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January 12, 2022

VIA E-PORTAL FILING
Mr. Adam J. Teitzman
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: **NEW FILING** – In re: Petition of Peoples Gas System for Limited Proceeding to Address the Impact of Changes to Florida State Income Tax Rates

Dear Mr. Teitzman:

Attached for electronic filing with the Commission on behalf of Peoples Gas System, please find a Petition for Limited Proceeding to Address the Impact of Changes to Florida State Income Tax Rates.

Your assistance in this matter is greatly appreciated.

Sincerely,

Thomas R. Farrior

TRF/plb
Attachment
cc: Parties of Record
Ms. Paula K. Brown
Derrick MacDonald, CPA

PETITION OF PEOPLES GAS SYSTEM TO ADDRESS CHANGES IN THE FLORIDA CORPORATE INCOME TAX RATES BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Peoples Gas System to Address Changes in the Florida Corporate Income Tax Rates	:	Docket No.: 2022________-GU
	:	Filed: January 12, 2022

PETITION OF PEOPLES GAS SYSTEM FOR LIMITED PROCEEDING TO ADDRESS THE IMPACT OF CHANGES TO FLORIDA STATE INCOME TAX RATES

Pursuant to § 366.076, 366.06(3) and 120.57(2), Florida Statutes and Rule 28-106.301, F.A.C., Peoples Gas System ("Peoples" or "the Company"), petitions the Florida Public Service Commission ("FPSC" or "the Commission") for a limited proceeding to address the impact of a September 14, 2021 Temporary State of Florida Corporate Income Tax Rate Reduction, and to address the framework for which other state tax rate changes will be addressed by Peoples, and states:

BACKGROUND

On October 22, 2020, Peoples, the Office of Public Counsel ("OPC" or "Citizens"), and the Florida Industrial Power Users Groups ("FIPUG") entered into a Stipulation and Settlement Agreement (the "Settlement Agreement") to address all matters in Peoples most recent rate proceeding and depreciation study in consolidated Dockets 20200051-GU and 20200166-GU. The Commission approved the Settlement Agreement by Order No. PSC-2020-0485-FOF-GU and has a term ending on December 31, 2023. Section 8, paragraphs a-f of the Settlement Agreement addresses the procedures and principles to be followed for changes in the rate of corporate income taxation by Federal or State taxing authorities ("Tax Reform") as reproduced in **Exhibit 1**.

The 2021 revenue requirement calculations included in the Settlement Agreement assumed a state corporate income tax rate of 4.458 percent. On September 14, 2021, the Florida Department of Revenue issued a Tax Information Publication ("TIP") announcing that the Florida Corporate Income Tax Rate would be reduced from 4.458 percent to 3.535 percent and retroactive to January 1, 2021 and continuing in effect through December 31, 2021 ("2021 State Tax Rate Change"). The 2021 TIP indicates that the Florida Corporate Income Tax Rate will increase to 5.5 percent effective January 1, 2022 ("2022 Anticipated State Tax Rate Change"). A copy of the 2021 TIP is attached hereto as **Exhibit 2**.

By this petition, Peoples seeks approval to address the impact of the 2021 State Rate Tax Change and the 2022 Anticipated State Tax Rate Change on Peoples' base revenue requirements through the terms of the Settlement Agreement, to be adjusted via the Company's Cast Iron Bare Steel Replacement Rider ("CIBS Rider") that will be filed with this Commission in September 2022 for rates effective January 2023. Peoples has shared this treatment with the parties to the Settlement Agreement and has been advised that they do not object to the proposal reflected herein.

I. Preliminary Information

1. The Petitioner's name and address are:

Peoples Gas System
702 North Franklin Street
Tampa, FL 33602

2. Any pleading, motion, notice, order, or other document required to be served upon Peoples or filed by any party to this proceeding shall be served upon the following individuals:

Andrew M. Brown
ab@macfar.com
Thomas R. Farrior
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& McMullen
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Manager, Regulatory Coordination
Tampa Electric Company
Post Office Box 111
Tampa, FL 33601
(813) 228-1444
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3. Peoples is a natural gas local distribution company ("LDC") providing sales and transportation delivery of natural gas throughout the State of Florida and is an investor owned public utility regulated by the Commission pursuant to Chapter 366, Florida Statutes and is a division of Tampa Electric Company which is a wholly-owned subsidiary of Emera, Inc. Peoples' principal place of business is located at 702 North Franklin Street, Tampa, FL 33602.

4. Peoples serves approximately 440,000 customers.

5. This Petition represents an original pleading and is not in response to any proposed action by the Commission. Peoples is not responding to any proposed agency action.

II. The 2021 State Tax Rate Change and Paragraph 8 of the Settlement Agreement.

6. Peoples files its State of Florida Corporate Income Tax Returns on a calendar year basis. The 2021 revenue requirement calculations included in the Settlement Agreement assumed a state corporate income tax rate of 4.458 percent. Although the TIP was not issued until September 14, 2021, the 2021 State Tax Rate Change reduced the state corporate income tax rate from 4.458 percent to 3.535 percent effective retroactively to January 1, 2021. According to the 2021 TIP, the 3.535 percent

rate will be in effect for calendar year 2021 and then will increase to the 5.5 percent rate effective January 1, 2022. As a result, the 2021 state corporate income tax rate will be lower and the 2022 state corporate income tax rate will be higher than the state corporate income tax rate assumed in the Settlement Agreement, which is in effect two state related Tax Reform events under the Settlement Agreement.

7. The 2021 State Tax Rate Change and the 2022 Anticipated State Tax Rate Change are changes of rates only and do not alter other provisions associated with Florida's corporate income tax. The statutes and rules governing Florida's corporate income tax do not contain provisions applicable to public utilities that require normalization of book-tax difference, that distinguish between "protected" and "unprotected" accumulated deferred state income taxes, or that prescribe any transition rules for excess accumulated deferred taxes arising when the state corporate income tax rate is lowered. Peoples normalizes its state corporate income tax book-tax differences for external financial reporting, FPSC surveillance reporting, and retail ratemaking purposes, consistent with Statement of Financial Accounting Standard No. 109 ("SFAS 109", or now codified as ASC 740) and FPSC Rule 25-14.013, Accounting for Deferred Income Taxes Under SFAS 109.

8. Section 366.076(1), Florida Statutes, provides that the Commission may conduct a limited proceeding to consider and act upon any issue within its jurisdiction, including any such issue which, once resolved, requires a public utility to adjust its rates. Approval of the Company's proposal to flow through state related Tax Reform impacts on annual revenue requirements through the term of the Settlement Agreement (December 31, 2023) to customers via the CIBS Rider through a limited proceeding under Section

366.076, Florida Statutes, will provide the Commission and substantially affected persons a procedure through which all issues related to state related Tax Reform and paragraph 8 of the Settlement Agreement can be resolved. Accordingly, Peoples requests that the Commission open a docket that provides an opportunity to address the matters in this Petition.

III. Statement on Disputed Issues of Material Fact

9. Peoples is not aware of any disputed issues of material fact at this time and does not believe any disputed issues of material fact will arise in this docket.

IV. Statement of Ultimate Facts Alleged and Providing the Basis for Relief

10. The ultimate facts that entitle Peoples to the relief requested herein are:

(a) Paragraph 8(c) of the Settlement Agreement provides that the impacts of Tax Reform (*i.e.,* the 2021 State Tax Rate Change) on base revenue requirements be flowed back to retail customers within 120 days of when the Tax Reform becomes law. Although the State Tax Rate Change was announced on September 14, 2021 ('the Announcement Date"), the temporary tax rate reduction therein was made effective retroactively to January 1, 2021. Because the 2021 State Tax Rate Change was retroactively instituted for 2021 only, and because rates are scheduled to increase in 2022, there would be administrative burdens in having to recalculate changes in base rates in consecutive years as a result of state tax rate changes. The administrative burdens are heightened by the slight impact to rates caused by the state tax rate changes and by the fact that Peoples already has in place, in the form of the CIBS Rider, a mechanism for making yearly rate adjustments and which the parties contemplated when entering into the Settlement Agreement. By allowing the Company to "net" the effects of the 2021 State Tax Rate Change and the higher state tax rates in 2022, these administrative burdens can be avoided and the effects of the state income tax rate changes on Peoples' rates will be less volatile and less likely to create customer confusion.

(b) Paragraph 8(b) of the Settlement Agreement requires Peoples to quantify the impact of the State Tax Rate Change on its Florida net operating income based on the Company's forecasted earnings surveillance report for the calendar year that includes the period in which Tax Reform is effective, thereby neutralizing the impact of the Tax Reform on the Company's Commission-adjusted net operating income.

(c) Paragraph 8(c) of the Settlement Agreement provides that if the Tax Reform involves a tax rate decrease that reduces Peoples' revenue requirements, the effects shall be flowed back to customers within 120 days through a one-time adjustment to base rates using a uniform percentage decrease to all base rates and charges for all customer classes, with the interim impacts of a tax rate decrease between the Effective Date and prior to the one-time base rate adjustment to be flowed through to customers via the CIBS Rider.

(d) Paragraph 8(d) of the Settlement Agreement provides that if there is a tax rate increase resulting in an increase in base revenue requirements, the Company will use deferral accounting and defer the revenue requirement impacts to a regulatory asset to be considered in the Company's next base rate proceeding or in a limited scope proceeding prior to the end of the term.

(e) Paragraph 8(e) of the Settlement Agreement provides that all Excess Deferred Taxes shall be deferred to a regulatory asset or liability which will be included in the FPSC adjusted capital structure and flowed back to customers over a five (5) year period for a cumulative net regulatory asset/liability of less than $10 million or a ten (10) year period if the cumulative regulatory asset/liability is greater than $10 million.

(f) Prior to the TIP issued on September 14, 2021, the State Corporate Income Tax Rate for 2021 was 4.458 percent and was the tax rate assumed in the Settlement Agreement revenue requirement calculations. The State Corporate Income Tax Rate for 2021 was 3.535 percent effective January 1, 2021 through December 31, 2021. The projected 2022 State Corporate Income Tax Rate is currently slated to be 5.5 percent.

(g) Excluding the impact of the amortization of excess accumulated state deferred income taxes arising from the 2021 rate change, based on Peoples' 2021 forecasted earnings surveillance report the impact of the 2021 State Tax Rate Changes on the Company's adjusted net operating income is a reduction of approximately $643,001. After applying the effective tax rate gross-up factor, the annual revenue requirement reduction for 2021 necessary to reflect the effect of the state related Tax Reform pursuant to the Settlement Agreement would be approximately $843,751. These calculations are included with this Petition as **Exhibit 3.**

(h) The impact of the 2022 Anticipated State Tax Rate Change on adjusted net operating income and annual revenue requirements will be calculated consistent with the calculations included in **Exhibit 3** and will be provided to the Commission for review as a supporting schedule in the Company's annual CIBS Rider filing. Currently, we estimate the amount of the 2022 annual revenue requirement increase to reflect the effect of the state related Tax Reform pursuant to the Settlement

Agreement to be $1,096,830. The 2022 annual revenue requirement increase will offset the 2021 annual revenue requirement decrease to result in a net annual revenue requirement increase of approximately $253,079.

11. Peoples has consulted with the OPC and FIPUG and is authorized to represent that they do not object to this approach and consider it to be efficient and not inconsistent with the provisions of the Settlement Agreement.

V. Relief Requested

12. Based on the foregoing, Peoples requests that the Commission:

(a). Allow the adjusted net operating income impacts on annual revenue requirements from the 2021 State Tax Rate Change and the 2022 Anticipated State Tax Rate Change to be offset and addressed via the Company's Cast Iron Bare Steel Replacement Rider ("CIBS Rider") that will be filed with this Commission in September 2022 for rates effective January 2023, as described in the foregoing paragraphs; and

(b). Grant other such relief as may be required or appropriate.

VI. Conclusion

13. For the reasons shown above, Peoples respectively requests that the Commission grant this Petition and the relief requested herein.

DATED this 12th day of January, 2022.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing Petition, filed on behalf of Peoples Gas System, has been furnished electronically, this 12th day of January, 2022, to the following:

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PEOPLES GAS SYSTEM
DOCKET NO.
EXHIBIT 1
FILED: 1/12/2022

EXHIBIT 1

SECTION 8 OF THE FLORIDA DEPARTMENT OF REVENUE TAX INFORMATION PUBLICATION

Paragraph 8 of the Settlement Agreement defines "Tax Reform" as "changes in the rate of taxation of corporate income by federal or state authorities," and states:

> (a) Changes in the rate of taxation of corporate income — increases or decreases — by federal or state taxing authorities ("Tax Reform") could impact the effective tax rate recognized by the Company in FPSC adjusted reported net operating income and in the measurement of existing and prospective deferred federal income tax assets and liabilities reflected in the FPSC adjusted capital structure. When Congress has previously reduced the maximum federal corporate income tax rate, it has provided a transition rule that, as an eligibility requirement for using accelerated depreciation with respect to public utility property, provided guidance regarding returning to customers the portion of the resulting excess deferred income taxes attributable to the use of accelerated depreciation. To the extent Tax Reform that becomes effective during the Term includes a transition rule applicable to excess or deficient deferred federal or state income tax assets and liabilities ("Excess or Deficient Deferred Taxes"), defined as those that arise from the re-measurement of those deferred federal income tax assets and liabilities at the new applicable corporate tax rate(s), those Excess or Deficient Deferred Taxes will be governed by the Tax Reform transition rule, as applied to most promptly and effectively reduce the Company's rates consistent with the Tax Reform rules and normalization requirements.
>
> (b) If Tax Reform is enacted before the Company's next general base rate proceeding, the Company will quantify the impact of Tax Reform on its Florida retail jurisdictional net operating income thereby neutralizing the FPSC adjusted net operating income of the Tax Reform to a net zero. The Company's forecasted earnings surveillance report for the calendar year that includes the period in which Tax Reform is effective will be the basis for determination of the impact of Tax Reform.
>
> (c) If Tax reform involves a tax rate decrease, the impacts of Tax Reform on base revenue requirements will be flowed back to retail customers within 120 days of when the Tax Reform becomes law, through a one-time adjustment to base rates upon a thorough review of the effects of the Tax Reform on base revenue requirements consistent with

subparagraph 9(a). This adjustment shall be accomplished through a uniform percentage decrease to all base rates and charges for all customer classes. Any effects of Tax Reform involving a tax rate decrease on retail revenue requirements from the Effective Date through the date of the one-time base rate adjustment shall be flowed back to customers through the CI/BSR on the same basis as used in any base rate adjustment.

(d) If Tax Reform involves a tax rate increase and results in an increase in base revenue requirements, the Company will utilize deferral accounting as permitted by the Commission, thereby neutralizing the FPSC adjusted net operating income impact of the Tax Reform to a net zero, through the Term. In this situation, the Company shall defer the revenue requirement impacts to a regulatory asset to be considered for prospective recovery in a change to base rates to be addressed in the Company's next base rate proceeding or in a limited scope proceeding before the Commission no sooner than the end of the Term.

(e) All Excess Deferred Taxes shall be deferred to a regulatory asset or liability which shall be included in FPSC adjusted capital structure and flowed back to customers over a term consistent with law. If the Tax Reform law or act is silent on the flow-back period, and there are no other statutes or rules that govern the flow-back period, then there shall be a rebuttable presumption that the following flow-back period(s) will apply: (1) if the cumulative net regulatory asset or liability is less than $10 million, the flow-back period will be five years; or (2) if the cumulative net regulatory asset or liability is greater than $10 million, the flow-back period will be ten years.

PEOPLES GAS SYSTEM
DOCKET NO.
EXHIBIT 2
FILED: 1/12/2022

EXHIBIT 2

FLORIDA DEPARTMENT OF REVENUE TAX INFORMATION PUBLICATION NO. 21C01-2 DATED SEPTEMBER 14, 2021

FLORIDA Department of Revenue

Tax Information Publication TIP

No: **21C01-02**

Date Issued:
September 14, 2021

Florida Corporate Income Tax

2021 Tax Rate Reduction

The Florida corporate income/franchise tax rate is reduced from 4.458% to 3.535% for taxable years beginning on or after January 1, 2021, but before January 1, 2022. The tax rate returns to 5.5% for taxable years beginning on or after January 1, 2022.

The Florida Department of Revenue will post additional TIPs on any future tax rate changes.

Taxable Year Beginning	Prior to 1/1/2019	1/1/2019 - 12/31/2020	1/1/2021 - 12/31/2021	On or after 1/1/2022
Tax Rate	5.5%	4.458%	3.535%	5.5%

Taxpayers that have a 52 - 53 week taxable year beginning on or about January 1 and ending on or about December 31 have the same tax rates as a calendar year-end taxpayer.

2022 Estimated Tax Payments – Prior Year Exception

Interest and penalty are not imposed on estimated payments that meet:

- the standard requirement of 90% of the tax due in the current year, after credits; or
- 100% of the tax due in the prior year at the current year's tax rate.

Since the 2022 corporate income tax rate returns to 5.5%, the prior year exception for tax years that begin within the 2022 calendar year is based on the tax due on the prior year's income using a 5.5% tax rate. As a result, taxpayers should recompute the prior year tax due for purposes of determining the installment required to meet the prior year exception.

References: Sections 220.1105 and 220.34, Florida Statutes

For More Information

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For forms and other information, visit the Department's website at floridarevenue.com or call Taxpayer Services at 850-488-6800, Monday through Friday (excluding holidays).

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services MS 3-2000, 5050 West Tennessee Street, Tallahassee, FL 32399-0112.

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EXHIBIT 3

FLORIDA STATE INCOME TAX RATE CHANGE – ESTIMATED ANNUAL REVENUE REQUIREMENT DIFFERENCE

Peoples Gas System
Florida State Income Tax Rate Change
Estimated Annual Revenue Requirement Difference

		2021 Budget		2022 Budget
Florida State Tax Rate		3.535%		5.500%
Net Operating Income at Former Tax Rate	$	88,696,302	$	101,989,570
Net Operating Income at New Tax Rate		89,339,303		101,170,731
Impact of New Rate	$	643,001	$	(818,838)
Effective Tax Rate Gross-Up Factor		1.3122		1.3395
Revenue Requirement Change	$	843,751	$	(1,096,830)
2021 and 2022 Net Revenue Requirement Impact			**$**	**(253,079)**