

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF NUON GLOBAL )  
SOLUTIONS USA, BV, HYDRO STAR, LLC, )  
UTILITIES, INC., AND WATER SERVICE )  
CORPORATION OF KENTUCKY FOR ) CASE NO. 2005-00323  
APPROVAL OF AN INDIRECT CHANGE IN )  
CONTROL OF A CERTAIN KENTUCKY )  
UTILITY PURSUANT TO THE PROVISIONS )  
OF KRS 278.020(5) AND (6) AND )  
807 KAR 5:001, SECTION 8 )

FIRST DATA REQUEST OF COMMISSION STAFF  
TO APPLICANTS

Pursuant to 807 KAR 5:001, Commission Staff requests that Nuon Global Solutions USA BV (“Nuon”), Hydro Star, LLC (“Hydro Star”), Utilities, Inc. (“Utilities”), and Water Service Corporation of Kentucky (“Water Service”), (jointly “Applicants”) are requested to file the original and 8 copies of the following information with the Commission. The information requested herein is due on or before September 9, 2005, with a copy to all parties of record. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. Include with each response the name of the witness who will be responsible for responding to questions relating to the information provided. Careful attention should be given to copied material to ensure that it is legible. Where information requested herein has been provided, in the format requested herein, reference may be made to the specific location of said information in responding to this information request. When

applicable, the information requested herein should be provided for total company operations and jurisdictional operations, separately.

1. Given the Commission's position in Case No. 2002-00018<sup>1</sup> that "the better practice is for all corporate entities to jointly apply for Commission approval," explain in detail why the following were not included as parties to the proceeding:

- a. American International Group, Inc. ("AIG").
- b. AIG Global Investment Group ("AIG Global").
- c. AIG Highstar Capital II, LP ("Highstar").
- d. Nuon Global Solutions USA, Inc. ("Nuon Inc.")

2. Explain the following statement found at page 3 of the application: "Hydro Star is a Delaware limited liability company owned by AIG Highstar Capital II, LP and certain affiliates." Describe the relationship between Hydro Star and Highstar and the relationship between Hydro Star and the Highstar affiliates. Provide a complete list of the Highstar affiliates.

3. At page 3 of the application, Applicants state that "Highstar II is sponsored by AIG Global Investment Group." Define the term "sponsored by" and describe the corporate relationship that exists between AIG Global and Highstar.

4. At page 3 of the application, Applicants identify AIG Global as "an indirect subsidiary" of AIG. Define the term "indirect subsidiary" and describe the corporate relationship that exists between AIG and AIG Global.

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<sup>1</sup> Case No. 2002-00018, Application for Approval of the Transfer of Control of Kentucky-American Water Company to RWE Aktiengesellschaft and Thames Water Aqua Holdings GmbH (Ky.PSC May 30, 2002) at 11.

5. Provide a corporate organizational chart and a narrative description of the corporate structure that includes descriptions of the corporate relationships that exist between the affiliates or subsidiaries. The following entities should be included in the response:

- a. AIG.
- b. AIG Global.
- c. Highstar.
- d. Hydro Star.
- e. Utilities.
- f. Water Service.
- g. Nuon Inc.

6. a. List Highstar's senior executive officers. For each listed officer, list all positions that he or she holds in AIG, AIG Global, and any Highstar subsidiaries or affiliates.

b. List Hydro Star's senior executive officers. For each listed officer, list all positions that he or she holds in AIG, AIG Global, Highstar and any Hydro Star subsidiaries or affiliates.

7. For each Highstar subsidiary or affiliate:

- a. Describe the nature of that entity's business.
- b. State Highstar's ownership percentage of the subsidiary or affiliate.
- c. Describe the degree of government regulation over the subsidiary or affiliate.
- d. State the location of its corporate office and actual operations.

e. State whether the subsidiary or affiliate has had or will have a business relationship with Hydro Star or any of its operating subsidiaries.

f. State whether it has had or will have a business relationship with Utilities or Water Service.

8. For each Hydro Star subsidiary or affiliate:

a. Describe the nature of that entity's business.

b. State Hydro Star's ownership percentage of the subsidiary or affiliate.

c. Describe the degree of government regulation over the subsidiary or affiliate.

d. State the location of its corporate office and actual operations.

e. State whether it has had or will have a business relationship with Utilities or Water Service.

9. a. Provide Highstar's Annual Reports for 2003 and 2004.

b. Provide a current balance sheet and income statement for the most recent reporting quarter and annual or fiscal year for Highstar and all Highstar's subsidiaries and affiliates.

c. State for Highstar and for each Highstar subsidiary the book value of its assets.

d. Provide the financial performance measures and ratios for Highstar for the most recent reporting quarter and annual or fiscal year. Include, but do not limit the response to, the following measures and ratios:

(1) P/E Ratio (price divided by earnings per share).

(2) Dividend Yield (dividend yield based on present cash dividend rate).

(3) Payout Ratio (primary or basic earnings per share excluding extraordinary items paid to common shareholders in the form of cash dividends).

(4) Quick Ratio (cash plus short-term investments plus accounts receivable, divided by total current liabilities).

(5) Current Ratio (total current assets divided by total current liabilities).

(6) Interest Coverage (earnings before interest and taxes divided by interest expense).

(7) Equity Ratio (total common equity divided by total capitalization).

(8) Return on Equity (income available to common shareholders divided by common equity).

e. (1) State the current bond and/or debt ratings for Highstar debt instruments and all debt instruments issued separately by a Highstar subsidiary or affiliate. Identify the rating agency or institution.

(2) If any rating agency or institution has any of the debt instruments on a credit watch or similar review that may lead to a change in any rating, identify the debt instrument and the rating agency or institution, and state the reasons given for placement on a credit watch.

f. Provide the dividend history of Highstar (or any corporate predecessor) since 1995, as well as the dividend history of each subsidiary and affiliate since 1995.

g. Provide charts showing the stock price activity for Highstar (or any corporate predecessor) since 1995, on the applicable stock exchange. Explain the reason(s) for any significant movements in the stock price during the period.

h. Provide investor ratings of Highstar (or its corporate predecessors) and each subsidiary or affiliate since 1995. Identify any of these ratings that are currently under review and state the circumstances of such review.

i. List each entity or individual that holds 5 percent or more of Highstar's outstanding capital stock as of December 31, 2004 and state the percentage of capital stock held by that entity or individual.

10. Provide the financial information requested in 9(a) through 9(i) for Hydro Star.

11. a. List all regulatory and governmental approvals required for Hydro Star's acquisition of Nuon Inc.'s stock.

b. For each approval listed in response to Item 8(a), provide a copy of the application, state the date an application for such approval will be or has been submitted and the expected date of approval.

c. Provide a copy of the regulatory and governmental approvals when they are issued.

12. Will Hydro Star's acquisition of Nuon Inc.'s stock result in an acquisition premium or discount? Applicants should provide copies of workpapers, calculations, and/or assumptions to support their response.

13. a. If Hydro Star's acquisition of Nuon Inc.'s stock results in an acquisition premium, will Hydro Star use "push down" accounting (i.e., Utilities and Water Service are required to record a portion of the goodwill resulting from the acquisition premium that Hydro Star paid for Nuon's stock)? Explain.

b. If Hydro Star's acquisition of Nuon Inc.'s stock results in an acquisition discount, will that acquisition discount affect the financial statements of Utilities or Water Service? Explain.

14. If "push down" accounting is not used, explain how Hydro Star intends to recover its acquisition premium.

15. Describe how the Applicants will ensure against the following occurrences:  
a. The cross-subsidization of non-regulated activities by Water Service.

b. The diversion of management talent away from Water Service to Highstar, Hydro Star and/or their affiliates.

c. Hydro Star's adjustment of Water Service's capital structure in a manner that could adversely affect its cost of capital and financial integrity.

d. Hydro Star's adjustment of Water Service's dividend policy in a manner that could adversely affect its financing requirements, financing capabilities, and financial integrity.

e. Hydro Star's refusal to provide necessary capital to Water Service that could severely impair its ability to provide utility services.

f. Water Service's guaranteeing of the debt of Highstar, Hydro Star, and their affiliates that could unnecessarily place in jeopardy its financial position and resources.

g. Use of Water Service as a "dumping ground" for employees, assets, and products associated with failed or troubled affiliate ventures, causing it to be viewed by Highstar, Hydro Star, and the non-utility affiliates as the employer or purchaser of last resort.

h. A failed or failing unregulated affiliate adversely affecting Water Service's operating and financial condition.

i. Restrictions or limitations upon the Commission's access in Kentucky to the books and records of Highstar, Hydro Star, and its other affiliates and subsidiaries.

j. Restrictions or limitations upon the Commission's ability to monitor significant transfers of utility assets, business ventures of Highstar, Hydro Star, and other major transactions.

k. Restrictions or limitations upon the Commission's ability to obtain periodic and special reports from the Applicants and Utilities to assist the Commission with its monitoring activities.

16. Provide all reports related to the merger that financial advisors submitted to Hydro Star or Utilities.



17. Provide all materials that Hydro Star or Utilities provided to employees of Utilities or its affiliates about changes in employee benefits plans due to the proposed merger.

18. a. Provide a schedule showing the excess deferred income taxes for Water Service as of December 31, 2004 and the date of this Order.

b. Describe all effects of the merger of stock purchase will have on Water Service's excess deferred income taxes.

19. a. Provide the total costs related to the proposed merger that Highstar, Hydro Star, and/or Nuon has incurred as of the date of this Order.

b. Provide the total costs related to the proposed merger that Highstar, Hydro Star, and/or Nuon Inc. expect to bear.

20. a. State whether Water Service will bear any merger costs.

b. If yes, provide the estimated annual merger costs that Water Service will bear for each year through 2010.

21. a. State whether Hydro Star's acquisition of Nuon Inc. will result in any change of control payments to any individual or employee of American Water Works or Water Service.

b. If yes, list each employee entitled to a payment and the total amount of his or her payments.

22. Provide all letters, analyses, notes, memoranda, studies, and related documents that Nuon Inc., Utilities, or Water Service prepared that discuss the price to be paid by Hydro Star for Nuon Inc. stock.

23. Provide all letters, analyses, notes, memoranda, studies, and related documents that Highstar or Hydro Star prepared or commissioned to be prepared and that discuss the price to be paid for the Nuon stock.

24. a. Describe the internal standards and policies of Highstar and Hydro Star (including their subsidiaries and affiliates) regarding service reliability and quality of its water utility operations.

b. Provide all written standards or policies related to service quality and reliability of water utility operations.

25. a. Describe the internal standards and policies of Nuon Inc., Utilities, and Water Service regarding service reliability and quality of its water utility operations.

b. Provide all written standards or policies related to service quality and reliability of water utility operations.

26. a. State whether the Applicants are willing to establish minimum service quality standards to assure the same level of reliability and service quality currently provided to Water Service's customers. Explain.

b. If no, what assurances will Highstar, Hydro Star, Utilities, and Water Service provide to ensure that Water Service's water operations will be adequately funded and maintained?

27. Provide a list and detailed description of each product or service that the merged Hydro Star/Nuon Inc. can offer that Nuon Inc. is currently unable to provide.

28. For each jurisdiction in which Highstar, Hydro Star, Nuon Inc., or Utilities operates, describe the utility regulatory commission's policy regarding the recovery of

plant acquisition adjustment. Refer in the response to any relevant statute, administrative regulation, or agency order that expressly addresses this issue.

29. Provide a detailed narrative chronology of the history of the Hydro Star/Nuon Inc. merger beginning when Hydro Star's management first recommended to Hydro Star's shareholders that the merger or acquisition of Nuon Inc. be pursued.

30. Provide all press releases, Web site postings, and other forms of public information disseminated by Highstar, Hydro Star, Nuon, Nuon Inc., Utilities, or Water Service regarding the proposed merger since the execution of the Stock Purchase Agreement.

31. Provide all materials and documents regarding the stock purchase that Highstar, Hydro Star, Nuon, Nuon Inc., Utilities, or Water Service have submitted to:

- a. Investment firms.
- b. Credit rating agencies.
- c. Shareholders.
- d. Employees of Utilities or Water Service.

32. Identify all utility mergers and acquisitions in which Highstar or Hydro Star have been involved since 1995. For each merger or acquisition, provide the Highstar/Hydro Star's capital structure for the 3 years before and every year since the merger or acquisition.

33. Provide all studies or analyses that Highstar, Hydro Star, Nuon, Nuon Inc., or Utilities have performed or commissioned that identify any realizable synergies that will occur between 2005 and 2010 as a result of the proposed stock purchase.

34. For each regulated water utility that Highstar or Hydro Star owns or operates, provide in table format an analysis of the number and type of consumer complaints during the period from 2000 to 2004 and how such complaints were resolved.

35. a. Provide all established operational excellence objectives or best practices that Highstar and Hydro Star employ.

b. Explain how these objectives or best practices were developed.

c. Provide a comparison of these objectives or best practices with those employed by Utilities and Water Service.

36. Provide for each of Highstar's and Hydro Star's regulated utilities the report of its most recent management audit and all updates or status reports regarding the audit's findings.

37. Provide all standards or codes of conduct that Highstar and Hydro Star or its affiliates use to govern their affiliate and non-affiliate transactions.

38. For each jurisdiction in which Highstar and Hydro Star has regulated operations, list and briefly explain each complaint filed against Highstar or a Highstar affiliate in which an established code or standard of conduct is alleged.

39. Provide all standards or codes of conduct that Highstar, Hydro Star or affiliates use to govern their affiliate and non-affiliate transactions.

40. Appendix A to this data request contains a list reflecting issues that have been addressed in previous Commission decisions in merger cases. The issues have been modified to be applicable to this application. For each issue, state AIG, AIG

Global, Highstar, Hydro Star, Utilities, and Water Service commitments concerning the issue. If any party objects to making a commitment on the issue, explain in detail why.



Beth O'Donnell  
Executive Director  
Public Service Commission  
P. O. Box 615  
Frankfort, Kentucky 40602

Dated: August 26, 2005

cc: Parties of Record

APPENDIX A  
Merger Commitment Issues

1. The location of Utilities' and Water Service's books and records.
2. In future rate cases Water Service shall not seek a higher rate of return on equity than would have been sought if the merger had not occurred.
3. The accounting and rate-making treatments of Water Service excess deferred income taxes will not be affected by the merger.
4. Early termination costs incurred for any senior management of Nuon or Utilities will not be allocated to Water Service.
5. Highstar, Hydro Star, and Utilities commit to take an active and ongoing role in managing and operating Water Service in the interests of customers, employees, and the Commonwealth of Kentucky, and to take the lead in enhancing Water Service's relationship with the Commission, with state and local governments, and with other community interests, including, but not limited to, meetings between Hydro Star's chief executive and the Commission at least twice a year.
6. Advising the Commission at least annually on the adoption and implementation of best practices at Water Service following the completion of the merger between Hydro Star and Nuon.
7. Concerning safety violations by employees of independent contractors, Water Service shall be responsible for the acts of the employees of the independent contractors to the same extent that Water Service is responsible for the acts of its own employees.
8. Commitment by Highstar or Hydro Star to notify the Commission subsequent to its board approval and as soon as practicable following any public

announcement of any acquisition of a regulated or non-regulated business representing 5 percent or more of Highstar's or Hydro Star's market capitalization.

9. Commitment that the customers of Water Service will experience no change in utility service due to the stock purchase.

10. Commitment to (a) adequately fund and maintain Water Service's transmission and distribution system; (b) comply with all Commission regulations and statutes; and (c) supply Water Service customers' service needs.

11. When implementing best practices, Highstar, Hydro Star, Utilities, and Water Service commit to taking into full consideration the related impacts on the levels of customer service and customer satisfaction, including any negative impacts resulting from workforce reductions.

12. Highstar, Hydro Star, Utilities, and Water Service commit to minimize, to the extent possible, any negative impacts on levels of customer service and customer satisfaction resulting from workforce reductions.

13. Highstar, Hydro Star, Utilities, and Water Service commit that within 60 days of the closing of any utility merger or acquisition in the United States that is exempted under KRS 278.020(5) and 278.020(6), the Applicants will file with the Commission a petition setting forth a formal analysis of any potential synergies and benefits from the merger or acquisition and a proposed methodology for allotting an appropriate share of the potential synergies and benefits to Water Service's ratepayers.

14. Highstar, Hydro Star, Utilities, and Water Service commit that Utilities will hold 100 percent of the common stock of Water Service and that Utilities will not

transfer any of that stock without prior Commission approval, even if the transfer is pursuant to a corporate reorganization as defined in KRS 278.020(7)(b).