

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

I.C.H. CORPORATION A/K/A GLENWOOD HALL)	
RESORT AND COUNTRY CLUB A/K/A PERRY)	
PARK RESORT AND PAR-TEE LLC D/B/A)	
PERRY PARK RESORT)	
_____)	CASE NO. 99-210
)	
ALLEGED VIOLATION OF KRS 278.020(4) AND (5))	
KRS 278.160 AND COMMISSION REGULATIONS)	
807 KAR 5:011, SECTION 2 AND 807 KAR 5:011,)	
SECTION 11)	

ORDER

I.C.H. Corporation a/k/a Glenwood Hall Resort and Country Club a/k/a Perry Park Resort (ICH) is a utility subject to Commission jurisdiction under KRS 278.010(3)(d) and (f). Its tariff is on file with the Commission. Par-Tee, LLC d/b/a Perry Park Resort (Par-Tee) appears to be providing utility services to the public for compensation, and therefore also appears to be a utility subject to Commission jurisdiction under KRS 278.010(3)(d) and (f). KRS 278.040 establishes the jurisdictional authority of the Commission over all utilities in this state and requires the Commission to regulate all utilities and to enforce the provisions of Chapter 278 of the Kentucky Revised Statutes.

KRS 278.020(4) provides that [n]o person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by

sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission.

KRS 278.020(5) provides that [n]o individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an acquirer), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission. Any acquisition of control without prior authorization shall be void and of no effect.

KRS 278.160 provides that each utility shall file with the commission . . . schedules showing all rates and conditions for service established by it and collected or enforced and further provides that no utility may charge for its services any amounts other than those in its filed tariff.

KRS 278.160(1) authorizes the Commission to prescribe rules and regulations for filing and displaying schedules of rates and conditions. Pursuant to this statutory authority, the Commission promulgated Administrative Regulation 807 KAR 5:011. Commission Regulation 807 KAR 5:011, Section 2, provides that each utility under the jurisdiction of the Commission is to file a tariff containing schedules of all its rates, charges, and tolls. 807 KAR 5:011, Section 11, requires any company acquiring ownership or control of a utility to use the rates, classifications and administrative regulations of the former operating company, unless otherwise authorized by the Commission, and to issue, file and post an adoption notice with the Commission at the time of such change of ownership or control, making its own all rates, rules, and classifications of the former operating utility.

On December 30, 1998, the Commission received a letter from Rhonda Craig, Office Manager for Par-Tee, explaining that the assets of Glenwood Hall Golf and Country Club were sold to Par-Tee on August 1, 1998. The letter further explained that the purchase included the Water and Sewer Utilities. This letter is attached hereto as Appendix A. The Commission was not notified prior to the effective date of the transfer of ownership; nor did it approve the transfer.

ICH and Par-Tee appear to have violated KRS 278.020(4) and (5) by failing to obtain Commission approval prior to the transfer to Par-Tee of ICH's water and sewer facilities. Par-Tee also appears to be in violation of 807 KAR 5:011, Section 11, by its failure to file an adoption notice with this Commission at the time it assumed control or ownership of the water and sewer facilities from ICH. In addition, Par-Tee appears to be in violation of KRS 278.160, as it has collected compensation for providing utility service without having filed its tariff.

On May 10, 1999, the Commission received a letter from a resident of Glenwood Hall Resort and Country Club stating that the residents of Glenwood Hall Resort and Country Club have been charged an assessment in the amount of \$388 by ICH -- apparently now Par-Tee -- as a hook-on fee to a new line expansion planned by Carroll County Water District. A copy of this letter is attached hereto as Appendix B. This fee is not contained in ICH's tariff on file with the Commission nor is the fee in a tariff filed by Par-Tee as required by KRS 278.160 and Commission Regulation 807 KAR 5:011, Section 2.

Based on the documents received and being otherwise sufficiently advised, the Commission finds that prima facie evidence exists that ICH and Par-Tee have willfully

violated KRS 278.020(4), KRS 278.020(5), KRS 278.160 and Commission Regulation 807 KAR 5:011, Section 2, and that Par-Tee has willfully violated Commission Regulation 807 KAR 5:011, Section 11.

The Commission, on its own motion, HEREBY ORDERS that:

1. ICH and Par-Tee, through their representatives, shall appear before the Commission on July 21, 1999 at 9:30 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purposes of presenting evidence concerning the alleged willful violations of KRS 278.020(4) and (5), KRS 278.160, and 807 KAR 5:011, Sections 2 and 11; of showing cause, if any, why they should not be subject to the penalties prescribed in KRS 278.990(1) for the alleged violations; and of showing cause, if any, why all monies collected for the hook-on to the Carroll County Water District's expansion line, as well as monies collected for untariffed services, should not be refunded.

2. Appendices A and B to this Order are hereby incorporated into the record of this proceeding.

3. ICH and/or Par-Tee shall immediately cease and desist from charging any fees to hook on to the new line expansion planned by Carroll County Water District.

4. Par-Tee shall immediately cease and desist from billing for untariffed services.

5. ICH and Par-Tee shall submit to the Commission within 20 days of the date of this Order a written response to the allegations contained herein.

6. Any motion requesting an informal conference with Commission Staff to consider any matter which would aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 24th day of May, 1999.

By the Commission

ATTEST:

Executive Director

APPENDIX A

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 99-210 DATED MAY 24, 1999

APPENDIX B

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 99-210 DATED MAY 24, 1999