BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Purchased Gas Adjustment (PGA) true-up.	DOCKET NO. 970003-GU ORDER NO. PSC-97-1520-CFO-GU ISSUED: December 3, 1997

ORDER GRANTING PEOPLES GAS SYSTEM, INC.'S REQUEST FOR CONFIDENTIAL TREATMENT OF CERTAIN PORTIONS OF ITS AUGUST, 1997 PGA FILINGS (DOCUMENT NO. 09609-97)

On September 22, 1997, Peoples Gas System, Inc. ("Peoples" or "Company") filed a request for confidential classification of certain portions of its purchased gas adjustment ("PGA") filings for the month of August, 1997. Peoples asserts that the information for which confidential classification is sought is intended to be and is treated by Peoples and its affiliates as private and has not been disclosed. The confidential information is located in Document No. 09609-97.

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.

To establish that material is proprietary confidential business information under Section 366.093(3)(d), Florida Statutes, a utility must demonstrate (1) that the information is contractual data, and (2) that disclosure of the data would impair the efforts of the utility to contract for goods or services on favorable terms. The Commission has previously recognized that this latter requirement does not necessitate the showing of actual impairment, or the more demanding standard of actual adverse results. Instead, the Company involved must simply show that disclosure is "reasonably likely" to impair the Company's ability to contract for goods or services on favorable terms.

In its monthly PGA 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.

Peoples seeks confidential classification for the information at lines 11 and 15-20, column L 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. This information shows the quantities of gas which Peoples purchased from its suppliers during the month, together with the cost of transportation for such purchases. These rates are not publicly known. They are the result of private negotiations between Peoples and numerous producers and gas marketing companies. Purchases are made at varying prices depending on the term of the arrangement, the time of year, the quantities involved, and the nature of the service (firm or interruptible). Prices at which gas is available to Peoples can vary from producer to producer or marketer to marketer even when non-price terms and conditions of the purchase are not significantly different.

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. Disclosure of the rates at which Peoples purchased gas from its 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 (equal to or exceeding the shaded rates), or by adhering to a rate offered by a particular supplier. Such suppliers would be less likely to make any price concessions which they might have previously made, and could simply refuse to sell at a price less than those rates shaded here. 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 at lines 11 and 15-20, columns E-K of Schedule A-3. These data are algebraic functions of the price per therm paid by Peoples as shown on lines 11 and 15-20, of column L. Peoples argues that disclosure of the information in these columns would allow suppliers to derive the prices Peoples paid to its suppliers during the month. Peoples asserts that disclosure of this information would enable a supplier

to derive contractual information which would impair the efforts of the Company to contract for goods or services on favorable terms.

Peoples further seeks confidential treatment for the information at lines 11-20, column B of Schedule A-3. Peoples argues that disclosing the names of its suppliers would be detrimental to the interests of Peoples and its ratepayers because 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 seeks confidential treatment for the information at lines 1-8 and 19, columns G and H in Schedule A-4. Peoples asserts that this information is contractual information which, if made public, would impair its efforts to contract for goods or services on favorable terms. The information in column G consists of the invoice price per MMBtu paid for gas by Peoples. The information 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 claims that disclosure of the prices paid to its gas suppliers during this month would give 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. Peoples contends that a supplier who might have been willing to sell gas at a lower rate would be less likely to make any price concessions. 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 also seeks confidential classification of the information at lines 1-8 and 19, columns C-F of Schedule A-4. Peoples maintains that since it is the specific 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 at lines 1-8, columns A and B of Schedule A-4.

Peoples indicates that publishing the names of suppliers and the respective receipt points at which the purchased gas is delivered to the Company would be detrimental to the interests of Peoples and its ratepayers, since it would provide a complete illustration of Peoples' supply infrastructure. Specifically, Peoples asserts that if the names in column A are made public, a third party might interject itself as a middleman between the supplier and Peoples. Peoples further asserts that disclosure of the receipt points in column B would give competitors 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 concludes 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 seeks confidential treatment for lines 9, 26 through 36, and 38, columns C and E of its Open Access Report. Peoples argues that this information is contractual data which, if made public, would impair the efforts of the Company to contract for goods or services on favorable terms. 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. Peoples states that this information could be used to calculate the actual prices Peoples paid to each of its suppliers for gas during the involved month. Peoples argues that disclosure 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. Peoples asserts that a supplier who might have been willing to sell gas at a lower price would be less likely to make any price concessions. 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 also seeks confidential treatment for lines 9 through 12 and 26 through 41, column A of its Open Access Report. The information in column A includes the names of Peoples' gas suppliers. Peoples maintains that disclosure of the suppliers' names would be detrimental to the interests of Peoples and its ratepayers since it would provide a list of prospective suppliers to Peoples' competitors. Peoples asserts that 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 requests confidential treatment of information revealing its suppliers' and customer's names in its Invoices for August 1997. This information is found on invoice pages 4 of 10 and 5 of 10, line 1, and on pages 6 of 10 and 10 of 10, lines 1 and 6. Peoples also requests confidential treatment for information in these invoices that would tend to indicate the identity of its suppliers and customers and facts pertaining to them. This information is found on invoice pages 4 of 10 and 5 of 10, lines 1, 3 and 6; page 6 of 10 and 10 of 10 lines 2 through 5 and lines 7 through 9. Peoples argues that disclosure of the supplier's name or facts that could lead to its identification would be detrimental to the interests of Peoples and its ratepayers since it would provide competitors with a list of prospective suppliers. Peoples asserts that if the supplier's name was 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.

Also regarding its August, 1997 Invoices, Peoples requests confidential classification for the "Rate" information on invoice page 10 of 10, lines 10 and 11. These rates are the prices at which Peoples purchased gas from its suppliers. Peoples asserts that this information is contractual information which, if made public, would impair the efforts of the Company to contract for goods or services on favorable terms. Peoples argues that disclosure 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; 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. 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 also requests confidential classification for the "Therms" and "Amount" information on page 10 of 10, lines 10, 11 and 24 of its August, 1997 Invoices. These lines contain the volumes and total costs of Peoples gas purchases. Peoples argues that this information could be used to calculate the rates for which it has also requested confidentiality.

Peoples seeks confidential treatment for certain information contained in its Accruals For Gas Purchased Report for August, 1997, pages 1 through 6. Specifically, Peoples seeks confidential treatment of the information in column C "Rate" at lines 1 pages 1 through 6 and line 9 on page 2. People's also seeks confidential treatment of the information in columns B and D "Therm/Acrd," at lines 1 pages 1 through 6, line 15 of page 1, lines 8-9 and 16 page 2, line 15 pages 3 through 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 the rates at which Peoples purchased gas from its suppliers would give competing suppliers information with which to potentially or actually control the pricing of gas either by all quoting a particular price (equal to or exceeding the rates Peoples paid) or by adhering to a rate offered by a particular supplier. Peoples claims that a supplier which might have been willing to sell gas at a lower rate would be less likely to make any price concessions. Peoples argues that the end result is reasonably likely to be increased gas prices which Peoples must recover from its ratepayers. Since it is the rates at which purchases were made which it seeks to protect from disclosure, Peoples claims that it is also necessary to protect data showing the volumes and total costs of its purchases in order to prevent the use of such information to calculate rates.

Further, Peoples seeks confidential treatment for the names of suppliers which appear on its Accruals For Gas Purchased Report for June, 1997. Specifically, People's seeks confidential treatment of the information in column A "Supplier" at: line 1 on pages 1 through 6 and line 9 on page 2. Disclosure of these supplier names would be detrimental to the interests of Peoples and its ratepayers since it would provide competitors with a list of prospective 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.

Peoples requests confidential classification for certain information on its Actual/Accrual Reconciliation of Gas Purchased Report for July 1997, pages 1-6. Specifically, Peoples requests confidential treatment of the information in columns C and E at lines 1-16 and 93-95, and in column D at lines 1-16. 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 the rates at which Peoples purchased gas from its suppliers would give competing suppliers information with which to potentially or actually control the pricing of gas either by all quoting a particular price (equal to or exceeding the rates Peoples paid) or by adhering to a rate offered by a particular supplier. Peoples states that a supplier which might have been willing to sell gas at a lower rate would be less likely to make any price concessions. Peoples argues that the end result is reasonably likely to be increased gas prices which Peoples must recover from its ratepayers. Since it is the rates at which purchases were made which it seeks to protect from disclosure, Peoples claims that it is also necessary to protect data showing the volumes and total costs of its purchases in order to prevent the use of such information to calculate rates.

Peoples further requests confidential treatment of supplier names provided on its Actual/Accrual Reconciliation of Gas Purchased Report for June 1997, pages 1-6. Specifically, Peoples requests confidential treatment of the information in column A "Supplier" at lines 1, 3, 5, 7, 9, 11, 13 and 15. Peoples maintains that disclosure of its suppliers' names would be detrimental to the interests of Peoples and its ratepayers since it would provide competitors with a list of prospective 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.

Peoples requests confidential treatment for its Invoices for July, 1997, pages 1-7, in their entirety. The information on these pages includes the rates at which purchases covered by the invoices were made (except for the rates of FGT which are public), the volumes purchased, 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.

The information in Peoples' July, 1997 Invoices also includes the names of its suppliers. Peoples maintains that disclosure of

supplier names would be detrimental to the interests of Peoples and its ratepayers since it would provide competitors with a list of prospective suppliers and 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' July, 1997 Invoices also include 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 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 seeks confidential treatment for two types of information in its Prior Month Adjustment Invoices. Peoples seeks confidential treatment of page 1 of 4, lines 1 and 3; page 2 of 4 lines 1 and 6; and, pages 3 and 4, line 1 because these lines contain proprietary and confidential information concerning supplier names contained on the invoices. Peoples also seeks confidential classification of the information concerning supplier facts contained on page 2 of 4, lines 2 through 5 and 7 though 9; page 3 of 4, lines 1 and 5; and, page 4 of 4, lines 1 and 8. Peoples requests confidential classification for supplier names and facts that tend to reveal the identity of those suppliers. Peoples argues that the information concerning suppliers and supplier facts is contractual information which, if made public, would impair Peoples' efforts "to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. Peoples also requests confidential classification for the rates at which purchases covered by the invoice were made and the therms and amounts purchased. This information is found at page 1 of 4, lines 5 and 6; page 2 of 4, lines 10 and 11 ("Rate"). Disclosure of the rates at which Peoples purchased gas from its 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 (equal to or exceeding the shaded rates), or by adhering to a rate offered by a particular supplier. Page 1 of 4, line 7 and page 2 of 4, lines 23 through 25 contain information on "Therms/Amounts." Peoples' argument for

confidential classification of this information is based on the rationale, stated above, used to support its request for confidential treatment of its July, 1997 Invoices. Peoples argues that confidential treatment of the "Therms/Amounts" information is necessary to prevent disclosure of the volumes and total costs of the purchases so competitors will not use this information to calculate the rates.

Peoples also requests confidential classification for the information contained in its invoices "Prior Period Adjustment." Specifically, Peoples asserts that the information contained on page 3 of 3 lines 1 and 6, "Suppler," 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. Disclosure of the supplier names would be detrimental to Peoples and its ratepayers since it would provide competitors with a list of prospective suppliers. Moreover, a third party could use such information to interject itself as a middleman between Peoples and the supplier. In either case, the end result is reasonably likely to be increased gas prices, and therefore and increased cost of gas which Peoples must recover form its ratepayers.

Peoples also requests confidential classification for the information on page 3 of 3 of the "Prior Period Adjustment" at lines 2 though 5 and 7 through 9, "Supplier Facts." This information would tend to indicate the identity of the gas supplier for which Peoples has requested confidentiality in the paragraph above.

Peoples also requests confidential classification of the information contained on page 3 of 3 lines 1 through 11, "Rate." Peoples argues that disclosure of the rates at which Peoples purchased gas from these 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 (equal to or exceeding the shaded rates), or by adhering to a rate offered by a particular supplier. A supplier which might have been willing to sell gas a ta lower rate would 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 asserts that the information on page 3 of 3, line 24, "Therms /Amounts," should also be granted confidential classification of the volumes and total costs of the purchases in

order to prevent the use of such information to calculate the rates for which protection is sought under "Rates" above.

Peoples maintains that the information contained in its Cashouts/Bookouts is also entitled to confidential classification. Specifically, Peoples seeks confidential classification of the information contained on page 3 of 4 and 4 of 4 line 6. This information "Trading Price" is entitled to confidential classification because the highlighted information (the price-per-therm for a specific book-out transaction) is contractual information which, if made public, would impair the efforts of Peoples "to contract for good or services on favorable terms." Section 366.093(3)(d), Florida Statutes. Disclosure of the book-out price-per-therm would give other Florida Gas Transmission (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, and increased cost of gas which Peoples must recover from its ratepayers. Peoples also seeks confidential classification of the information on page 3 of 4 and page 4 of 4 lines 6 and 7, "Amounts Due." Peoples argues that the highlighted information consists of the volumes booked-out and the total cost of each trade. It is necessary to protect the volumes booked-out and the total cost in order to prevent the use of such information to calculate the price-per-therms in a specific transaction. Peoples therefore seeks confidential treatment of these entries as well.

Peoples contends that the information contained on pages 3 of 4 and 4 of 4, line 1, "Trading Partner," is also entitled to confidential classification because disclosure of the FGT customers that traded imbalances with Peoples would be detrimental to the interests of Peoples and its ratepayers because 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 costs and/or FGT imbalance charges, and therefore an increased cost of gas which Peoples must recover form its ratepayers.

Moreover, Peoples argues, 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 endusers, 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 these 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. Peoples also seeks to protect its "Trading Partner Facts" from public disclosure. This information is found on page 3 of 4 and page 4 of 4, lines 2 though 4. Peoples requests that this information be granted confidential classification as it is directly related to the information pertaining to "Trading Partners" above.

Upon review, it appears that the information discussed above is proprietary confidential business information and should be given confidential treatment to avoid harm to Peoples and its ratepayers. Peoples has requested that the proprietary information discussed above not be declassified for a period of 18 months, as provided in Section 366.093(4), Florida Statutes. According to Peoples, the period requested is necessary to allow Peoples and its affiliates to negotiate future gas purchase contracts. Peoples argues that if this information were declassified at an earlier date, suppliers and 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. The request for a confidential classification period of 18 months shall, therefore, be granted.

Based on the foregoing, good cause having been shown, Peoples' request for confidential treatment of the information herein described for 18 months under Section 366.093(4), Florida Statutes, is granted.

In consideration of the foregoing, it is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the requested information in Document No. 09609-97 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 issuance date 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 Susan F. Clark, as Prehearing Officer, this 3rd day of December, 1997.

Susan F Clark

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 120.569(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.

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, 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.