

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment ) DOCKET NO. 940003-GU  
(PGA) Clause. ) ORDER NO. PSC-94-0632-CFO-GU  
\_\_\_\_\_ ) ISSUED: May 24, 1994

ORDER REGARDING PEOPLES' REQUEST FOR  
CONFIDENTIALITY OF PORTIONS OF COMPOSITE EXHIBIT HMG-1

Peoples Gas System, Inc. (Peoples or PGS) filed a request for confidentiality concerning certain portions of its Composite Exhibit HMG-1 filed in this docket. Composite Exhibit HMG-1 consists of Schedules A-1/MF-A0, A-2, A-3, A-4, A-5, A-6, A-7P, A-9, A-10 and A-8. The confidential information is located in Document No. 12355-93. 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.

Florida law presumes 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.

For the purposes of this filing, we have required Peoples to show the quantities and cost of gas it will purchase from FGT during the period April 1993 through September 1993. FGT's purchased gas adjustment is subject to FERC review, and Peoples' future cost estimates will have no effect on FGT's adjustment level during the future period. On the other hand, purchases made from persons other than FGT are currently based primarily on negotiations between Peoples' affiliate (Gator Gas Marketing, Inc.) and numerous producers and gas marketing companies. Since "open access" became effective on the FGT system on August 1, 1990, gas supplies were made available to Gator, the affiliate responsible for Peoples' non-FGT purchases, from these other suppliers. The prices paid by Gator vary, depending on the length of the purchasing period, the season or seasons that the purchases will be made, the quantities involved, and whether the purchase will be

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made on a firm or interruptible basis. Gas prices can vary from producer-to-producer or marketer-to-marketer, even when non-price terms and conditions are not significantly different. Gator also makes purchases for sale to several of Peoples' large industrial customers who choose not to make purchases from Peoples' system supply.

PGS argues that the information in lines 7-19 on column K of the Schedule A-7P in Composite Exhibit HMG-1 is contractual information, the disclosure of which "would impair the efforts of [Peoples] to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. I agree. The information shows the weighted average prices Peoples paid to its suppliers for gas during the period April 1993 through September 1993, and by month during that period. Knowledge of these prices would give competing suppliers information with which to potentially or actually control the pricing of gas by enabling the competitors either to all quote a particular price (which would in all likelihood equal or exceed the price Peoples has paid or has projected it will pay), or it would enable them to adhere to a price offered by an affiliate of Peoples. Even though this information is the weighted average price, most suppliers would most likely refuse to sell gas at a price less than the weighted average cost. In fact, such a supplier would probably be less likely to make any 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.

Peoples argues that disclosure of the information in lines 1-19 of columns E-J, in Composite Exhibit HMG-1 could 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. I agree. The data consists of algebraic functions of the price per therm Peoples has paid or has projected it will pay its affiliates in the future. The publication of these columns together, or independently, would allow a supplier to derive Peoples' purchase price of gas for the six-month period. Peoples also requests confidential treatment of lines 7-19 of column B. These lines contain the names of Peoples' suppliers. Peoples argues that if the names of its suppliers are made public, a third party might interject itself as a middle man between the supplier and Peoples. The end result is likely to be increased prices and therefore an increased cost of gas which Peoples must

recover from its ratepayers. I agree that this information should be accorded confidential treatment.

Peoples also seeks confidential treatment of the information in line 46b in the columns B-H for Schedule A-1/MF-AO in Composite Exhibit HMG-1. Peoples argues that this information is contractual data, the disclosure of which "would impair the efforts of [Peoples] to contract for goods or service on favorable terms." Section 366.093(3)(d), Florida Statutes. I agree. The information shows the weighted average price Peoples has paid its suppliers for the month of March 1993 and during the period October 1992 through March 1993. Knowledge of these prices would give other competing suppliers information with which to potentially or actual control gas prices either by all quoting a particular price or by adhering to a price offered by a Peoples' affiliate. Despite the fact that this information is the weighted average price, a supplier who may have sold gas at a price lower than the weighted average cost would most likely refuse to do so. In fact, such a supplier would be less likely to make price concessions, and could simply refuse to sell gas at a price less than the weighted average price. 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.

Peoples requests confidentiality for lines 8b and 28b on Schedule A-1/MF-AO in Composite Exhibit HMG-1. Peoples argues that disclosure of 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. I agree.

PGS requests confidential classification for the information in lines 1, 2, 6, 8a, 9, 12, 13, 22, 23, 26, 28a, 29, 31-32, on Schedule A-1/MF-AO in Composite Exhibit HMG-1. Peoples argues that disclosure of 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 service on favorable terms." Section 366.093(3)(d), Florida Statutes. I agree. The data consists of algebraic functions of the price per therm Peoples paid its suppliers for gas during the six-month period. Since the figures for total cost of gas purchased (line 7), total transportation cost (line 15), total transportation (line 35), total therms purchased (line 27), total transportation therms (line 33), total cents per therm cost of gas purchased (line 43), total cents-per-therm transportation cost (line 49), and the PGA factor

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and true-up have been publicly disclosed, the requested data could be used to derive the purchase price of gas Peoples has paid its suppliers during the involved period.

Peoples seeks confidential classification for information on Schedule A-9 on line 12 of columns F, G, and I ("Endless MDCQ x Days", "Total Purchased" and "Demand Cost"). The total shown on line 12 in column I ("Demand Cost") is the same as the information on line 6 (Actual) for the Current Month on Schedule A-1/MF-AO. The totals shown on lines 1-11 in columns F, G and I ("End Use MDCQ x Days", "Total Purchased" and "Demand Cost") are the same as the information on line 12 (Actual) for the Current Month on Schedule A-1/MF-AO. I have already found this information to be confidential as it appears on Schedule A-1/MF-AO. For the same reasons, I find this information to be confidential on Schedule A-9 as well.

On Schedule A-9, Peoples also seeks confidential treatment for the information shown on lines 1-11 of columns F, G, and I ("End Use MDCQ x Days", "Total Purchased", and "Demand Cost"). These numbers are algebraic functions of the information shown on line 12 in the same columns. Peoples argues that publication of the information in these lines together, or independently, would allow 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. I agree.

Also, Peoples seeks confidential treatment for the information in lines 1-11 of column C ("Purchased For") on Schedule A-9. This line lists Peoples' standby sales customers. Peoples argues that this is "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of [Peoples]." Section 366.09(3)(e), Florida Statutes. Peoples asserts that disclosure of this information could be detrimental to the interests of Peoples and its ratepayers, as it would provide suppliers of competing fuels (such as oil) with a prospective customer list which consists of Peoples' largest customers. I agree.

Peoples seeks confidential treatment for the information in lines 1-17 and 18 of Schedule A-10 for columns G and H, entitled "Wellhead Price" and "Citygate Price." Peoples asserts that this information is 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. The information on all lines in column G consists of the invoice price per MMBtu paid for gas by Peoples for the involved month. The information on all lines in column H consists of the delivered price per MMBtu paid by Peoples for such gas, which is the invoice price plus charges for transportation. Peoples states that knowledge of the prices paid to its gas suppliers during the time period would give other competing suppliers information with which to potentially or actually control the pricing of gas either by all quoting a particular price, which could equal or exceed the price Peoples paid, or by adhering to a price offered by a particular supplier. A supplier which might have been willing to sell gas at a price less than the price reflected in any individual invoice would likely refuse to do so. Such a supplier would be less likely to make any price concessions which it might have previously made or would be willing to make, and could simply refuse to sell at a price less than an individual price paid by Peoples. The end result, Peoples asserts, is reasonably likely to be increased gas prices, and therefore an increased cost of gas which Peoples must recover from its ratepayers. I agree.

Peoples seeks confidential classification of the information found in lines 1-17 and 18 of Schedule A-10 of columns C-F (entitled respectively "Gross Amount," "Net Amount," "Monthly Gross," and "Monthly Net"). Peoples maintains that since it is the rates (or prices) at which the purchases were made which Peoples seeks to protect from disclosure, it is also necessary to protect the volumes or amounts of the purchases in order to prevent the use of such information to calculate the rates or prices. I agree that this is confidential proprietary business information.

Also, Peoples requests confidential classification of the information found on lines 1-17 of Schedule A-10 of columns A and B (entitled "Producer Name," and "Receipt Point"). Peoples indicates that publishing the names of suppliers and the respective receipt points at which the purchased gas is delivered to Peoples would be detrimental to the interests of Peoples and its ratepayers since it would provide a complete illustration of Peoples' supply infrastructure. Specifically, Peoples states that if the names in column A are made public, a third party might interject itself as a middleman between the supplier and Peoples. In addition, disclosure of the receipt points in column B would give competing vendors information that would allow them to take capacity at those points. Peoples argues that the resulting loss of available capacity for already-secured supply would increase gas

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transportation costs. Peoples asserts that in either case, 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. I agree.

Peoples requests that the proprietary information discussed above be treated as confidential until May 17, 1995. I 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. I find that this time period of confidential classification will ultimately protect Peoples and its ratepayers.

It is, therefore,

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that the proprietary confidential business information discussed above in Document No. 12355-93 shall be afforded confidential treatment. It is further

ORDERED that the proprietary confidential business information discussed above shall be afforded confidential treatment until May 17, 1995.

By ORDER of Chairman J. Terry Deason, as Prehearing Officer, this 24th day of May, 1994.

  
J. TERRY DEASON, Chairman 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

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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.

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, if 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.