

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation and show cause) as to why Peoples Gas System, Inc.) should not continue to use a current) market rate of return for application) in Rule 25-14.003, F.A.C. (tax rule).)	DOCKET NO. 881142-GU
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In re: Investigation and show cause) as to why Miller Gas Company) should not continue to use a current) market rate of return for application) in Rule 25-14.003, F.A.C. (tax rule).)	DOCKET NO. 881143-GU
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In re: Investigation and show cause) as to why Palm Beach County Utilities) Corporation should not continue to) use a current market rate of return) for application in Rule 25-14.003,) F.A.C. (tax rule).)	DOCKET NO. 881144-GU
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In re: Investigation and show cause) as to why Southern Gas Company) should not continue to use a current) market rate of return for application) in Rule 25-14.003, F.A.C. (tax rule).)	DOCKET NO. 881145-GU
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In re: Investigation and show cause) as to why Plant City Natural Gas) should not continue to use a current) market rate of return for application) in Rule 25-14.003, F.A.C. (tax rule).)	DOCKET NO. 881146-GU
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In re: Investigation and show cause) as to why City Gas Company of Florida) should not continue to use a current) market rate of return for application) in Rule 25-14.003, F.A.C. (tax rule).)	DOCKET NO. 881147-GU ORDER NO. 20636 ISSUED: 1-20-89

The following Commissioners participated in the disposition of this matter:

KATIE NICHOLS, Chairman
THOMAS M. BEARD
GERALD L. GUNTER
JOHN T. HERNDON

ORDER ACCEPTING REDUCED EQUITY RETURN
"MIDPOINTS" FOR APPLICATION IN
TAX SAVINGS RULE

BY THE COMMISSION:

As a result of the Tax Reform Act of 1986 the maximum federal corporate income tax rate was reduced from 46% to 34%. Rule 25-14.003, Florida Administrative Code, (the Tax Savings

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FPSC-RECORDS/REPORTING

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Rule) allows utilities to keep "tax savings" resulting from reduced corporate income tax rates so long as their retention does not cause a utility's earned rate of return to exceed the "midpoint of the overall rate of return approved by the Commission in the utility's last rate case." While this midpoint is to be adjusted for the cost of debt issued subsequent to that rate case, the Tax Savings Rule has no provision for adjusting equity returns to reflect current conditions. Since the most recent authorized rates of return on equity for many utilities are higher than might be warranted by current economic and financial conditions, Staff, intervenors and the utilities have attempted to negotiate lower equity rates for use in the Tax Savings Rule.

As is reported in earlier orders of this Commission, each of the utilities listed above had offered, and we accepted, to substitute, for purposes of the Tax Savings Rule, an equity midpoint of 13.7% for calendar years 1987 and 1988 in lieu of the individual equity rate midpoints authorized by the Commission in each utility's most recent rate case.

For calendar year 1989, each of the utilities has agreed, essentially, to continue their agreements in effect for 1987 and 1988. Specifically, each agrees to:

1. The utilization of an equity midpoint of 13.7% in the calculation of an overall rate of return, pursuant to Rule 25-14.003, Florida Administrative Code (as currently worded), for calendar year 1989;

In accepting Peoples Gas System's (PGS) offer, we note that it was made contingent upon the following conditions, which we accept:

1. That in the event Rule 25-14.003 is repealed prior to December 31, 1989, there will be no "tax savings" to be calculated or refunded as contemplated by said rule or this offer.
2. That if Rule 25-14.003 is amended prior to December 31, 1989, so as to require calculation of "tax savings" or "tax deficiencies" with reference to the maximum or minimum of a utility's authorized range, rather than with reference to the "midpoint" of such range, the maximum of the range for PGS for calendar year 1989 shall be deemed to be 14.70%, and the minimum 12.70%, for purposes of the rule only.
3. That in applying Rule 25-14.003 and in monitoring PGS's achieved return on common equity for surveillance purposes for or during calendar year 1989, the Commission shall not impute as operating

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revenues any contract competitive
 discounts recorded by PGS in the
 subaccount entitled "Revenue Discounts",
 within Account 495 ("Other Gas
 Revenues"), which are not recoverable by
 PGS.

We accept and approve the utilities' proposals. These utilities are voluntarily giving up their entitlement to utilize their existing authorized equity returns for the purposes of the Tax Savings Rule. Whether or not we would find current equity returns lower than those offered by the utilities after considering a proper evidentiary record, the volunteered rates are an improvement over the status quo and, therefore, should be accepted. Importantly, their acceptance in no way prejudices the right of any affected person or the Commission to seek revised equity returns for these utilities for any purpose.

In view of the above, it is

ORDERED by the Florida Public Service Commission that the proposals of Peoples Gas System, Inc., Miller Gas Company, Palm Beach County Utility Corporation, Southern Gas Company, Plant City Natural Gas Company and City Gas Company of Florida, as described in the body of this Order, are approved. It is further

ORDERED that these dockets be closed.

By ORDER of the Florida Public Service Commission,
 this 20th day of JANUARY, 1989.

 STEVE TRIBBLE, Director
 Division of Records and Reporting

(S E A L)

MBT

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the

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decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 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 after the issuance 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.