

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JULY 21, 2016

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2016 JUL 21 P 2:13

APPLICATION OF

WARRENTON CHASE UTILITY COMPANY, INC.

CASE NO. PUE-2016-00064

For a certificate of public convenience and
necessity to provide sewer service

ORDER FOR NOTICE AND COMMENT

On May 24, 2016, Warrenton Chase Utility Company, LC, filed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity ("certificate") to provide sewer service in Fauquier County, Virginia ("Application") pursuant to the Utility Facilities Act, Chapter 10.1 of the Title 56 of the Code of Virginia ("Code").¹ On July 14, 2016, Warrenton Chase Utility, LC, filed an amendment to its Application to reflect its reorganization from a limited liability company to a corporation.² The newly formed corporate entity is Warrenton Chase Utility Company, Inc. ("WCU" or "Company").

WCU states that it is organized as a Virginia public service corporation to provide sewer service located on property known as Warrenton Chase ("Property") in Fauquier County, Virginia.³ WCU states the sewer infrastructure for the Property consists of an Alternative On-Site Sewer System, including collection and disbursement transmission lines, a treatment plant, and mass drain fields ("System").⁴ WCU states that RFI WC, LC ("RFI"), is the sole owner of

¹ Va. Code § 56-265.1 *et seq.*

² References to Application hereinafter shall be to the filing as amended on July 14, 2016.

³ Application at 3 and Exhibit 1.

⁴ *Id.* at 3.

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the Property and the System.⁵ WCU states that the Property is planned for 150 single family detached dwelling units and a community-based recreational facility consisting of a pool and clubhouse, and that the Property has not been developed to date.⁶

WCU proposes rates and charges for its service to the Property.⁷ Per the Application, the sewerage rate for a single family residential user initially will be a minimum rate of \$75.50 per month for the first 7,000 gallons used; an additional \$7.74 per month surcharge will be charged for each 1,000 gallons or portion thereof of water discharged into the sewer system in excess of 7,000 gallons per month; a user's administrative fee of \$100 will be charged to each customer for opening the customer account for service by the sewer System; and an inspection fee of \$227 will be charged to each homebuilder for the cost of inspecting the connection of each home to the sewer system.⁸ The Company states that it will utilize the water meters installed by the Fauquier County Water and Sanitation Authority for measuring water consumption in order to measure sanitary sewer usage.⁹

WCU's Application further requests that the Commission (1) approve the lease between WCU and RFI, whereby the sewer collection lines, force mains, and manholes will be owned by RFI and leased to WCU; (2) declare that RFI is not a public utility; (3) grant WCU interim operating authority prior to a certificate being approved; and (4) waive any violation of

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 6 and Exhibit 11.

⁸ *Id.* at Exhibit 11.

⁹ *Id.*

§ 56-265.2 A 1 of the Code arising out of RFI's acquisition and retrofit of the Property prior to this Application.¹⁰

NOW THE COMMISSION, upon consideration of the Application and applicable statutes, finds that this matter should be docketed; that WCU should give notice of its Application to the public; that interested persons should have an opportunity to comment and request a hearing on the Application; and that the Commission's Staff ("Staff") should be directed to investigate the Application and file a report containing the Staff's findings and recommendations ("Staff Report"). Further, we find that a Hearing Examiner should be appointed to rule on all discovery matters that arise during the course of this proceeding.

WCU requests interim authority to provide sewer service during the pendency of this Application. The Commission finds that such a grant of authority has not been shown to be warranted in this case. Previously, the Commission has looked for a showing of an effect on public health, continuity of service, or construction or financing of the system, to consider whether a grant of interim authority is warranted.¹¹ WCU's Application makes no such representations; therefore, we find that the request for interim authority should be denied.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUE-2016-00064.
- (2) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure ("Rules of Practice"), a Hearing Examiner is appointed to rule on any discovery matters that may arise in this proceeding.

¹⁰ *Id.* at 4, 6-7.

¹¹ *See, e.g., Application and Petition of Founders Bridge Utility Company, Inc., For authority to acquire utility assets and for a certificate of public convenience and necessity, Case No. PUE-2004-00029, Order for Notice and Comment (Aug. 26, 2004).*

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(3) WCU's request for interim authority to provide sewer service to the Property hereby is denied.

(4) On or before August 11, 2016, the Company shall publish the following notice as display advertising, not classified, on one (1) occasion in newspapers having general circulation in Fauquier County:

NOTICE TO THE PUBLIC OF AN
APPLICATION OF WARRENTON CHASE UTILITY
COMPANY, INC. FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO PROVIDE SEWER
SERVICE
CASE NO. PUE-2016-00064

On May 24, 2016, Warrenton Chase Utility, LC, filed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity to provide sewer service in Fauquier County, Virginia ("Application") pursuant to the Utility Facilities Act, Chapter 10.1 of the Title 56 of the Code of Virginia ("Code"). On July 14, 2016, Warrenton Chase Utility, LC filed an amendment to its Application to reflect its reorganization from a limited liability company to a corporation. The newly formed corporate entity is Warrenton Chase Utility Company, Inc. ("WCU" or "Company").

WCU states that it is organized as a Virginia public service corporation to provide sewer service located on property known as Warrenton Chase ("Property") in Fauquier County, Virginia. WCU states the sewer infrastructure for the Property consists of an Alternative On-Site Sewer System, including collection and disbursement transmission lines, a treatment plant, and mass drain fields ("System"). WCU states that RFI WC, LC ("RFI"), is the sole owner of the Property and the System. WCU states that the Property is planned for 150 single family detached dwelling units and a community-based recreational facility consisting of a pool and clubhouse, and that the Property has not been developed to date.

WCU proposes rates and charges for its service to the Property.¹² Per the Application, the sewerage rate for a single family residential user initially will be a minimum rate of \$75.50

¹² *Id.* at 6 and Exhibit 11.

per month for the first 7,000 gallons used; an additional \$7.74 per month surcharge will be charged for each 1,000 gallons or portion thereof of water discharged into the sewer system in excess of 7,000 gallons per month; a user's administrative fee of \$100 will be charged to each customer for opening the customer account for service by the sewer System; and an inspection fee of \$227 will be charged to each homebuilder for the cost of inspecting the connection of each home to the sewer system. The Company states that it will utilize the water meters installed by the Fauquier County Water and Sanitation Authority for measuring water consumption in order to measure sanitary sewer usage.

A copy of the Company's Application may be obtained by submitting a written request to counsel for the Company, Joseph J. Contrucci, Esquire, P.O. Drawer 5, Markham, Virginia 22643. The Application and related documents are also available for review in the Commission's Document Control Center, Office of the Clerk of the Commission, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Unofficial copies may be downloaded from the Commission's website: <http://www.scc.virginia.gov/case>.

On or before August 30, 2016, any person or entity may file written comments on WCU's Application with Joel H. Peck, Clerk, State Corporation Commission, P.O. Box 2118, Richmond, Virginia 23218. Comments may be submitted electronically on or before August 30, 2016, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Comments shall refer to Case No. PUE-2016-00064.

On or before August 30, 2016, any person or entity may request that the Commission convene a hearing on the Company's Application by filing a request for hearing. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be filed with Clerk of the Commission at the address set forth above. A copy of the request for hearing also must be sent to counsel for the Company at the address set forth above. Requests for hearing shall refer to Case No. PUE-2016-00064 and shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the factual and legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter.

Any person or entity may participate as a respondent in this proceeding by filing a notice of participation on or before August 30, 2016. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be filed with the Clerk of the Commission at the address set forth above. A copy of the notice of participation as a respondent also must be sent to counsel for the Company at the address set forth above. Pursuant to 5 VAC 5-20-80 B of the Commission's Rules of Practice and Procedure ("Rules of Practice"), any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30 of the Rules of Practice. All filings shall refer to Case No. PUE-2016-00064.

The Commission's Rules of Practice may be viewed at <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice and an official copy of the Commission's Order for Notice and Comment in this proceeding may be obtained from the Clerk of the Commission at the address set forth above.

WARRENTON CHASE UTILITY COMPANY, INC.

(5) On or before August 11, 2016, the Company shall serve a copy of this Order on the chairman of the board of supervisors and the county attorney for Fauquier County and upon the mayor or manager (or equivalent official) and city or town attorney of every city and town in which the Company proposes to provide sewer service. Service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.

(6) WCU promptly shall respond to requests for copies of the Application and shall provide one copy free of charge. A copy of the Company's Application may be obtained by submitting a written request to counsel for WCU, Joseph J. Contrucci, Esquire, P.O. Drawer 5, Markham, Virginia 22643. The Application and related documents are also available for review in the Commission's Document Control Center, Office of the Clerk of the Commission, located on

the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Unofficial copies may be downloaded from the Commission's website: <http://www.scc.virginia.gov/case>.

(7) On or before August 30, 2016, WCU shall provide the Commission with proof of notice and service as required by Ordering Paragraphs (4) and (5), including the name, title, and address of each official served, with Joel H. Peck, Clerk, State Corporation Commission, P.O. Box 2118, Richmond, Virginia 23218-2118.

(8) On or before August 30, 2016, any person or entity may file written comments on the Application with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). Comments may be submitted electronically on or before August 30, 2016, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUE-2016-00064.

(9) On or before August 30, 2016, any person or entity may request that the Commission convene a hearing on the Company's Application by filing a request for hearing. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). A copy of the request for hearing also shall be served upon counsel for the Company at the address set forth in Ordering Paragraph (6). Requests for hearing shall refer to Case No. PUE-2016-00064 and shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the factual and legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. All such filings shall refer to Case No. PUE-2016-00064.

(10) On or before August 30, 2016, any person or entity may participate as a respondent in this proceeding by filing a notice of participation in accordance with 5 VAC 5-20-140 and 5 VAC 5-20-150 of the Rules of Practice. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). The respondent shall serve a copy of the notice of participation on counsel to the Company at the address set forth in Ordering Paragraph (6). Pursuant to 5 VAC 5-20-80 B of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30 of the Rules of Practice. All filings shall refer to Case No. PUE-2016-00064.

(11) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order for Notice and Comment, a copy of the Application, and all materials filed by the Company with the Commission in this proceeding, unless these materials have already been provided to the respondent.

(12) The Staff shall investigate the Company's Application. On or before September 13, 2016, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of a Staff Report containing its findings and recommendations.

(13) On or before September 27, 2016, the Company may file with the Clerk of the Commission any response to the Staff Report and comments or request for hearing filed in this proceeding. If not filed electronically, an original and fifteen (15) copies of any response shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). A

copy of the response shall be served on any person who filed a request for hearing, any respondent who filed a notice of participation, and Staff counsel.¹³

(14) The Company shall respond to interrogatories and requests for production of documents within seven (7) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to the Staff. Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(15) This matter is continued generally pending further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Joseph J. Contrucci, Esquire, P.O. Drawer 5, Markham, Virginia 22643; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 North Ninth Street, Richmond, Virginia 23219. A copy shall be delivered to the Commission's Office of General Counsel and Divisions of Energy Regulation, Utility Accounting and Finance, and Public Service Taxation.

¹³ The assigned Staff attorney is identified on the Commission's website, <http://www.scc.virginia.gov/case>, by clicking "Docket Search," then "Search Cases," and entering the case number, PUE-2016-00064, in the appropriate box.