

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment ) DOCKET NO. 940003-GU  
(PGA) Clause. ) ORDER NO. PSC-94-0768-CFO-GU  
\_\_\_\_\_ ) ISSUED: June 22, 1994

ORDER REGARDING PEOPLES' REQUEST FOR  
CONFIDENTIALITY OF PORTIONS OF COMPOSITE EXHIBIT HMG-2

Peoples Gas System, Inc. (Peoples) filed a request for confidentiality concerning certain portions of its Composite Exhibit HMG-2 filed in this docket. Composite Exhibit HMG-2 consists of Schedules E-1, E-1/R, E-2, E-4, and E-5. The confidential information is located in Document No. 00535-94. Peoples 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 the Company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate 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 re-estimate the quantities and cost of gas it will purchase from FGT during the next twelve-months. 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 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.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Peoples argues that the information on lines 4 and 9 in column L of Schedules E-5 in Composite Exhibit HMG-2 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. The information shows the weighted average prices which Peoples projects to pay to its suppliers for gas by during the period April 1994 through March 1995. Knowledge of these projected prices would give competing suppliers information with which to potentially or actually control the pricing of gas either 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 a supplier 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 seeks confidentiality for lines 1-5, and 8 of columns E-K and L on Schedule E-3 in Composite Exhibit HMG-2. Peoples argues that disclosure of the information will permit a supplier to determine contractual information which if public, and [will] impair the efforts of [Peoples] to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. The data consists of algebraic functions of the prices per therm Peoples has paid or projected it will pay its suppliers in the future. The publication of these columns together or independently, would allow a supplier to derive Peoples' purchase price of gas for the twelve-month period.

Peoples states that information in Schedule E-1 on line 31 is 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. The information shows the weighted average price which Peoples projects it will have to pay to its suppliers during the period April 1994 through March 1995. Knowledge of the prices for gas Peoples projects will have to be paid to its suppliers during this 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 would in all likelihood equal or exceed the price Peoples projects it will have to pay), or by adhering to a price offered by a Peoples supplier. Despite the fact that this

information is the weighted average price projected to be paid to Peoples' suppliers during the involved periods, a potential supplier which might have been willing to sell gas at a price less than such weighted average cost would likely refuse to do so. Such a supplier would be less likely to make price concessions which it might have previously made (or might otherwise have been willing to make), and could simply refuse to sell at a price less than such 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 argues the total projected cost figures for Peoples' purchases from its suppliers shown in Schedule E-1 on Line 4 can be divided by the therms projected to be purchased from such suppliers on Line 18 to determine the projected weighted average cost or price on Line 31. Thus, the publication of the information on Lines 4 and 18 together, or independently, would allow a supplier to derive the purchase price of gas Peoples is projecting it will pay in the future to its suppliers. 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.

Also Peoples states the data in Schedule E-1 (for each month and in the total column) are algebraic functions of the price per therm Peoples projects will be paid to its suppliers for gas during the twelve-month period, and could (since the total cost (Line 11), total purchases (Line 24), total cents-per-therm cost (Line 37), and the PGA factor and true-up, which are needed by the Commission to understand the calculation of the purchased gas adjustment, have not been deleted) be used to derive the purchase price (or information from which to determine the purchase price) of gas Peoples projects it will pay to its suppliers during the twelve-month period. Thus, the 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.

In addition, Peoples requests confidential treatment for lines 46d, 8d, 28d, 1-2, 6, 8a-8c, 9a-9c, 22-23, 26, 28a-28c, 29a-29c, and 32-33 on Schedule E-1/R, in Composite Exhibit HMG-2. Peoples states this information is 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. The information shows the weighted average price which Peoples has paid or projects it will have to pay to its suppliers during the period October 1993 through March 1994. Knowledge of the prices for gas Peoples has paid or is projecting will have to be paid to its suppliers during this 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 would in all likelihood equal or exceed the price Peoples has paid or projected it will have to pay), or by adhering to a price offered by a Peoples supplier. Despite the fact that this information is the weighted average price paid or projected to be paid to Peoples' suppliers during the involved periods, a potential supplier which might have been willing to sell gas at a price less than such weighted average cost would likely refuse to do so. Such a supplier would be less likely to make price concessions which it might have previously made (or might otherwise have been willing to make), and could simply refuse to sell at a price less than such 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 argues the total projected cost figures for Peoples' purchases from its suppliers shown on Line 8d can be divided by the therms projected to be purchased from such suppliers on Line 28d to determine the projected weighted average cost or price on Line 46d. Thus, the publication of the information on Lines 8d and 28d together, or independently, would allow a supplier to derive the purchase price of gas Peoples has paid or is projecting it will pay in the future to its suppliers. 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.

Peoples argues that the data (for each month and in the total column) are algebraic functions of the price per therm Peoples paid or projects will be paid to its suppliers for gas during the six-month period, and could (since the total transportation cost (Line 15), total transportation (Line 35), total cents-per-therm transportation cost (Line 52), and the PGA factor and true-up, which are needed by the Commission to understand the calculation of the purchased gas adjustment, have not been deleted) be used to derive the purchase price (or information from which to determine the purchase price) of gas Peoples has paid or projects will be

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paid to its suppliers during the six-month period. Thus, the 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.

Peoples has requested that the proprietary information discussed above be treated as confidential until July 18, 1995. According to Peoples the 18 months requested is necessary to allow Peoples and/or its affiliated companies time to negotiate future gas contracts. Peoples argues that 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. It is noted that this time period of confidential classification will ultimately protect Peoples and its ratepayers.

In consideration of the foregoing, it is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the proprietary confidential business information discussed above in Document No. 00535-94 shall be afforded confidential treatment. It is further

ORDERED that the proprietary confidential business information discussed above shall be afforded confidential treatment until July 18, 1995. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 22nd day of June, 1994.

  
SUSAN F. CLARK, 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.

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.