

FLORIDA  
SERVICE CO.

98 MAY 18

MAIL ROOM

MARC MAZO  
14252 PUFFIN COURT  
CLEARWATER, FL 33762

May 15, 1998

Florida Public Service Commission  
Attn: Ms. Blanca S. Bayo  
Director, Division of Records & Reporting  
2540 Shumart Oak Blvd  
Tallahassee, Florida 32301

980667-EU

Dear Ms. Bayo:

Enclosed please find an original and seven copies of Holiday Villas II Condominium Association's, Petition for Declaratory Statement. I would appreciate your filing the document in the appropriate manner.

Thank you very much for your cooperation and attention to this matter.

Yours Very Truly,



Marc Mazo  
Facilities Services Director

DOCUMENT NUMBER-DATE

05529 MAY 18 98

FPSC-RECORDS/REPORTING

EXHIBIT "A"

P.O. Box 729 / Indian Shores, Florida 34635 / Tel. 813-596-4852

For corner units (110, 210, 310, 410, 118, 218, 318, 418) add \$5.00/Night or \$25/Week to Gulfside Rate.

For Gulfview units 301 and 401, add \$10.00/Night or \$50.00/Week to Inter-coastal 2 Bedroom Rate.

All rates quoted in U.S. Funds. Rates subject to change without notice. Rates do not include 7% Florida State Sales Tax and 4% Resort Tax.

- 1 Bedroom Rate includes 2 persons
- 2 Bedroom Rate includes 4 persons
- 3 Bedroom Rate includes 6 persons

There is a \$5.00 per day or \$25.00 per week charge for each additional person age 3 (three) and older.

**FLORIDA STATE LAW REQUIRES THAT ALL OVERNIGHT GUESTS BE REGISTERED. ALL GUESTS MUST BE REGISTERED AT CHECK IN.** There is a maximum number of overnight guests permitted to occupy any apartment. These limits are:

- 1 Bedroom - 4 Persons
- 2 Bedroom - 8 Persons
- 3 Bedroom - 10 Persons

These limits are for the total number of guests including all children. **A \$200 Security Deposit is required for all stays.**

**Pet Policy** - check for "Pet-Allowed" units when reserving. Only 1 pet per unit. There is a \$50.00 charge for pets.

A four (4) night minimum stay is required except during Christmas, Easter and the Fourth of July. A seven (7) night minimum is required during these holidays.

Check-In Time is 4:00 p.m.

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**Only one parking space is provided for each condominium.**

19610 Gulf Boulevard  
Indian Shores, Florida 33785  
813-596-4852/Fax 813-517-9045

Reservations Only  
800-428-4852  
US and Canada



# RATE SCHEDULE

EFFECTIVE OCTOBER 1, 1997

## SEASON I

Dec. 18 (97) - Jan. 6 (98) • Feb. 11 - April 26 (98)  
 Jul. 1 - Jul. 10 (98) • Dec. 18 - Jan. 6 (98)

Apartment Type	Nightly		Wkly
	4 - 6	7+	
<b>GULFSIDE</b>			
2 Bedroom	\$124	\$114	\$798
3 Bedroom	\$130	\$120	\$840
<b>INTERCOASTAL</b>			
1 Bedroom	\$93	\$83	\$581
2 Bedroom	\$110	\$100	\$700
3 Bedroom	\$116	\$106	\$742
2 Bedroom (No Terrace)	\$95	\$85	\$602

## SEASON II

Jan. 7 (98) - Feb. 10 (98) • April 27 - June 30 (98)  
 July 11 - Sept. 10 (98)

Apartment Type	Nightly		Wkly
	4 - 6	7+	
<b>GULFSIDE</b>			
2 Bedroom	\$105	\$95	\$665
3 Bedroom	\$120	\$100	\$700
<b>INTERCOASTAL</b>			
1 Bedroom	\$78	\$68	\$476
2 Bedroom	\$85	\$75	\$525
3 Bedroom	\$94	\$84	\$588
2 Bedroom (No Terrace)	\$81	\$71	\$497

## SEASON III

Sept. 11 (98) - Dec. 17 (98)

Apartment Type	Nightly		Wkly
	4 - 6	7+	
<b>GULFSIDE</b>			
2 Bedroom	\$90	\$80	\$560
3 Bedroom	\$95	\$85	\$595
<b>INTERCOASTAL</b>			
1 Bedroom	\$60	\$55	\$385
2 Bedroom	\$70	\$65	\$455
3 Bedroom	\$84	\$74	\$518
2 Bedroom (No Terrace)	\$68	\$58	\$406

# Holiday Villas II

Resort Condominium Rentals  
on the Gulf of Mexico

## Holiday Villas II

### WELCOME TO HOLIDAY VILLAS II

We hope you enjoy your stay in Florida. Please take a moment to review the Policy and Information section of the Rate Brochure. If you have any questions or require any additional information about Holiday Villas II or the Beach area, please stop by the office or dial 0 on the telephone.

Holiday Villas II has a central telephone system for your convenience. If you choose to use this service, the following instructions for use of the telephone are provided.

Please Note, telephone regulations prevent blocking 900/976 calls. The rate for 900/976 calls: \$25.00 per call/\$5.00 per minute. Any disputed 900/976 call must be addressed in writing. All 900/976 disputes will be resolved within 90 days of inquiry.

In addition, there is a public pay phone located in the parking garage next to the South stairwell.

To receive calls, the calling party should dial (813) 596-4852, then enter your condominium extension number when instructed. Please inform your family and friends of your condominium extension number.

1292

Front Desk (8AM to 8PM) - Dial 0

Room to Room - Dial 3 Digit Extension

Local Call - Dial 9-XXX-XXXX (Number)  
(\$ .25 per Call)

Local Information - Dial 8-1411 (\$ .25 per Call)

Tampa Extended Area Call - Dial 9-XXX-XXXX (Number)  
(\$ .20/first min. then \$ .12/min.)

Local Operator - Dial 8 0

Long Distance Operator - Dial 8-00

Long Distance Information - Dial 8-0-A/C-555-1212  
(\$ .60 per Call)

Long Distance Direct - Dial 8-1-Area Code Number  
All US (\$ .30 per minute)  
Canada (\$1.24/first min. then  
\$1.12/min.)

International Operator - Dial 8-00

Credit Card Calls - Dial 8-0-A/C-Number

Collect, Third Party - Dial 8-0-A/C-Number

Toll Free Calls (800) - Dial 8-1-800-Number

For Rate Quotes - Dial 8-00

10XXX Access - Dial 8-10XXX-0-A/C-Number

950 Access - Dial 8-950-XXX

EXHIBIT "B-1"

# Holiday Villas II

Long Distance Operator Services on 8+00 dialing provided by:

Fiberline Network Communications Limited Partnership  
1771 East Flamingo Road, Suite 201A  
Las Vegas, NV 89119

Rates are available upon request at no charge.  
Consult the Long Distance Operator by  
dialing 8+00.

You have the right to access the carrier of your choice.  
Contact that carrier directly for information, or if you  
have a long distance calling card, follow the  
instructions provided on the back of that card.

Should you have any questions or complaints,  
you may call Fiberline Customer Service  
department at 8+1+800-576-6764.

Regulatory Agency

FCC Common Carrier Bureau  
Enforcement Division  
Washington, DC 20554

## PARAGON CABLE CHANNEL GUIDE

- |    |                                 |                                   |
|----|---------------------------------|-----------------------------------|
| 2  | WUSF                            | USF (6:45AM - 11PM)/ E Television |
| 3  | WEDU                            | P.B.S.                            |
| 4  | WTOG                            | Independent (44)                  |
| 5  | WTBS                            | Superstation/Atlanta              |
| 6  | WGN                             | Superstation/Chicago              |
| 7  | WCLF                            | Independent (22)                  |
| 8  | WFLA                            | NBC                               |
| 9  | WTTA                            | Independent (38)                  |
| 10 | WTSP                            | ABC                               |
| 11 | WFTS                            | Independent (28)                  |
| 12 | W63BS                           | Independent (32-WTMW)             |
| 13 | WTVT                            | CBS                               |
| 14 | Pinellas County Schools         |                                   |
| 15 | City Government                 |                                   |
| 16 | Classivision                    |                                   |
| 17 | Pinellas County Government      |                                   |
| 18 | WPGN/Community Programming      |                                   |
| 22 | Prevue Guide                    |                                   |
| 23 | Cable News Network (CNN)        |                                   |
| 24 | Headline News                   |                                   |
| 25 | USA                             |                                   |
| 26 | TNT                             |                                   |
| 27 | ESPN                            |                                   |
| 28 | The Family Channel              |                                   |
| 29 | The Discovery Channel           |                                   |
| 30 | The Nashville Network (TNN)     |                                   |
| 31 | ValueVision/Sunshine Network    |                                   |
| 32 | Weather Watch/Sports Channel FL |                                   |
| 33 | CNBC                            |                                   |
| 34 | Nostalgia Channel               |                                   |
| 35 | American Movie Classics (AMC)   |                                   |
| 36 | Nickelodeon                     |                                   |

March 1, 1998

Mr. Marc Mazo  
Power Check, Inc.  
14252 Puffin Ct.  
Clearwater, FL 33762

Subject: Holiday Villas II

Mr. Mazo,

Per your request, I have completed an independent expert study to identify whether or not the subject property operates like **motels, hotels, and similar facilities**; and if the site meets the intent of Florida Administrative Code 6-25.049 for individual metering exemption. The following are findings pertaining to this property and I will make myself available as an expert witness if required.

Holiday Villas II is located on the Gulf of Mexico at 19610 Gulf Boulevard and **does operate like motels, hotels, and similar facilities and does meet the exemption requirements for individual metering.**

The following are findings of fact:

This site has:

- A Hotel phone system with one primary bill
- One primary bill for gas
- One primary bill for water
- One primary bill for cable
- Front desk check-in
- Maid service
- Average stay is 10 days
- 65 vacation resort units with one resident manager unit
- Reservation system
- Resort/Vacation advertising

As an experienced professional working with and in the resort industry for over 5 years, the subject property is being discriminated against by Florida Power Corporation (FPC), based on the fact that they clearly operate like a hotel/motel resort. Based on reviews of similar facilities, this discriminatory action is costing the subject property 15 to 30% more for their electric, thus compounding losses based on competition.

The Florida Administrative Code 6-25.049 was clearly developed to encourage conservation measures by individual home owners i.e. Turning off lights, raising or lowering the thermostat settings as applicable, using less hot water, etc. The commission also recognized that businesses that have transient guest or guest who do not pay the utility bills will not be encouraged by this Code and therefor provided exceptions to the requirement of individual metering.

Exhibit "C-1"

Currently Code 6-25.049 (5)(a) and (5)(a)(3) allows for these groups to be excluded from the individual metering because it serves no incentive for those facilities i.e. "...

**Individual electric meters shall not, however, be required; For electric used in specialized use housing accommodations such as hospitals, nursing homes, living facilities located on the same premises as, and occupied operated in conjunction with and nursing home or other health care facility providing at least the same level and types of services as a nursing home, convalescent homes, dormitories, convents, sorority houses, fraternity houses, motels, hotels, and similar facilities.**

Based on meetings that I attended while at FPC, this rule was discussed and clearly understood to encompass the subject type of facility as I have stated. Other transitions have taken place across FPC's system based on the 6-25.049 code. I suspect resistance to this effort is being made based on loss of revenues and not on the understanding of the Code.

Revenue factors:

The loss of customer charges consist of \$8.70 per unit, **however**, the net loss should only be the percentage profit allowed in the regulated environment -approximately 13%. Because all other expenses to the customer charge should be negated, the net impact to FPC's revenue should be approximately \$1 per unit.

The loss of review based on a rate change to General Service Demand-Time of Use (GSD-TOU) is estimated to be approximately 15%. **However**, this Time of Use measurement provides a more accurate charge for electric usage based on when the energy is needed and thus provides fair pricing for the same product and service by industry type. Based on 13% profit, the direct impact to FPC should be no more than 1.95-% per unit, and 0% if you consider the unfair pricing practices based on the interpretation of this Code.

If I can be of further assistance, please contact me at (813) 399-2933.

Sincerely,



Thomas W. Saxon

Exhibit "C-2"



STATE OF FLORIDA  
BEFORE THE PUBLIC SERVICE COMMISSION

IN RE:

HOLIDAY VILLAS II  
CONDOMINIUM ASSOCIATION, INC.

DOCKET NUMBER \_\_\_\_\_

Petitioners  
\_\_\_\_\_ /

**PETITION FOR VARIANCE OR WAIVER  
FROM RULE 25-6.049(5) (a)  
OF THE FLORIDA ADMINISTRATIVE CODE**

COMES NOW the Petitioner Holiday Villas II Condominium Association, Inc., and hereby petitions the Florida Public Service Commission for a variance or waiver pursuant to Section #120.542 of the Florida Statute and Section #28-104.002 of the Florida Administrative Code.

**I. Applicable Rule** : The applicable rule from which petitioner seeks a variance or waiver is Rule 25-6.049(5) (a) of the Florida Administrative Code which states in pertinent part that;

(5) (a) "Individual electric metering by the utility company shall be required for each separate occupancy unit of new commercial establishments, residential buildings, condominiums, cooperatives, marinas, and trailer, mobile home and recreational vehicle parks for which construction is commenced after January 1, 1981.

The literal requirements Rule 25-6.049(5) (a) provide that Holiday Villas II should maintain individual electric metering for each unit of the condominium. However, a conflict between Section 25-6.049(5) (a) and Section 25-6.049(5) (a) (3) arises when the facts of this particular case are taken into consideration.

DOCUMENT FILED DATE

05529 MAY 18 88

FLS-RECORDS/REPORTING

Holiday Villas II operates in accordance with Chapter 509.242 of the Florida Statutes as a Public Lodging Establishment more clearly defined in such statute as a "Resort Condominium" which advertises and holds out to the public as a place regularly rented for periods of less than 30 days.

Section 25-6.049(5)(a)(3) of the rule provides certain exceptions to the individual metering requirement of the rule. In pertinent part the exception states:

(5)(a)(3) "For electric used in specialized-use housing accommodations such as hospitals, nursing homes, living facilities located on the same premises as, and occupied operated in conjunction with, a nursing home or other health care facility providing at least the same level and types of services as a nursing home, convalescent home, facilities certificated under Chapter 651, Florida Statutes, college dormitories, convents, sorority houses, fraternity houses, motels, hotels, and similar facilities." (Emphasis Supplied)

**II. Underlying Statute F.S. 366.05(1):** The applicable portion of the underlying statute indicates that the commission shall have the power to prescribe fair and reasonable rates and charges, classifications, standards of quality measurements, and service rules and regulations to be observed by each public utility. Rule 25-6.049(5)(a) & 25-6.049(5)(a)(3) have been adopted to accomplish this principle. The implementation of fair and reasonable rates and charges by the public utility companies in Florida is a goal of the Public Service Commission established by the legislature. See F.S. 366.03.

In addition, pursuant to docket # 810308-EU September 2, 1981, it appears that the intent of Rule 25-6.049(5)(a) and Rule 25-6.049(5)(a)(3) is to serve the public interest regarding energy conservation. Petitioner believes both the underlying

statute requiring fair and reasonable rates, and the purpose of energy conservation are both better served, if in fact, petitioner is allowed to master meter the facility.

**III. Type of Action Requested:** Petitioner requests the Commission grant a variance or waiver from the literal requirement of Rule 25-6.049(5)(a) wherein condominiums must be individually metered, and allow petitioner to master meter the facility.

**IV. Facts Which Demonstrate Substantial Hardship or Violation of Principles of Fairness:** Holiday Villas II Condominium Association, Inc. is an association which represents investor/owners of condominium units at Holiday Villas II Resort Condominium (hereinafter Holiday Villas II), located on the Gulf of Mexico at 19610 Gulf Blvd, Indian Shores, Florida.

Pursuant to Chapter 509.242 of the Florida Statutes Holiday Villas II is a public lodging establishment, more fully defined as a "Resort Condominium" which is advertised or held out to the general public as a place regularly rented for periods of less than 30 days. It is registered with and licensed by the Florida Department of Business and Professional Regulation to engage in the business of providing transient lodging accommodations similar to hotels and motels, and is registered with the Florida Department of Revenue to collect and remit sales taxes on revenue realized from providing such transient accommodations.

The petitioner, operating under the name of Holiday Villas II Resort Condominium, is engaged in the business of providing short term (daily, weekly) lodging to vacationers as do hotels

and motels in the adjacent and surrounding areas. Petitioner competes directly for room night business with these nearby hotels and motels from St. Petersburg Beach to Clearwater Beach. To maintain its market share petitioner regularly advertises and promotes its business with travel agents and in trade shows both in this country and abroad. Holiday Villas II utilizes a full color marketing brochure as one of the many methods to promote its business and keep the units occupied with guests. A copy of the marketing brochure is attached as Exhibit "A".

Holiday Villas II maintains a registration desk with a small lobby area where guests must check-in to receive their room assignments. Registration, check-in, and check-out are accomplished in the same manner as a hotel or motel. Like many hotels and motels in the Clearwater/St. Petersburg Beach areas petitioner has invested in and uses a large outside sign for identification and to inform traveling guests of its room vacancy status.

Telephone service for Holiday Villas II is provided through a master telephone PBX with all calls ringing directly into the switchboard as a hotel or motel. Guest rooms are furnished with calling instructions and all charges are listed in compliance with the Department of Business Regulation, the FCC, and the PSC. A copy of petitioner's guest telephone information and instruction card is attached as Exhibit "B". To maintain this type of telephone operation, which is similar to most modern day hotels and motels, requires an investment of capital and time and effort of management.

Petitioner has hired a general manager who is responsible for the operation and care of the resort. His job duties are similar to those persons holding the title of general manager in any other hotel or motel of its size, including oversight and supervision of housekeeping, maintenance, security, guest services, marketing and advertising. It is the general manager's responsibility to operate the resort in accordance with the annual budget approved by the Board of Directors.

It is also the responsibility of the general manager to do the best job he can to compete with other hotels and motels in the area for guest room nights. To do this rates for such room nights must be kept in line with the competition. Advertising dollars must also be expended to fill the needed amount of room nights. These principles exist for hotels and motels and also exist for Holiday Villas II based on its manner of operation.

Without being allowed to master meter its facility, Holiday Villas II will pay approximately 30% more for the same electric to operate as nearby hotels and motels. This creates a substantial hardship on the petitioner in its efforts to compete in the room rental business and pay all the associated costs (including taxes) of operating a public lodging establishment. It also violates principles of fairness in that other hotels and motels in the surrounding area will spend less money on electricity and be able to spend more on advertising or upgrading their facilities to make them more attractive to the traveling public than Holiday Villas II.

Petitioner requested a study be completed by Mr. Tom Saxon to identify whether the petitioner operates in a manner similar to hotels and motels, and to determine whether in Mr. Saxon's opinion the facility meets the requirements for exemption from individual metering. Mr. Saxon's expertise in this area was gained at Florida Power Corporation in the area of marketing services where he worked for over five years with hotels and motels in the Clearwater/St. Petersburg area. Mr. Saxon is currently a Commissioner of the City of Madeira Beach, he has no ownership interest in Holiday Villas II, nor does he stand to gain financially by the outcome of this petition. His report is attached as Exhibit "C" and confirms that petitioner operates in a manner similar to hotels and motels in the area and as such should be allowed to master meter the facility.

**V. Conservation Issue:** As noted earlier, one aspect of the development of Rule 25-6.049 was to encourage conservation of electricity. The PSC, its Staff, and IOU's in Florida have adhered to the philosophy that the end user will be more inclined to be conscious of conservation if such user is made aware of his or her electric use and associated costs. Section(5)(a) of the rule follows this theory by requiring individual metering. However, the implication which can be derived from this section is that condominiums are residential in nature, therefore, by requiring individual metering the owner occupant will be made aware of monthly electric usage and associated costs and will be more inclined to conserve electricity.

This theory is not applicable in the instant case since Holiday Villas II is operating as a "resort condominium" catering to the transient public. The owner/investors of units at Holiday Villas II are not the ones responsible for energy conservation at the resort. The general manager has that responsibility just like his counterpart in the nearby hotels and motels. The monthly electric bills are forwarded by the power company to over seventy owners located in all parts of the country with no ability to implement energy conservation except through the general manager of the facility.

Recognizing that timeshare resorts are similar in nature to hotels and motels, the Commission recently amended Rule 25.6-049(5)(a)(3) to include timeshare resorts in the exception from the individual metering rule. The theory being that conservation would be better served by the resort receiving one master bill for electric instead of many individual bills. In this manner the resort manager would have more awareness of total electric usage for the timeshare resort and hopefully, as a result, pay closer attention to energy conservation methods which reduce electric consumption and lower costs.

The nature of timeshare resorts did not change by the commission's action. Nor did the characteristics of their electric usage. Timeshare resorts are still owned and operated as condominiums and used primarily by the owners for vacation weeks. Transient rentals are minimal, and as a result the petitioner's electric load data is more like a hotel or motel than timeshares. Where timeshare owners live in the units for a



week or more at a time during their vacation, petitioner's regular transient rental business is generally for shorter periods, and less like an at home living environment. As such, its electric usage characteristics are more similar to hotels or motels than that of most timeshare resorts in Florida. Yet the owners of timeshares in this state now derive the benefit of lower electric costs as a result of being allowed to master meter the resort.

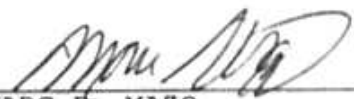
**VI. Conclusion** By granting Petitioner a waiver or variance from the individual metering requirements of Rule 25.6-049, the interests of the public relating to energy conservation would be better served. By receiving one bill each month at the facility the general manager would be more efficient in his efforts to control and conserve electric usage for Holiday Villas II. In addition, the principles of fairness would be met in that the owner/investors at Holiday Villas II would receive the benefits of lower electric costs due to master metering, as their owner/investor counterparts receive at timeshare resorts. Petitioner would also be able to compete with hotels and motels in the area on a more even basis as petitioner would not be paying higher costs for electric than their hotel/motel competitors.

**VII. Duration of Variance or Waiver** - Recognizing that the rules governing use of the units at Holiday Villas II will not change by granting of the variance or waiver from the individual metering requirements of Rule 25.6-049, and understanding that petitioner's owner/investors could vote to cease operation as a



resort condominium pursuant to Chapter 509.242(1)(c) of the Florida Statutes, petitioner requests the variance or waiver be permanent with the condition that it continues to operate as a "resort condominium" in accordance with Chapter 509.242(1)(c) of the Florida Statutes. In the event petitioner's owner/investors vote to change the operation of Holiday Villas II and no longer allow transient rentals, the variance or waiver would terminate and the condominium units be subject to the individual metering requirements of Rule 25.6-049(5)(a).

WHEREFORE, for all of the foregoing reasons, Petitioner respectfully requests the Public Service Commission grant its request for a variance or waiver.

  
\_\_\_\_\_  
MARC D. MAZO  
14252 Puffin Court  
Clearwater, Florida 33762  
(813) 573-5787

Facilities Services Director  
Holiday Villas II Condominium Assoc.

I HEREBY CERTIFY that seven (7) copies of the foregoing Petition for Variance or Waiver have been furnished by U.S. Mail this 15<sup>th</sup> day of May, 1998, to the Public Service Commission, Attn: Ms Blanca s. Bayo, Director, Division of Records and Reporting.

  
\_\_\_\_\_  
MARC D. MAZO