BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment (PGA) True-up.) DOCKET NO. 960003-GU
) ORDER NO. PSC-96-1167-CFO-GU
) ISSUED: September 18, 1996

ORDER REGARDING PEOPLES' REQUEST FOR CONFIDENTIAL TREATMENT OF CERTAIN PORTIONS OF ITS JULY, 1996 PGA FILINGS (DOCUMENT NO. 08763-96)

On August 20, 1996, Peoples Gas System, Inc. (Peoples) filed a request for confidentiality concerning certain portions of its PGA filings for the month of July, 1996. The confidential information is located in Document No. 08763-96.

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 monthly gas filing, Peoples must show the quantity and cost of gas purchased from Florida Gas Transmission Company (FGT) during the month and period shown. The purchased gas adjustment, which is subject to FERC review, can have a significant effect on the price charged by FGT.

Specifically, Peoples seeks confidential classification for the information in lines 9 and 13-18 of column L ("Total Cents Per Therm") of Schedule A-3. Peoples argues that this information is contractual data, 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 rates Peoples paid to its suppliers for gas during the month shown. Peoples argues that knowledge of these prices could give other competing suppliers information which could be used to control gas pricing, because these suppliers could all quote a particular price (which in all likelihood would equal or exceed the price paid by Peoples), or could adhere to the price offered by a Peoples supplier. Suppliers would likely refuse to sell gas at prices lower than this average rate. Peoples argues that the end result of disclosure is reasonably likely to be increased gas prices, which would result in increased rates to Peoples' ratepayers.

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Regarding Schedule A-3, Peoples also seeks confidential treatment for lines 9 and 13-18 of columns E-K ("System Supply", "End Use", "Total Purchased", "Commodity Cost/Third Party", "Commodity Cost/Pipeline", "Demand Cost", and "Other Charges"). This data is an algebraic function of the price per therm paid by Peoples on lines 9 and 13-18 of column L ("Total Cents Per Therm"). Peoples argues that the publication of these columns could allow suppliers to derive the prices Peoples paid to its suppliers during the month. Peoples asserts that disclosure of this information could enable a supplier to derive contractual information which "would impair the efforts of [Peoples] to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

Regarding Schedule A-3, Peoples also seeks confidential treatment for lines 9-18 of column B ("Purchased From"). Peoples argues that disclosing the names of Peoples suppliers would be detrimental to the interests of Peoples and its ratepayers since it would provide competitors with a list of prospective suppliers. Peoples also argues that a third party could use such information to interject itself as a middleman between Peoples and the supplier. In either case, Peoples argues, 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 also seeks confidential treatment for the information on Schedule A-4 in lines 1-14 and 18 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 this month 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.

Peoples seeks confidential classification of the information found on Schedule A-4 in lines 1-14 and 18 in 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.

In addition, Peoples requests confidential classification of the information found on Schedule A-4 in lines 1-14 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. Further, disclosure of the receipt points in column B would give competing vendors information that would allow them to buy or sell capacity at those points. Peoples argues that the resulting loss of available capacity for already-secured supply would increase gas 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.

Peoples requests confidential treatment for its Gas Purchase Invoices for June, 1996, pages 1-9, in their entirety. The requested information pertains to the rates at which purchases covered by the invoices were made (except for the rates of FGT which are public), the volumes purchased (stated in therms, MMBtu and/or Mcf), and the total cost of the purchase. Since it is the rates at which the purchases were made which Peoples seeks to protect from disclosure, Peoples argues that it is also necessary to protect the volumes and costs of the purchases in order to prevent the use of such information to calculate the rates.

Peoples argues that this information is contractual data 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 regarding the June invoices, Peoples requests confidential treatment of the names of its suppliers, contact persons, volume transported, and receipt points. Peoples argues that disclosure of this information would illustrate the Peoples supply infrastructure to competitors. A competing vendor could then learn where capacity was becoming available. Further, a list of suppliers and contacts would facilitate the intervention of a middleman. In either case, Peoples argues, 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 also requests confidential treatment of all related information that tends to indicate the identity of each gas supplier. Such information includes supplier addresses, phone and fax numbers, contact persons, logos, and miscellaneous numerical references such as invoice numbers, account numbers, wire instructions, contract numbers and tax I.D. information. Peoples asserts that in this case, the format of the invoices alone might indicate with whom Peoples is dealing. Since this information may indicate to persons knowledgeable in the industry the identity of the otherwise undisclosed gas supplier, Peoples has requested confidential treatment of it.

Peoples requests confidential treatment for certain information highlighted on its Gas Purchase Invoices for July, 1996, on page 6 of 10. Peoples seeks confidential treatment of lines 10-11 of page 6. The requested information pertains to the rates at which purchases covered by the invoices were made (except for the rates of FGT which are public), the volumes purchased (stated in therms, MMBtu and/or Mcf), and the total cost of the purchase. Since it is the rates at which the purchases were made which Peoples seeks to protect from disclosure, Peoples argues that it is also necessary to protect the volumes and costs of the purchases in order to prevent the use of such information to calculate the rates. Thus, Peoples also seeks confidential treatment of lines 10-11 and 25 on page 6. Peoples argues that this information is contractual data 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 regarding the July invoices, Peoples requests confidential treatment of lines 1, 6, and 22 on page 6 which contain the names of its suppliers, and of lines 2-5 and 7-9 on the same page which contain related information that might tend to reveal the identity of the gas supplier. Peoples argues that disclosure of this information would provide a list of Peoples' suppliers and contacts to its competitors. Release of this information might also facilitate the intervention of a middleman. Peoples argues, 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 confidential treatment for lines 9, and 21-28 in columns C and E on its Open Access Report. Peoples argues that this information is contractual data 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 in column C shows the therms purchased from each supplier for the month, and column E shows the total cost of the volumes purchased. This information could be used to calculate the actual prices Peoples paid for gas to each of its suppliers for the involved month. Peoples argues that knowledge of the prices Peoples paid to its gas suppliers during the month would give competing suppliers information with which to potentially or actually control gas pricing. Most probably, suppliers would refuse to charge prices lower than the prices which could be derived if this information were made public. Such a supplier would be less likely to make any price concessions, and could simply refuse to sell at a price less than an individual price paid by Peoples. Peoples argues that the end result is reasonably likely to be increased gas prices, and, thus, an increased cost of gas which Peoples must recover from its ratepayers.

Also, Peoples seeks confidential treatment for lines 9-11 and 21-28 in column A on its Open Access Report. The information in column A includes the names of Peoples' gas suppliers. Peoples maintains that publishing the suppliers' names would be detrimental to the interests of Peoples and its ratepayers since it would provide a list of prospective suppliers. If the names were made public, a third party might try to interject itself as a middleman between the supplier and Peoples. Peoples argues that 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 confidential treatment for the information highlighted on its July 1996 Accruals For Gas Purchased Report, pages 1-6. Specifically, Peoples seeks confidential treatment of lines 1, 8, and 9 in Columns A, B, C, and D, and 16 in Columns B and D on page 1, line 1 in Columns A, B, C, and D, and 15 in Columns B and D on page 2, line 1 in Columns A, B, C, and D, and 15 in Columns B and D on page 3, lines 1-2 in Columns A, B, C, and D, and 15 in Columns B and D on page 4, lines 1-2 in Columns A, B, C, and D, and 15 in Columns B and D on page 5, and line 1 in Columns A, B, C, and D, and 15 in Columns B and D on page 6. Peoples argues that disclosure of this information would impair its efforts to contract for goods or services on favorable terms. The information consists of rates and volumes purchased, as well as the total cost of the purchase accrued. Peoples maintains that disclosure of volumes and costs would allow the calculation of the purchase rates, which Peoples seeks to protect. Peoples also asserts that this information is proprietary and confidential information. Further, disclosure of prices paid to Peoples' suppliers would give competing suppliers information with which to control the pricing of gas, either by all quoting a particular price or by adhering to a price offered by a particular supplier. A supplier which might have been willing to sell at prices lower than that reflected in an individual invoice would then be less likely to offer previously-made price concessions. Peoples argues that the end result is reasonably likely to be increased gas prices which Peoples must recover from its ratepayers.

Peoples seeks confidential treatment for certain information highlighted on its Actual/Accrual Reconciliation of Gas Purchased Report and the corresponding invoices which are submitted to effect reconciliation with its June 1996 Accruals For Gas Purchased Report. Specifically, Peoples requests confidential treatment of lines 1-18 on pages 1-6 for Column C, D, and E. Peoples also seeks confidential treatment of lines 93-95 on pages 1-6 in Columns C and E. Peoples argues that disclosure of this information would impair its efforts to contract for goods or services on favorable terms. The information consists of rates and volumes purchased, as well as the total cost of the purchase accrued. Peoples maintains that disclosure of volumes and costs would allow the calculation of the purchase rates, which Peoples seeks to protect. Peoples also asserts that this information is proprietary and confidential information. Further, disclosure of prices paid to Peoples' suppliers would give competing suppliers information with which to control the pricing of gas, either by all quoting a particular price or by adhering to a price offered by a particular supplier.

A supplier which might have been willing to sell at prices lower than that reflected in an individual invoice would then be less likely to offer previously-made price concessions. Peoples argues that the end result is reasonably likely to be increased gas prices which Peoples must recover from its ratepayers.

Further, Peoples requests confidential treatment for lines 1, 3, 5, 7, 9, 11, 13, 15, and 17 on pages 1-6 in Column A. These lines contain information regarding the names of Peoples' suppliers. Disclosure of Peoples' suppliers would be detrimental to the interests of Peoples and its ratepayers since it would provide competitors with a list of gas suppliers and would facilitate the intervention of a middleman. The end result, Peoples argues, is reasonably likely to be increased gas prices, and, therefore, an increased cost of gas which Peoples must recover from its ratepayers.

Since November, 1993, FGT's tariff has required the assessment of charges to those customers which are not in balance on a monthly basis (an "imbalance charge"). This practice has encouraged FGT customers like Peoples to trade ("book-out") imbalances with other FGT customers in an effort to avoid less favorable FGT imbalance charges. Peoples asserts that much of 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.

Peoples, therefore, seeks confidential treatment of the information located on Page 2 of 2, line 3, Page 2 of 2, line 3, and Page 2 of 4, lines 1-2 and 4 of the Invoice for Cashout/Bookouts. Specifically, Peoples requests confidential treatment of the trading price. Peoples argues that knowledge of the average book-out Price Per Therm during a month would give other FGT customers information with which to potentially or actually control the pricing of booked-out imbalances either by all quoting a particular price, or by adhering to a price offered to a particular FGT customer in the past. As a result, an FGT customer which might have been willing to trade imbalances at a Price Per Therm more favorable to Peoples than the price reflected in these lines would likely refuse to do so. The end result is reasonably likely to be higher book-out transaction costs and/or FGT imbalance charges, and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Peoples also requests confidential treatment for the information on amount due contained in the Invoices for Cashout/Bookouts. This information consists of the volumes booked-out and the total cost of each trade. It is necessary to protect the volumes traded and total costs in order to prevent the use of such information to calculate the price-per-therms in a specific transaction.

Peoples further seeks confidential treatment for the information relating to trading partners, contained in the Invoices for Cashout/Bookouts. Disclosure of the FGT customers that traded imbalances with Peoples would be detrimental to the interests of Peoples and its ratepayers since it would provide other FGT customers with a list of prospective imbalance traders. Moreover, a third party could use such information to interject itself as a middleman between Peoples and the FGT customer. In either case, the end result is reasonably likely to be higher book-out transaction cost and/or FGT imbalance charges, and therefore an increased cost of gas which Peoples must recover from its ratepayers.

Moreover, publishing the names of other pipeline customers with which Peoples traded imbalances would be detrimental to the interests of Peoples and its ratepayers because it would reveal elements of Peoples' capacity strategy (frequency, amount and vicinity) and help illustrate Peoples supply and transportation infrastructure. Disclosing the amount of available pipeline capacity at a specific point could encourage the intervention of competing shippers, suppliers, industrial end-users, or capacity brokers, not to mention affect a potential customer's decisions regarding the type of service it desires. In either case, the end result is reasonably likely to be an increased cost of transportation, which would lead in turn to an increased cost of gas which Peoples must recover from its ratepayers.

In accordance with Section 366.093(4), Florida Statutes, Peoples has requested that the proprietary information discussed above be treated as confidential for a period of 18 months from the date of the issuance of this Order. According to Peoples the period requested is necessary to allow Peoples 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 J. Terry Deason, as Prehearing Officer, that the requested information in Document No. 08763-96 shall be treated as proprietary confidential business information to the extent discussed above. It is further

ORDERED that the information discussed above shall be afforded confidential treatment for a period of 18 months from the date of the issuance of this Order. 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 J. Terry Deason, as Prehearing Officer, this **18th** day of **September**, **1996**.

J. TERRY DEASON, 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.