

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-16-0176-CFO-GU
ISSUED: May 4, 2016

ORDER GRANTING PEOPLES GAS SYSTEM'S
MOTION FOR TEMPORARY PROTECTIVE ORDER

On April 4, 2016, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(6)(c), Florida Administrative Code (F.A.C.), Peoples Gas System (Peoples) filed a Motion for Temporary Protective Order (Motion) with respect to documents to be provided to the Office of Public Counsel (OPC) pursuant to OPC's Second Request for Production of Documents to Peoples in this docket.

Peoples' Motion states that documents or categories of documents provided or to be provided to OPC, listed broadly on Attachment A to its Motion, are confidential business information. Peoples states that these documents include reports of internal audits or investigations, including notes or work papers used to prepare such reports, which are proprietary confidential business information pursuant to Section 366.093(3)(b), F.S. Peoples states that these documents also include costs and estimated future costs of IT equipment, software and personnel (and commentary) and current and projected future staffing levels (and commentary) that are proprietary confidential business information pursuant to Sections 366.093(d), (e) and (f), F.S., the disclosure of which would impair the efforts of Peoples or its affiliates to contract for goods or services on favorable terms and/or impair the competitive business of Peoples. Peoples states that the documents and information summarized on Attachment A to its Motion are owned or controlled by Peoples or its affiliates, are intended to be and are treated by Peoples or its affiliates as private in that the disclosure of the information would cause harm to the ratepayers or Peoples' or its affiliates' business operations, and have not been disclosed.

Peoples states that when a utility such as Peoples allows OPC to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, Rule 25-22.006(6)(c), F.A.C., provides for the Commission's issuance of a temporary protective order exempting the information from disclosure under Section 119.07(1), F.S. Peoples states that it understands that notwithstanding the Commission's issuance of the temporary protective order sought by this Motion, if any of the documents summarized on Attachment A to its Motion are to be used in a proceeding before the Commission in this docket, Peoples must seek further protection of such documents under Rule 25-22.006(6)(a), F.A.C., by making specific showings that the documents constitute proprietary confidential business information.

Section 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by OPC and any other party subject to the public records law as confidential and exempt from the public records law, Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or the return of the records to the person providing the records. 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.

The purpose of a temporary protective order issued pursuant to Rule 25-22.006(6)(c), F.A.C., is to facilitate OPC's examination of potentially confidential information for the purpose of determining what information is to be used in a Commission proceeding by temporarily exempting the information from the disclosure provision of Florida's public records law, Section 119.07(1), F.S. Under the rule, if information subject to a temporary protective order is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order and confidential treatment pursuant to Rule 25-22.006(6)(a), F.A.C. Alternatively, if the material is not to be used in a proceeding before the Commission, then OPC is required to return the information to the utility in accordance with the record retention requirements of the Department of State.

In view of the purpose of Rule 25-22.006(6), F.A.C., it is appropriate to provide the relief requested. During the time this Order is in effect, the documents and information referenced herein shall be kept confidential and shall be exempt from disclosure under Section 119.07(1), F.S. Upon completion of its review of the documents, OPC shall notify Peoples of the specific documents it intends to use in this proceeding and shall return the remaining documents to Peoples pursuant to the requirements of Rule 25-22.006(6)(c), F.A.C. It shall then be People's responsibility to request confidential treatment of those portions of the documents that it seeks to protect from disclosure pursuant to Rule 25-22.006(6)(a), F.A.C.

Based on the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that Peoples Gas System's Motion for Temporary Protective Order is granted, pursuant to the terms and conditions set forth in this Order.

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.

KGWC

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.