

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Natural gas conservation cost recovery.

DOCKET NO. 080318-GU  
ORDER NO. PSC-09-0128-CFO-GU  
ISSUED: March 3, 2009

ORDER GRANTING PEOPLES GAS SYSTEM'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION AND MOTION FOR TEMPORARY  
PROTECTIVE ORDER FOR CERTAIN MATERIALS PREPARED DURING STAFF AUDIT  
OF THE HISTORICAL TEST YEAR (AUDIT NO. 08-234-2-2) OF PEOPLES GAS SYSTEM  
(DOCUMENT NOS. 11078-08 AND 11238-08)

On December 4, 2008, pursuant to section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Peoples Gas System (PGS) filed a request for confidential classification and motion for temporary protective order concerning a portion of staff's working papers prepared pursuant to "Peoples Gas System File and Suspend Rate Case Audit Historical Year ended December 31, 2007." Document Nos. 11078-08 and 11238-08 are currently held by the Commission's Office of Commission Clerk as confidential pending resolution of PGS's request for confidential classification.

Request for Confidential Classification

Section 366.093(1), F.S., provides that records that the Commission has found to contain proprietary confidential business information shall be kept confidential and shall be exempt from Chapter 119, F.S., Florida's Public Records Act. 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 that has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides that proprietary confidential business information includes:

(b) Internal auditing controls and reports of internal auditors.

...

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

...

PGS contends that the confidential information in the documents is intended to be proprietary, is treated as proprietary, and has not been publicly disclosed. PGS requests that the Commission grant confidential classification for the documents for a period of 18 months from the date of the issuance of this Order, pursuant to Section 366.093(4), F.S.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

PGS asserts that the information for which it seeks confidential status consists of staff's notes taken from summaries of the Board of Directors meeting minutes and two pages of meeting minutes and notes taken from internal audits, as well as copies of the PGS 2007 federal income tax return. PGS contends that this information is entitled to protection from disclosure because it contains forward-looking information not made public, the disclosure of which could harm the competitive interest of the provider of the information and possibly trigger Securities and Exchange Commission reporting obligations. PGS asserts that the information for which it is requesting confidential classification is entitled to that classification pursuant to Section 366.093(3)(e), F.S., as proprietary confidential business information, the disclosure of which would cause harm to its customers.

PGS requests confidential classification for the information listed in the following table:

<b>Staff Work Paper Number</b>	<b>Description</b>	<b>Page(s)</b>	<b>Line(s)</b>	<b>Type of Information</b>
8, page 1 of 3	Minutes Board of Directors	1	7 Areas	Sensitive Competitive Business Information
8, page 2 of 3	Minutes Board of Directors	1	5 Areas	Sensitive Competitive Business Information
8, page 3 of 3	Minutes Board of Directors	1	11 Areas	Sensitive Competitive Business Information
8-1, page 1	Minutes Board of Directors	1	18 Areas	Sensitive Competitive Business Information
8-1, page 2	Minutes Board of Directors	1	3 Areas	Sensitive Competitive Business Information
9, page 1	Summary of Internal Audits	1	12 Areas	Internal Auditing Controls and Reports of Internal audits
9, page 3	Summary of Internal Audits	1	5 Areas	Internal Auditing Controls and Reports of Internal audits
54	Peoples Gas System 2007 Federal Income Tax Return	30	All	Sensitive Competitive Business Information

Upon review, it appears that the above-referenced information satisfies the criteria set forth in Section 366.093(3)(e), F.S. The information appears to contain proprietary confidential business information that contains customer specific information, the disclosure of which would be detrimental to the interests of its customers. Therefore, I grant confidential classification for the information identified above that is found in Documents Nos. 11078-08 and 11238-08.

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 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 information continues to contain proprietary confidential business information.

Motion for Temporary Protective Order

PGS also seeks protection of the documents as provided in Section 366.093(2), F.S., and Rule 25-22.006(6), F.A.C., while the material is in the possession of OPC. 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 the public records law, 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.

In addition, Rule 25-22.006(6)(c), F.A.C., states that if a party allows OPC 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."

Upon consideration, PGS's Motion for Temporary Protective Order is granted. PGS has demonstrated that the material is proprietary confidential business information. Accordingly, this information will be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Peoples Gas System's Request for Confidential Classification of Document Nos. 11078-08 and 11238-08 is granted. It is further

ORDERED that the information for which confidential classification has been requested will be granted confidential classification for a period of 18 months from the date of the issuance of this Order. 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. It is further

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ORDERED that the Motion for Temporary Protective Order filed by Peoples Gas System is granted.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 3rd day of March, 2009.



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NATHAN A. SKOP

Commissioner and Prehearing Officer

(SEAL)

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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.

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 the Commission Clerk, 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.