

ORIGINAL

LAW OFFICES

ROSE, SUNDSTROM & BENTLEY, LLP

2548 BLAIRSTONE PINES DRIVE
TALLAHASSEE, FLORIDA 32301

(850) 877-6555

CHRIS H. BENTLEY, P.A.
F. MARSHALL DETERDING
MARTIN S. FRIEDMAN, P.A.
JOHN R. JENKINS, P.A.
STEVEN T. MINDLIN, P.A.
JOSEPH P. PATTON
DAREN L. SHIPPY, LL.M. TAX
WILLIAM E. SUNDSTROM, P.A.
DIANE D. TREMOR, P.A.
JOHN L. WHARTON

MAILING ADDRESS
POST OFFICE BOX 1567
TALLAHASSEE, FLORIDA 32302-1567

TELECOPIER (850) 656-4029

May 11, 2001

ROBERT M. C. ROSE
OF COUNSEL

Ms. Blanca Bayo, Director
Florida Public Service Commission
Division of Records & Reporting
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: PSC Transfer of CGD Utilities, Inc.; Docket No. 001501-WS
Our File No. 35037.02

Dear Ms. Bayo:

This letter is in response to the Commission Staff's April 27, 2001 letter concerning the above-referenced matter which requested the following additional information:

1. The issue of unpaid regulatory assessment fees for 1997 by Laniger Enterprises of America, Inc. had never been brought to the attention of Laniger. In fact, Laniger had a staff assisted rate case in 1999 and there was no question raised regarding any outstanding fees or penalties. Laniger believes that it does not owe any penalties or interest in connection with the payment of its 1997 regulatory assessment fees and is currently working with Ms. Jackie Knight of the PSC Staff to determine if anything is owed. Obviously, these amounts are minor and will be paid, if due. Similarly, such an immaterial amount should have no bearing on the above-referenced application.

2. With regard to DEP issues regarding total trihalomethanes (THM's), the Commission should keep in mind that this is a problem that has predated Burkim's acquisition of the system. In fact, THM's at the time Burkim took over the system were around 0.54 and Burkim has already reduced THM's to around 0.15 in the first quarter of 2001. Burkim has filed all required reports, and responded to all letters from the DEP except for the April, 2001 MOR which was mailed on May 8, 2001. DEP had been

APP _____
CAF _____
CMP _____
COM _____
CTR _____
ECR _____
LEG _____
OPC _____
PAI _____
RGO _____
SEC _____
SER _____
OTH _____

DOCUMENT NUMBER-DATE

05956 MAY 14 2001

FPSC-RECORDS/REPORTING

Ms. Blanca Bayo, Director
May 11, 2001
Page 2

cooperative in the scheduling of the corrective action to reduce THM's and only recently (May 7, 2001) has the DEP advised Burkim that a more aggressive approach was needed to reduce THM's. That same day, Burkim's engineer was instructed to submit a plan to install an immonia pump which we expect to be completed expeditiously.

3. With regard to the prior owner collecting approximately \$28,500 in CIAC, even though it was not authorized to do so by its tariff, I have written the prior owner on two separate occasions advising him of this issue and requesting that they address this issue. I recently received a call from an attorney for the Seller and I am forwarding some information he requested. However, it is my understanding that the developer who paid the CIAC was a related party to CGD Utilities. In that case, it would be appropriate to remove the CIAC from the Utilities' books.

4. The Commission in PSC Order No. PSC-93-0011-FOF-WS, issued January 5, 1993 (the "Order") imposed a negative acquisition adjustment of \$89,409 for the water system, and \$225,728 for the wastewater system. This negative acquisition adjustment was believed to be appropriate since the utility system was acquired in a like-kind exchange under Section 1031 of the Internal Revenue Code, and thus the buyer carried forward the basis which he had in the exchanged property. The Commission incorrectly concluded that the tax basis was the appropriate level upon which to base rates. The tax basis of the buyer is irrelevant to the basis of the utility assets for ratemaking purposes. As the Commission recognized in the Order in a 1031 exchange, the taxpayer ultimately pays taxes on his gain, i.e., the difference between the tax basis and the actual value of the utility system. In fact, that gain was recognized in the purchase of the utility system by Burkim Enterprises, Inc.

It should be without question that the tax basis of a utility system differs from the basis (rate base) of a utility system for ratemaking purposes. Similarly, tax basis does not reflect the actual value of assets. To try to compare the two is comparing apples and oranges. The negative acquisition adjustment was inappropriate and should not be carried forward in this proceeding.

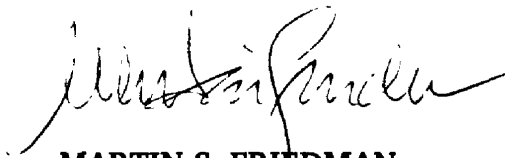
5. The Commission Staff requests that three issues be addressed that were raised by some of the customers of the Utility. First, there is no leak at the water plant of which Burkim is aware. The hydro pneumatic pressure tank at the facility did explode on March 24, 2001. The cause of that explosion was determined by the Brevard County Sheriff's Department and an independent insurance adjuster to be the result of vandalism. A new tank has been ordered and is being manufactured by Dixie

Ms. Blanca Bayo, Director
May 11, 2001
Page 3

Tanks in Jacksonville, Florida. The estimated time for making this tank is 12 to 14 weeks at which time it will be expeditiously installed. Second, the issue of THM's is discussed in paragraph 3 above. Finally, the Utility is hiring an additional employee as office manager and billing clerk which should remedy any concerns regarding the timeliness of boil water notices. Burkim disagrees that there is a lack of cooperation in addressing customer's requests for information; however, the customer perception of that problem should be remedied by the hiring of the additional personnel.

Should the Staff have any additional concerns regarding this matter, please have them contact me at their earliest opportunity.

Very truly yours,



MARTIN S. FRIEDMAN
For The Firm

MSF/brm

cc: Mr. Keith Burge
Ms. Cheryl Johnson
Ms. Alice Crosby
Mr. Richard Redemann