BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Peoples Gas System.	DOCKET NO. 20180044-GU FILED: July 25, 2018

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel ("Citizens"), pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2018-0212-PCO-GU, issued April 25, 2018, hereby submit this Prehearing Statement.

APPEARANCES:

Virginia Ponder
Associate Public Counsel

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Deputy Public Counsel

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Public Counsel

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c/o The Florida Legislature
111 West Madison Street, Room 812
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On behalf of the Citizens of the State of Florida

1. WITNESSES:

Witness	Subject Matter	Issue Numbers
Direct		
Ralph Smith	Impacts of the Tax Cuts and Jobs Act of 2017	1-18, 20

2. EXHIBITS:

NONE

3. STATEMENT OF BASIC POSITION

Peoples Gas System has identified (i) a net regulatory liability for excess accumulated deferred income taxes of approximately $69.082 million and (ii) an annual revenue requirement reduction of approximately $11.6 million, as two major impacts of the Tax Cuts and Jobs Act of 2017 ("TCJA").

The Citizens find no errors with the calculation of the net regulatory liability for excess accumulated deferred income taxes and do not disagree with Tampa Electric Company's classification of each of the identified balances between "protected" and "unprotected." However, guidance provided in the TCJA and in previous Internal Revenue Service rulings presents some uncertainty as to the appropriate classification of the excess accumulated deferred income taxes relating to cost of removal/negative net salvage. As a result of this uncertainty, the Citizens submit that Peoples Gas System should be required to seek a private letter ruling from the Internal Revenue Service to address its specific factual situation regarding the cost of removal/negative net salvage as it relates to excess accumulated deferred income taxes.

Peoples Gas System's identification of approximately $11.6 million as the one-time base rate revenue requirement reduction as shown on its Exhibit No. JSC-1, Document No. 3, does not appear to be unreasonable for purposes of estimating the one-time annual revenue requirement reduction and excess accumulated deferred income taxes related to the TCJA.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

ISSUE 1: **In the absence of an approved agreement addressing the impact of federal tax reform, was it reasonable for Peoples Gas System ("PGS") to use its 2018 forecasted earnings surveillance report filed on March 15, 2018 to calculate the impact of the Tax Cuts and Jobs Act of 2017 ("TCJA")?**

OPC: Yes, the use of its 2018 forecasted earnings surveillance report appears reasonable.

ISSUE 2: **Were "protected excess deferred taxes" for 2018 using a 21percent corporate tax rate appropriately calculated and flowed back?**

OPC: Yes, the Citizens have identified no errors. The calculation appears correct; however, the flow back has yet to occur.

ISSUE 3: **Were "unprotected excess deferred taxes" for 2018 using a 21 percent corporate tax rate appropriately calculated and flowed back?**

OPC: Yes, the Citizens have identified no errors. The calculation appears correct; however, the flow back has yet to occur.

ISSUE 4: **Were Accumulated Deferred Income Taxes (ADIT) appropriately calculated?**

OPC: Yes, the Citizens have identified no errors.

ISSUE 5: **Are PGS's classifications of the excess ADIT between "protected" and "unprotected" appropriate?**

OPC: Yes, the Citizens have identified no errors.

ISSUE 6: **Should PGS seek a private letter ruling from the IRS regarding its classification of the excess ADIT relating to cost of removal/negative net salvage as "unprotected"?**

OPC: Yes, as outlined in the testimony of the Citizens' Witness Ralph Smith.

<u>ISSUE 7</u>: **If PGS seeks a private letter ruling and the IRS rules therein (or in another private letter ruling) that the excess ADIT relating to cost of removal/negative net salvage is to be treated as "protected", what process should be followed for the reclassification?**

OPC: If PGS receives a private letter ruling ("PLR") from the IRS ruling that the excess ADIT relating to cost of removal/negative net salvage is to be treated as protected, then a reclassification should be made in the company's books and records and flow back amounts should be trued-up based on the ruling. In addition, the company should further adjust base rates to reflect the 2018 revenue requirement impact by filing a petition for a limited scope proceeding (or stipulated among all parties in lieu thereof) to adjust base rates within 60 days of the determination in the PLR and shall refund the associated 2018 revenue requirement difference from February 6, 2018, to the effective date of the further rate change through the conservation cost recovery clause.

<u>ISSUE 8</u>: **Were appropriate adjustments made to PGS's cast iron/bare steel replacement rider for the impact of the TCJA for the tax year 2018?**

OPC: Yes, the Citizens have identified no errors.

<u>ISSUE 9</u>: **What is the forecasted tax expense for PGS for the tax year 2018 at a 21 percent corporate tax rate?**

OPC: The Citizens have identified no errors in PGS' forecasted tax expense of $17.3 million for the tax year 2018 at a 21 percent corporate tax rate.

<u>ISSUE 10</u>: **What is the forecasted tax expense for PGS for the tax year 2018 at a 35 percent corporate tax rate?**

OPC: The Citizens have identified no errors in PGS' forecasted tax expense of $26.9 million for the tax year 2018 at a 35 percent corporate tax rate.

<u>ISSUE 11</u>: **What is the forecasted NOI for the tax year 2018 at a 21 percent corporate tax rate?**

OPC: The Citizens have identified no errors in PGS' forecasted NOI of $61,857,638 million for the tax year 2018 at a 21 percent corporate tax rate.

<u>ISSUE 12</u>: What is the forecasted NOI for the tax year 2018 at a 35 percent corporate tax rate?

OPC: The Citizens have identified no errors in PGS' forecasted NOI of $52,955,009 million for the tax year 2018 at a 35 percent corporate tax rate.

<u>ISSUE 13</u>: What is the forecasted capital structure for the tax year 2018 at a 21 percent corporate tax rate?

OPC: The Citizens have identified no errors in PGS' forecasted capital structure for the tax year 2018 at a 21 percent corporate tax rate.

<u>ISSUE 14</u>: What is the annual forecasted capital structure for the tax year 2018 at a 35 percent corporate tax rate?

OPC: The Citizens have identified no errors in PGS' forecasted capital structure for the tax year 2018 at a 35 percent corporate tax rate.

<u>ISSUE 15</u>: What is the forecasted annual revenue requirement for PGS for the tax year 2018 using a 21 percent corporate tax rate?

OPC: The Citizens have identified no errors in the forecasted revenue requirement for PGS for the tax year 2018 using a 21 percent corporate tax rate.

<u>ISSUE 16</u>: What is the forecasted annual revenue requirement for PGS for the tax year 2018 using a 35 percent corporate tax rate?

OPC: The Citizens have identified no errors in the forecasted revenue requirement for PGS for the tax year 2018 using a 35 percent corporate tax rate.

<u>ISSUE 17</u>: What is the forecasted annual revenue requirement decrease attributable to the TCJA for 2018?

OPC: PGS' calculation of $11.6 million as the amount of annual revenue requirement decrease appears to be reasonable.

<u>ISSUE 18</u>: **What amount of the 2018 forecasted annual revenue requirement decrease attributable to the TCJA should be used to make a permanent base rate adjustment and when should those new base rates become effective?**

OPC: The Citizens have found no errors with PGS' calculation of $11.6 million as the 2018 forecasted annual revenue requirement decrease attributable to the TCJA to be used to make a permanent base rate adjustment. The new base rate charges should become effective within sixty (60) days of the Commission's decision in this docket.

<u>ISSUE 19</u>: **What process should the Commission use to approve the revised tariffs necessary to make the permanent base rate adjustment specified above?**

OPC: The revised tariffs should be filed consistent with the Commission's decision in this docket.

<u>ISSUE 20</u>: **What amount of 2018 revenues held subject to refund should be refunded to customers to reflect the impact of TCJA, in what manner and on what time schedule?**

OPC: The excess revenues collected from January 1, 2018, until the time the permanent base rate reduction is made should be refunded. This amount should be consistent with PGS' calculations for NOI and the excess accumulated deferred income taxes.

<u>ISSUE 21</u>: **Should this docket be closed?**

OPC: Yes.

<u>5. STIPULATED ISSUES:</u>

None at this time.

<u>6. PENDING MOTIONS</u>:

None.

<u>7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:</u>

None.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

None at this time.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 25th day of July, 2018

Respectfully submitted,

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Attorney for the Citizens
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CERTIFICATE OF SERVICE
Docket No. 20180044-GU

I HEREBY CERTIFY that a true and correct copy of the foregoing Citizens' Prehearing Statement has been furnished by electronic mail on this 25th day of July, 2018, to the following:

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