

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND

APPLICATION OF
LAKE HOLIDAY ESTATES UTILITY COMPANY

PETITION FOR RECONSIDERATION
AND EMERGENCY RELIEF

Case No. PUE-2006-00017

60010000 10 3 112

11 11 11

COMES NOW Lake Holiday Estates Utility Company ("LHEUC"), by its counsel, and hereby seeks the following Emergency Relief pursuant to 5 VAC 5-20-220:

1. Suspension of the Order issued by the Commission on February 23, 2006.
2. The authorization to charge and collect the fees set forth below is sought 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.

3. An affirmation that LHEUC may expend funds from deposits made with it by applicants for extension of water and sewer lines, for the purpose of extending those lines.

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 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. 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.

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 is beyond 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 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 extension of water and sewer lines was addressed in the November 3, 2005, notice because the LHEUC's reading of the previous tariff sheets, Rule 16, seemed to indicate that LHEUC was responsible for paying for all such extensions. A subsequent memo from the Commission has been received that interprets Rule 16 to permit LHEUC to use the deposits, placed with it by extension applicants, for the purpose of installing such extended lines.

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 operation of a public utility and all the related expenses that result. **A meeting is presently scheduled among the representatives of LHEUC, Aqua Lake Holiday Utilities, Inc., and the Commission, to be held on March 1, 2006, in the offices of the Commission.** The purpose of this meeting is to address, in part, the urgency of this Emergency Petition and its relation to the pending application in PUE-2006-00013.

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. It is anticipated that even with these fees, as listed above, LHEUC will post a loss of approximately \$40,000 in 2006. 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. The Order of Nullification of February 23, 2006, be suspended;
2. 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); and
3. An affirmation that the Company may expend applicant deposits in the course of extending water and sewer lines within its territory.

Certificate of Service

I hereby certify that this document was filed electronically according to the procedures set forth by the Commission, this 28th day of February, 2006.

Lake Holiday Estates Utility Company

Stephen H. Moriarty
Chadwick, Washington, Moriarty,
Elmore & Bunn, PC
9990 Fairfax Boulevard
Suite 200
Fairfax, Virginia 22030
703 352 1900 (ph)
703 352 5293 (fx)
Counsel for the Petitioner