

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND

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APPLICATION OF
LAKE HOLIDAY ESTATES UTILITY COMPANY

SUPPLEMENT TO THE PETITION FOR RECONSIDERATION,
AND EMERGENCY RELIEF

Case No. PUE-2006-00017

COMES NOW Lake Holiday Estates Utility Company ("LHEUC"), by its counsel, and hereby submits its Supplement to the Petition for Reconsideration and Emergency Relief pursuant to 5 VAC 5-20-220 and Section 56-245 of the Code of Virginia. This Supplement to the Petition addresses the same issues as the original Petition and as well as includes a prayer for alternative relief.

Primary Relief Sought

1. This case be reopened;
2. That the effect of the Order issued by the Commission on February 23, 2006, be suspended.
3. That authorization be granted to charge and collect the fees set forth below for a period of time, retroactive from January 1, 2006, and until the State Corporation Commission has ruled on whether they are justified in light of the costs of operation of LHEUC.

Monthly water rates	\$49.98
Monthly sewer rates	\$58.65
Connection fee	\$3,716.00* for water
	\$3,190.00* for sewer
	\$9,094.00 for reclamation of costs associated with the water treatment plant expansion, and repair and replacement of lift stations

**These fees have not been increased, and remain the same as approved in 2002.*

On November 3, 2005, LHEUC acted pursuant to the Small Water or Sewer Public Utility Act (§56-265.13:1, *et seq.*) and notified its 677 water and sewer customers and its 419 water and sewer availability customers of its intent to increase water and sewer rates, connection fees, and amend its water and sewer line extension policy as of January 1, 2006. No increase in availability fees charged to its 419 customers in this class was proposed. LHEUC's customers are not metered and are billed in advance.

LHEUC's records indicate that it also sent such a notification to the State Corporation Commission ("Commission") at the same time, but the Commission has no record of such a delivery. As a consequence, on February 23, 2006, the Commission issued an Order Nullifying Rate Increase. In reliance on its belief that it had complied with the Commission's requirements, however, LHEUC had begun charging the increased rates as of January 1, 2006. Approximately 600 customers have paid the January and February water and sewer bills at the increased rates.

The basis for LHEUC's effort to increase its water and sewer fees as well as its connection fees is simple: the cost of operating the company outstrips its income. The system is antiquated, requiring constant repairs to the water and sewer lines and improvements to its waste water treatment facility. LHEUC is owned by Lake Holiday Country Club, a property owners' association. The association has funded LHEUC's annual deficits to such an extent that it has been unable to address its own needs. In 2004-2005 the association contributed nearly \$1.5 Million to LHEUC. It will no longer make such payments. The reasonable and just charges proposed are designed to produce sufficient revenues to enable LHEUC to pay all lawful and necessary expenses of operation.

The association is engaged in the proposed sale of LHEUC's assets to Aqua Lake Holiday Utilities, Inc., the subject of Case No. PUE-2006-00013. This sale is the result of the association's intention to seek professional ownership and operation of the utility system, and its decision to remove itself from the daily operation of a public utility and all the related expenses that result. There is no relation, however, between the LHEUC's current financial needs and the pending application of Aqua Lake Holiday Utilities to purchase its assets later in 2006. LHEUC's immediate current financial needs are acute and require immediate relief. These needs cannot be addressed by waiting until the possible closing on the sale of its assets.

LHEUC's request for Emergency Relief seeks the suspension of the Order of Nullification so that it may be authorized to charge and collect the fees that it has already determined are necessary in order to operate. The pertinent anticipated figures paint a daunting picture. LHEUC has projected negative cash on hand of approximately \$361,000 as of April 1, 2006. This is caused by the need to pay for replacement of lift stations 5 and 7 and repairs to Water Treatment Plant #2 and to pay for the services of APT, the operator, along with other general payables during this period. The loss of incremental service and connection fee revenue will have a devastating effect on the company's operations and potentially its ability to survive as a going concern. LHEUC understands that the Commission will review the basis of its application and that if the Commission determines that the fees are in excess of what is justified LHEUC will be obligated to credit or refund any such excess to its customers.

WHEREFORE, Lake Holiday Estates Utility Company respectfully requests that the following Emergency Relief be granted:

1. That this case be reopened;
2. That the Order of Nullification of February 23, 2006, be suspended; and

3. That Lake Holiday Estates Utility Company be authorized to charge and collect the following water and sewer service fees and connection fees, retroactive to January 1, 2006: \$49.98 for monthly water service, \$58.65 for monthly sewer service, and \$16,000.00 for connection fees (in the amounts noted above).

Alternate Relief

In the event that the Commission is unable to grant all of the above relief sought by LHEUC, the Petitioner respectfully requests the following relief in the alternative, for the following reasons:

The Commission has stated that the customers of LHEUC apparently received the November 3, 2005, notice pursuant to the Small Water or Sewer Public Utility Act. No one has asserted that the LHEUC's customers were not timely advised of the proposed increase in rates. The Commission received this notice of LHEUC's proposed rate increases (dated November 3, 2005) no later than January 31, 2006. (*See Order Nullifying Rate Increase, p. 1, par. 1.*) Opportunity for customer response has been adequate and ample. While the delivery to the Commission of this notice was not contemporaneous with that to the customers, there has been no prejudice to those customers because of this delay. In fact, many written comments have been received by the Commission, and most of them arrived well after forty-five days had passed after November 3.

LHEUC seeks to initiate a new forty-five (45) day notice and review period, beginning on January 31, 2006, with an effective end date of March 17, 2006. In this fashion LHEUC can achieve the rates it requires to continue operations and the Commission will have the same study period provided by statute. The customers will have not less but more time to respond, if necessary, to the proposed rate increases first submitted to them on November 3, 2005.

If the Primary Relief is not granted, LHEUC will not have the benefit of the increased rates as of January 1, 2006, resulting in a greater shortfall in its revenues at least until March 17. In order to comply with the Commission's order to refund with interest any amounts collected in excess of the preexisting rates LHEUC will need additional time to collect sufficient fees to meet operational expenses as well as the refunds.

Wherefore, LHEUC respectfully requests that in the event the Commission declines to grant the Primary Relief sought, it grant the following Alternate Relief:

1. That the Case No. PUE-2006-00017 be reopened;
2. That the November 3, 2005, Notice of Rate Changes be renewed to the extent that the forty-five (45) days required by Section 56-265.13:5(B) be considered to have begun on January 31, 2006;
3. That the effective date of the rates sought by the notice to customers dated November 3, 2005, be adjusted to March 17, 2006, exactly forty-five (45) days following January 31, 2006; and

4. That the refunds required by the February 23, 2006, Order of Nullification to be completed by May 1, 2006, instead be required to be completed no later than August 31, 2006.

Certificate of Service

I hereby certify that this document was filed electronically according to the procedures set forth by the Commission, and to Wayne G. Travell, counsel for Ogunquit Development, LLC, at the address provided in his Notice of Entry of Appearance, this 3rd day of March, 2006.

Lake Holiday Estates Utility Company

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