

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas) DOCKET NO. 920003-GU
Adjustment (PGA) Clause.) ORDER NO. PSC-92-0310-PCO-GU
ISSUED: 5/7/92

ORDER REGARDING PEOPLES' REQUEST FOR
CONFIDENTIAL TREATMENT OF CERTAIN PORTIONS OF ITS
SCHEDULE A-1/MF-AO

BY THE COMMISSION:

Peoples Gas System, Inc. (Peoples or PGS) filed a request for confidentiality concerning certain portions of its Schedules A-1/MF-AO attached to the Company's Notice of Decrease in its PGA Factor. The confidential information is located in Document No. 75-92. PGS states that this information is intended to be and is treated by the Utility and its affiliates as proprietary, and that it has not been publicly disclosed.

There is a presumption in the law of the State of Florida that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." It is this Commission's view that a request for specified confidential classification of documents must meet a very high burden. The Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Peoples seeks confidential classification for the information on line 41 in the columns "2nd Revised Estimate," "1st Revised Estimate," "Difference Amount," and "%" for Schedule A-1/MF-AO. PGS argues that this information is contractual data which, if made public, "would impair the efforts of [Peoples] to contract for goods or service on favorable terms." Section 366.093(3)(d), Florida Statutes. We agree. The information shows the weighted average price which Peoples originally reprojected and now projects it will pay to Gator Gas Marketing, Inc. and Seminole Gas Marketing, Inc. (affiliates of Peoples), and others, for the projection period. Knowledge of the prices Peoples expects to pay its affiliates during this period could give other competing suppliers information with which to potentially or actual control the pricing of gas, either by all quoting a particular price (which would in all likelihood equal or exceed the price Peoples expects

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to pay), or by adhering to a price offered by a Peoples affiliate. Even though this information is the weighted average price Peoples expects to pay its affiliates during the involved period, a supplier could refuse to sell natural gas at a price lower than the weighted average cost. In addition, such a supplier would most probably be less likely to make price concessions. The end result is reasonably likely to be increased gas prices, and therefore an increased cost of gas which Peoples must recover from its ratepayers.

PGS also seeks confidential classification of the information on lines 5 and 25 in the columns "2nd Revised Estimate," "1st Revised Estimate," "Difference Amount," and "% for Schedule A-1/MF-AO. Peoples states that the total cost figures for Peoples' projected purchases from its affiliates shown on line 5 can be divided by the therms to be purchased from such affiliates on line 25, to determine the weighted average cost or price on Line 41. Thus, publication of the information on Lines 5 and 25 together, or independently, would allow a supplier to derive the purchase price of gas Peoples expects to pay to its affiliates. Peoples argues that this information would permit a supplier to determine contractual information which, if made public, "would impair the efforts of [Peoples] to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. We agree.

In addition, PGS requests confidentiality for lines 1-4, 6, 8a-13, 22-26, 28a-32, 38-40,42, and 44a-48 for the columns "2nd Revised Estimate," "1st Revised Estimate," "Difference Amount," and "% for Schedule A-1/MF-AO. The data in the columns "2nd Revised Estimate," "1st Revised Estimate," and "Difference Amount" are algebraic functions of the price per therm Peoples expects to pay its affiliates during the involved period. The data showing the total cost of gas purchased (Line 7), total therms purchased (Line 27), total cost of gas purchased (Line 43), and the PGA factor and true-up have been disclosed, and this information could be used in conjunction with the highlighted information to derive the purchase price (or information from which to determine the purchase price) of gas Peoples expects to pay its affiliates during the involved period. Thus, Peoples argues that disclosure of this information could permit a supplier to determine contractual information which, if made public, "would impair the efforts of [Peoples] to contract for goods or service on favorable terms." Section 366.093(3)(d), Florida Statutes. We agree.

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Peoples requests that the proprietary information discussed above be treated as confidential until July 3, 1993. We find that the 18 months requested is necessary to allow Peoples and/or its affiliated companies time to negotiate future gas contracts. If this information were declassified at an earlier date, competitors would have access to information which could adversely affect the ability of Peoples and its affiliates to negotiate future contracts on favorable terms. We find that this time period of confidential classification will ultimately protect Peoples and its ratepayers.

It is, therefore,

ORDERED by Commissioner Betty Easley, as Prehearing Officer, that the proprietary confidential business information discussed above in Document No. 75-92 shall be afforded confidential treatment. It is further

ORDERED that the proprietary confidential business information discussed above shall be afforded confidential treatment until July 3, 1993.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 7th day of MAY, 1992.


BETTY EASLEY, Commissioner and
Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, is issued by the Commission; or (3) 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 Director, Division of Records and Reporting, 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.