

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of) DOCKET NO. 881500-WS
certificates 362-W and 317-S from) ORDER NO. 22962
BEACON 21 DEVELOPMENT CORPORATION to) ISSUED: 5-21-90
LANIGER ENTERPRISES OF AMERICA,)
INCORPORATED in Martin County)
_____)

The following Commissioners participated in the disposition of this matter:

BETTY EASLEY
GERALD L. GUNTER

ORDER ACCEPTING SETTLEMENT AGREEMENT

By Order No. 22203, issued November 21, 1989, this Commission approved the transfer of Certificates Nos. 362-W and 317-S from Beacon 21 Development Corporation to Laniger Enterprises of America, Inc. (Laniger). Also by Order No. 22203, we proposed to establish the transfer rate base for the utility systems as the net book value of the systems as of the date of the transfer. In so doing, we proposed to disregard, for ratemaking purposes, a negative acquisition adjustment of \$95,317.

On December 12, 1989, the Office of Public Counsel (OPC) filed a protest to Order No. 22203, particularly with regard to the issue of the negative acquisition adjustment. As a result of OPC's protest, this case was set for an administrative hearing.

During the pendency of this proceeding, OPC and Laniger agreed to settle their differences. On March 23, 1990, the parties filed their proposed settlement agreement, which is appended hereto as Attachment A, along with a joint request that we approve the proposed settlement. As evidenced by Attachment A, OPC and Laniger have agreed that the negative acquisition adjustment of \$95,317 should be recognized for ratemaking purposes and that the combined water and wastewater rate bases, as of the date of the transfer, should be established at \$160,705, the actual purchase price.

Notwithstanding that the recognition of acquisition adjustments for ratemaking purposes goes against our established practice, in its testimony filed February 27, 1990,

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OPC alleges that there are extraordinary circumstances which warrant the recognition of the acquisition adjustment. Although we have not ruled whether the circumstances alleged are indeed "extraordinary", in the absence of any evidence to the contrary, and with the acquiescence of the utility, we accept the joint settlement.

Since we have accepted the settlement agreement, we find that Order No. 22203 should be revived and be declared to be final and effective, subject to the modification that the combined rate bases for the water and wastewater systems, as of the date of the transfer, are \$160,705. All other provisions of Order No. 22203 remain unaffected by either the settlement or this decision.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement agreement between Laniger Enterprises of America, Inc. and the Office of Public Counsel, a copy of which is appended hereto as Attachment A, is hereby accepted. It is further

ORDERED that Order No. 22203 is revived and is hereby declared to be final and effective, subject to the modification that the combined rate bases for the water and wastewater systems, as of the date of the transfer, are \$160,705. It is further

ORDERED that Docket No. 881500-WS be and is hereby closed.

By ORDER of the Florida Public Service Commission
this 21st day of MAY, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

by: Kay Helton
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Transfer of) Docket No. 881500-WS
Certificate Nos. 362-W and 317-S from) Filed: March 23, 1990
Beacon 21 Development Corporation to)
Laniger Enterprises of America,)
Incorporated)
_____)

JOINT MOTION FOR APPROVAL OF SETTLEMENT

Laniger Enterprises of America, Inc., ("Laniger") and the Citizens of the State of Florida, by and through the Public Counsel ("Citizens"), jointly request that the Florida Public Service Commission approve a settlement of this docket, and in support thereof state the following:

1. This docket is presently scheduled for formal hearing before the Commission to consider "Citizens' Petition on Proposed Agency Action Order No. 22203 Establishing Rate Base."

2. This dispute centers on the recognition or nonrecognition of a combined water and sewer negative acquisition adjustment in an amount calculated by Commission Staff to be \$95,317. By Proposed Agency Action ("PAA") Order No. 22203, the Commission had proposed to not recognize such adjustment.

3. Both parties have come to agree that the negative acquisition adjustment of \$95,317 should be recognized and that the amount of rate base at the time of transfer should reflect only Laniger's investment of \$160,705, that is, the actual purchase price paid by Laniger for the utility system. Further, the

depreciation expense recognized for ratemaking purposes shall be based on the actual investment of \$160,705.

4. Upon issuance of an order indicating Commission approval of this settlement and joint motion, the parties agree that the docket should be closed.

5. If the Commission does not approve this settlement agreement and joint motion, in its entirety and without modification, the agreement contained herein shall be deemed void and the parties ask that the Commission proceedings to consider "Citizens' Petition on Proposed Agency Action Order No. 22203 Establishing Rate Base" resume.

Respectfully submitted,



Reginald J. Burge, President
Laniger Enterprises of
America, Inc.

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