

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of tariff
modifications for liquified natural gas service
by Peoples Gas System.

DOCKET NO. 20200093-GU
ORDER NO. PSC-2020-0253-CFO-GU
ISSUED: July 23, 2020

ORDER GRANTING PEOPLES GAS SYSTEM CONFIDENTIAL
CLASSIFICATION (DOCUMENT NO. 02924-2020)

Peoples Gas System (PGS) responded to our Staff's April 2, 2020, Data Request No. 7 on April 17, 2020. PGS also filed a Notice of Intent to seek Confidential Classification for certain information contained in the response, and on June 3, 2020, PGS filed its Request for Confidential Classification (Document No. 02924-2020), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code.

Request for Confidential Classification

PGS states that the Response No. 7 represents proprietary confidential business information that is intended to be, and is treated as, private by PGS and has not been disclosed. Specifically, the Response is a description of the way that PGS would calculate a hypothetical investment in a liquid natural gas (LNG) facility. PGS contends that this response contains data on PGS's revenue, expenses, operating income, liabilities, and equity, as well as debt for such a facility. PGS further contends that protection of the response is necessary because it contains competitive information regarding the pricing of PGS's proposals for the installation and operation of LNG facilities. Consequently, PGS argues that the information is entitled to confidential classification pursuant to Section 366.093(3), F.S.

Timeliness of Request

Rule 25-22.006(3)(a)1., F.A.C., requires Requests for Confidential Classification to be filed within 21 days of staff obtaining the confidential material. Further, the rule provides that "absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality." PGS filed its Notice of Intent to Request Confidential Treatment of its Response on April 20, 2020, but did not file its Request for Confidential Treatment until June 3, 2020.

In its Request for confidential classification, counsel for PGS states that organizational difficulties relating to the ongoing COVID-19 pandemic was a likely contributor to the tardiness in filing its request. Specifically, counsel for PGS states that "communication with his staff broke down because of the fact that everyone was working from home which likely led to misunderstandings as to what had been filed." Counsel also contends that it would be "unjust and unfair" to punish PGS for the inadvertent failure of its counsel to timely file the request for confidential treatment.

Given the extraordinary and unprecedented impacts that the COVID-19 pandemic has placed on workplaces and work processes in this state, I find that PGS has adequately shown good cause for its request being late-filed. Therefore, I will not deny PGS's request for confidential classification for being untimely.

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

(d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Upon review, it appears the highlighted information in PGS's Response to Data Request No. 7 satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. This response contains information concerning bids or other contractual data, the disclosure of which would impair the efforts of PGS or its affiliates to contract for goods or services on favorable terms, and information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. Thus, the information identified in Document No. 02924-2020 shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted shall remain protected from disclosure for a period of up to 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless PGS or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is hereby

ORDERED by Commissioner Andrew Giles Fay, as Prehearing Officer, that Peoples Gas System's Request for Confidential Classification of Document No. 02924-2020 is granted. It is further

ORDERED that the information in Document No. 02924-2020, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless Peoples Gas System or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Andrew Giles Fay, as Prehearing Officer, this 23rd day of July, 2020.



ANDREW GILES FAY
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.

KMS

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.

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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 25-22.0376, 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.