to reargue the merits of the Citizens' motion to compel, is entirely inappropriate, and should be stricken in its entirety.

6. Peoples moves to strike, on page 28, from lines 3, 11 and 21, and on page 29, from line 2, the word "excessive," on the ground that there is no predicate for the witness's comparative characterization of the costs mentioned.

7. Peoples moves to strike, on page 29, from line 12, the word "extra." There is no predicate for the witness's comparative characterization of the costs mentioned.

Dated this 9th day of December, 2002.

Respectfully submitted,



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and

**MATTHEW R. COSTA**  
Legal Department  
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P. O. Box 111  
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**Attorneys for Peoples Gas System**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Motion to Strike has been furnished by facsimile to Adrienne E. Vining, Esquire, Office of the General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and H. F. Rick Mann, Esquire, Office of the Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400, and by regular U.S. mail to the following, this 11th day of December, 2002:

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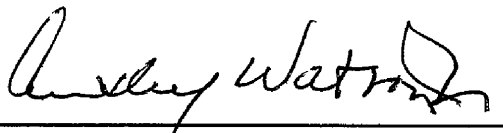
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\_\_\_\_\_  
Ansley Watson, Jr.