

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application of Peoples )  
Gas Systems, Inc. for a rate )  
increase. )  
\_\_\_\_\_ )  
DOCKET NO. 891353-GU  
ORDER NO. 23858-B  
ISSUED: 2/4/91

The following Commissioners participated in the disposition of this matter:

BETTY EASLEY  
GERALD L. GUNTER

NOTICE OF PROPOSED AGENCY ACTION

AMENDATORY ORDER CORRECTING TAX TREATMENT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

After our vote on the rate increase in this docket, which is reflected in Order No. 23858, the Internal Revenue Service (IRS) issued proposed regulations, Sections 1.167(1)-1(h)(7) and 1.168(i)-1, to part 1 of title 26 of the Code of Federal Regulations (CFR). The proposed regulations say, in part, "Except as provided in paragraph (c) of this section it is inconsistent with a normalization method of accounting to compute a utility's ratemaking tax expense or the amount treated as no-cost capital or the amount of the rate base by taking into account the income, losses, deductions, or credits, of any other member of the consolidated group of which it is a member." In other words, the utility must calculate its tax expense as if it filed a separate return. The parent debt adjustment appears to be a violation of the normalization requirements because the adjustment computes the utility's tax expense by taking into account a deduction of the parent, another member of the consolidated group. The exception in paragraph (c) is not discussed because it is not available at this time because paragraph (c) has an indefinite future effective date.

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If the regulations become final in their original draft form, the effective date of the pertinent portions will be December 20, 1990, for orders that become final on or after that date. In this context, "final" refers to the exhaustion of all legal remedies available to a utility or other affected party after the issuance of an order. Order No. 23858 will become final after December 20, 1990.

When a final order is inconsistent with a normalization method of accounting, the utility loses the ability to use accelerated methods of depreciation on its tax return and must repay all depreciation related deferred taxes created in years that are still open for review and change by the IRS. Further, in order to generate investment tax credits after 1980, utility property had to be accelerated cost recovery system (ACRS) property. If the utility can no longer take ACRS depreciation on its property, it will also lose the ability to use any carry forward or transitional investment tax credits that might exist and would have to repay those actually taken in any years open to IRS review and adjustment since 1981. The loss of the zero cost capital related to accelerated depreciation and investment tax credits taken since 1980, would cause cost of capital to increase. The increase in capital costs would result in increased revenue requirements to be paid by the ratepayers. Therefore, we are of the opinion that the parent debt adjustment should not be made if the regulations become final in their present form.

We addressed this issue on December 17, 1990 at the City Gas agenda and made no adjustment for parent debt. The related monies were placed subject to refund, with interest, pending issuance of the final regulations.

In order to afford consistent treatment to Peoples Gas System, Inc. (Peoples), we amend Order No. 23858, on our own motion, to eliminate the tax effect of the parent debt adjustment by increasing, by \$370,074 (\$596,707 revenue effect), the tax expense allowed in calculating the cost of service of Peoples.

Tariffs should not be changed at this time. Peoples should make the following journal entries until such time as the IRS regulations become final:

To record the revenue effect of the parent debt adjustment

Debit	173-04	Accrued Utility Revenue	\$XXX.XX
Credit	495-12	Other Gas Revenue	\$XXX.XX

To record the interest

Debit	173.04	Accrued Utility Revenue	\$XXX.XX
Credit	419-08	Interest & Dividend Income	\$XXX.XX

Interest, at the commercial paper rate discussed in Rule 25-7.091, Florida Administrative Code should be accrued on the revenue amounts. Peoples should begin making the entries concurrent with the implementation date of new customer rates.

Peoples should reverse all entries made to eliminate the effect of the parent debt adjustment if the final regulations permit a parent debt adjustment. No refund would be required because no revenues would have been collected. If the final regulations do not permit a parent debt adjustment, Peoples should continue to make the journal entries until its next rate case. In that rate case, the deferred revenues should be recovered through amortization over the same period used for the amortization of rate case expense. This treatment will permit the utility to fully recover the revenues in question and should not violate the principles of normalization outlined in the proposed regulations.

In order to avoid potential violations of the normalization method outlined in the proposed regulations, the revenues should be recognized for surveillance purposes while the final regulations are pending. If the final regulations permit a parent debt adjustment, recognition should stop. If the final regulations do not permit a parent debt adjustment, recognition should continue until the next rate case at which time the revenues and interest would be recovered as discussed above.

Finally, Peoples is directed to work with staff in drafting a request for a letter ruling from the IRS as to whether our treatment of the parent debt adjustment violates their proposed regulation. This request is to be submitted to the IRS as soon as possible, but no later than March 4, 1991.

Accordingly, it is

ORDERED by the Florida Public Service Commission that Order No. 23858 is hereby amended to eliminate the tax effect of the parent debt adjustment by increasing, by \$370,074 (\$596,707 revenue

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effect), the tax expense allowed in calculating the cost of service of Peoples Gas System, Inc. It is further

ORDERED that Peoples Gas System, Inc. shall hereby implement the accounting procedures set forth in the body of this Order. The tariffs of Peoples Gas System, Inc. shall not be changed at this time. It is further

ORDERED that the revenues in question shall be recognized for surveillance purposes until such time as the IRS regulations become final. It is further

ORDERED that a request for a letter ruling from the Internal Revenue Service, as described in the body of this Order shall be submitted to the IRS on or before March 4, 1991. It is further

ORDERED that Order No. 23858-A which was inadvertently issued as a final order is hereby withdrawn. It is further

ORDERED that this Order shall become final unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By Order of the Florida Public Service Commission, this 4th day of FEBRUARY, 1991.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

MAP:bmi  
891353a.bmi

by: Kay Flynn  
Chief, Bureau of Records

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on February 25, 1991.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.