

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 24, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Cicchetti) *ALM*
Office of the General Counsel (Brownless) *JSC*

RE: Docket No. 20220018-GU – Petition for limited proceeding to address the impact of changes to Florida state income tax rates by Peoples Gas System.

AGENDA: 04/05/22 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On September 14, 2021, the Florida Department of Revenue issued a Tax Information Publication (TIP) that stated 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.”

Section 8 of Peoples Gas System’s (Peoples or the Company) 2020 Settlement Agreement describes the procedures and principles to be followed for changes in federal or state corporate income tax rates.¹ On January 12, 2022 Peoples filed a petition to 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

¹Order No. PSC-2020-0485-FOF-GU, issued December 10, 2020, in Docket No. 20200051-GU, *In re: Petition for rate increase by Peoples Gas System.*

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Iron Bare Steel Replacement Rider (CIBS Rider) that will be filed in September 2022 for rates effective January 2023.

The Commission has jurisdiction over this matter pursuant to Sections 366.076 and 366.06(3), Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission 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 that will be filed in September 2022 for rates effective January 2023?

Recommendation: Yes. Staff recommends the Commission 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 that will be filed in September 2022 for rates effective January 2023. (Cicchetti)

Staff Analysis: Peoples 2020 Settlement Agreement contained provisions for addressing tax changes to federal and state tax rates. The Florida Department of Revenue issued a TIP on September 14, 2021 that stated 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."

Per the 2020 Settlement Agreement, Peoples used the 2021 and 2022 Forecasted Earnings Surveillance Reports to calculate the impact of the Florida corporate income tax rate changing from 4.458 percent to 3.535 percent in 2021 and to 5.5 percent in 2022. The change in the Florida corporate income tax rate resulted in a revenue requirement decrease of \$843,751 for 2021 and a revenue requirement increase of \$1,096,830 for 2022. Netting the 2021 and 2022 revenue requirement impacts results in a net revenue requirement increase of \$253,079. Attachment 1 shows Peoples' calculation of the net revenue requirement impact.

In its petition, Peoples requests that the Commission 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 in September 2022 for rates effective January 2023. Because the 2021 state tax rate change was retroactively instituted for 2021 only and the state tax rate increased January 1, 2022 it is administratively burdensome to separately implement two slight rate adjustments. The Company has in place, in the form of the Cast Iron Bare Steel Rider, a mechanism for making yearly rate adjustments which the parties contemplated in the 2020 Settlement Agreement. As stated in the Company's petition, "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 changes on Peoples' rates will be less volatile and less likely to create customer confusion." Peoples consulted with the Office of Public Counsel and the Florida Industrial Power Users Group and they do not object to the proposal and consider it to be efficient and not inconsistent with the provisions of the Settlement Agreement.

For the reasons discussed above, staff recommends the Commission 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

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Issue 1

Iron Bare Steel Replacement Rider that will be filed in September 2022 for rates effective January 2023.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. If a protest is timely filed, the docket shall remain open pending resolution of the proceeding. (Brownless)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order. If a protest is timely filed, the docket shall remain open pending resolution of the proceeding.

**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	<u>89,339,303</u>	<u>101,170,731</u>
Impact of New Rate	\$ 643,001	\$ (818,838)
Effective Tax Rate Gross-Up Factor	<u>1.3122</u>	<u>1.3395</u>
Revenue Requirement Change	\$ 843,751	\$ (1,096,830)
2021 and 2022 Net Revenue Requirement Impact		\$ (253,079)