

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding to address the impact of changes to Florida state income tax rates by Peoples Gas System.

DOCKET NO. 20220018-GU
ORDER NO. PSC-2022-0134-PAA-GU
ISSUED: April 11, 2022

The following Commissioners participated in the disposition of this matter:

ANDREW GILES FAY, Chairman
ART GRAHAM
GARY F. CLARK
MIKE LA ROSA
GABRIELLA PASSIDOMO

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING PETITION ADDRESSING IMPACT
OF CHANGES TO FLORIDA STATE INCOME TAX RATES

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 substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

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

We have jurisdiction over this matter pursuant to Sections 366.076 and 366.06(3), Florida Statutes.

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.*

DECISION

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 we 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, we find that 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 shall be allowed 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.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Peoples Gas System’s Petition for Limited Proceeding to Address the Impact of Changes to Florida State Income Tax Rates is hereby granted as set forth in the body of this order. It is further

ORDERED that the 2021 and 2022 Net Revenue Requirement Impact of the changes to the Florida State Income Tax Rates are as stated on Attachment 1 to this order. It is further

ORDERED that the provisions of this order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, F.A.C., is received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of this 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.

By ORDER of the Florida Public Service Commission this 11th day of April, 2022.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal

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proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 2, 2022.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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

**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)