

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

Joint Application of Corix Utilities (Illinois)            )  
LLC; Hydro Star, LLC; Utilities, Inc.;                    )  
and Water Service Corporation of Kentucky            )  
for the Transfer and Acquisition                            )  
of Control Pursuant to KRS 278.020                      )  
Case No. 2012-00133

**APPLICANTS' RESPONSE TO  
SUPPLEMENTAL INFORMATION REQUEST OF THE ATTORNEY GENERAL**

Corix Utilities (Illinois) LLC ("Corix Utilities"); Hydro Star, LLC ("Hydro Star"); Utilities, Inc. ("UP"); and its Kentucky utility subsidiary, Water Service Corporation of Kentucky ("WSCK") (collectively "Applicants") respectfully submit the following responses to the Attorney General's supplemental information request.

Respectfully submitted,



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M. TODD OSTERLOH  
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ATTORNEY FOR APPLICANTS

**VERIFICATION**

The undersigned, Steven M. Lubertozi, being duly sworn, deposes and says that he is the Executive Director of Regulatory Accounting & Affairs for Utilities, Inc., that he has supervised the preparation of the responses to the Attorney General's Supplemental Request for Information; and that the matters set forth in the foregoing responses to information requests are true and accurate to the best of his knowledge, information and belief, after reasonable inquiry.


  
\_\_\_\_\_  
Steven M. Lubertozi, Affiant

**NOTARY CERTIFICATE**

**STATE OF ILLINOIS**

**COUNTY OF COOK**

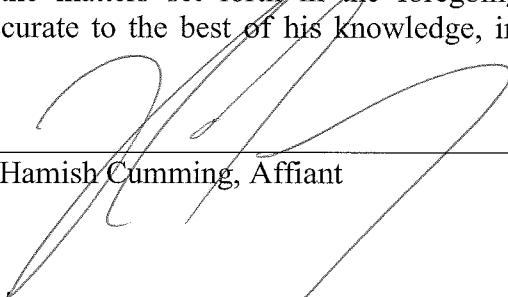
Subscribed, acknowledged and sworn to before me by Steve Lubertozi  
on this 6<sup>th</sup> day of July, 2012.

My commission expires: April 12<sup>th</sup> 2016  
  
\_\_\_\_\_  
NOTARY PUBLIC



**VERIFICATION**

The undersigned, Hamish Cumming, being duly sworn, deposes and says that he is the Executive Vice President of Legal & Risk Management for Corix Utilities (Illinois) Inc., that he supervised the preparation of the responses to the Attorney General's Supplemental Request for Information; and that the matters set forth in the foregoing responses to information requests are true and accurate to the best of his knowledge, information and belief, after reasonable inquiry.

  
\_\_\_\_\_  
Hamish Cumming, Affiant

**NOTARY CERTIFICATE**

**PROVINCE OF BRITISH COLUMBIA**

**CITY OF VANCOUVER**

Subscribed, acknowledged and sworn to before me by Hamish Cumming

on this 9<sup>th</sup> day of July, 2012.

My commission expires: n/a

  
\_\_\_\_\_  
NOTARY PUBLIC

**MELANIE CHEESMAN  
BARRISTER & SOLICITOR  
~~1160 - 1188 West Georgia Street~~  
Vancouver, BC V6E 4A2**

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2 - 1 RE: OAG 1 – 2. Applicants indicate that the legal determination of whether the purchaser has the requisite financial, technical, and managerial ability to own and exercise control over WSCK will be made by the Public Service Commission.

A. Please identify, with specificity including name, job title, and affiliate for purposes of establishing that individual's work station or cost center, each individual who is currently executing the role of managing Water Service Corporation of Kentucky within the meaning of "managerial" per KRS 278.020(5). For any positions that are open or vacant, identify the vacancy by job title along with the corresponding affiliate for purposes of establishing that position's work station or cost center.

B. In demonstrating that the purchaser has the managerial ability to run WSCK, within the meaning of KRS 278.020(5), is it the purchaser's position that it is relying upon the management team identified in sub-part A of this question as its means of meeting this burden WSCK or will the purchaser meet its management requirement in a supplemental or different manner? Please explain. (In simple terms: Is the purchaser conveying that it exercises control over other "similar" public utilities; therefore, it is capable of exercising control over WSCK through the retention of WSCK's current management and practices?)

Responses:

A. In the acquisition of ownership of a holding company that wholly, yet indirectly, owns a utility, the term "managerial" in KRS 278.020(5) could be interpreted as having dual meanings. KRS 278.020(5) requires the Commission to make certain findings as to the abilities of the "person acquiring the utility." In the present case, Corix Utilities (Illinois) LLC is the person acquiring indirect ownership of a utility. To the extent that the term "managerial" in KRS 278.020(5) requires findings that Corix has the managerial abilities in its corporate structure to allow its subsidiary utilities to operate effectively, Applicants rely on the information provided in subparagraphs (a) and (b) of paragraph 28 of the Application. The names and professional biographies of the Corix Group's management personnel are provided in Exhibit 7 of the Application.

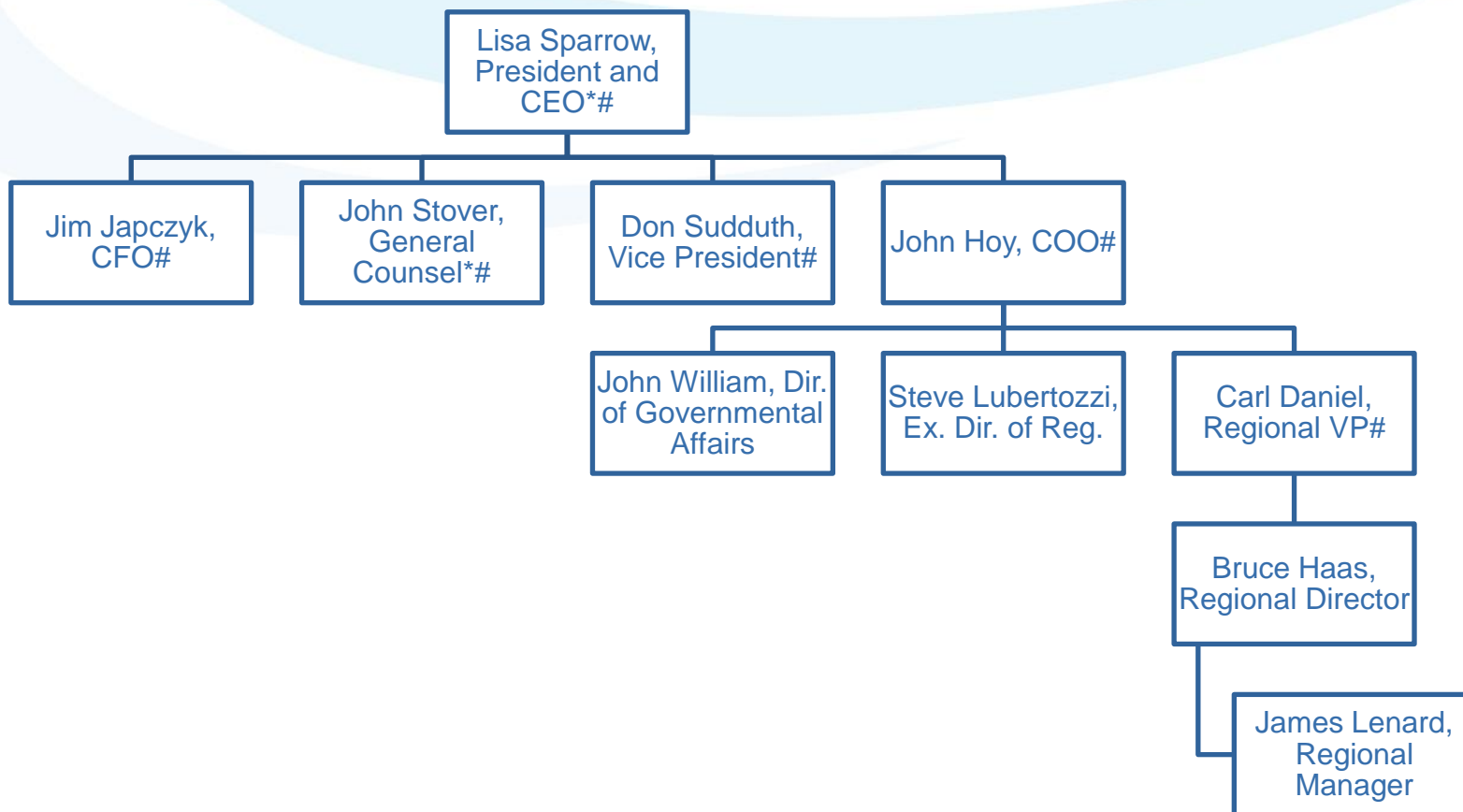
KRS 278.020(5) also provides direction that the focus of the determination on whether a transaction should be approved is whether the acquiring entity has the necessary abilities "to provide reasonable service." This focus relates to the utility-customer relationship. After the proposed transaction, WSCK will continue to operate the utility. As stated in subparagraph (c) of paragraph 28 of the Application, it is anticipated that there will be no changes to the local management of WSCK as a result of the proposed transaction. Similarly, there are no changes anticipated in WSCK's relationship with UI or in UI staffing. Part of the information requested with respect to WSCK and UI has been provided in Exhibit 6 to the Application. Additional information sought by this request is attached hereto.

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B. See response to Item 2-1(a) above. Corix relies on the information referenced and provided in that response. Corix acknowledges that part of the reason that it has the managerial abilities to ensure WSCK continues to provide reasonable service after the proposed transaction is because the Corix Group has exercised control over other utilities and has experience in the industry. Corix also acknowledges that retention of WSCK's management and practices supports a finding that Corix has the managerial abilities to provide reasonable service because WSCK is currently providing reasonable service.

Witnesses – Steve Lubertozzi  
Hamish Cumming

# Current Management Team of WSCK



\* Director of WSCK

# Officer of WSCK



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2 - 2 RE: OAG 1 – 4. Following an approval of the transaction:

- A. Will WSCK file its own federal income tax return or will WSCK be part of a consolidated tax return?
- B. If WSCK files its own federal income tax return, then would this act prohibit the Member (as identified in Article 9 of the LLC Agreement of Corix Utilities (Illinois) LLC) from making the election on IRS Form 8832?
- C. If WSCK does not file its own federal income tax return, then please identify the entity that will be filing the return that will include WSCK.
- D. Does the ability to file a consolidated tax return provide a financial benefit to the (i) Purchaser or (ii) a holding or holdings of the Purchaser (other than WSCK)?
- E. Does WSCK's participation in a consolidated tax return provide any financial benefit to WSCK? If yes, then please identify and explain the benefit(s).

Responses:

- A. WSCK will be a part of a consolidated tax return.
- B. Not applicable.
- C. Corix Infrastructure (US) Inc.
- D. Objection. The information requested is not relevant to the present proceeding.
- E. Objection. The information requested is not relevant to the present proceeding.

Objection – Legal

Witnesses – Steve Lubertozi  
Hamish Cumming

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2 – 3 RE: OAG 1 – 27. Is it anticipated that Corix may seek, through WSCK, in conjunction with WSCK, or through a Corix holding or affiliate, to provide water, wastewater, and energy infrastructure solutions in Kentucky other than the regulated water operations of WSCK and the wastewater contract services with the City of Clinton, Kentucky? If yes, then please provide a summary of the goals or objectives. If no, then please explain why not.

Response: At this time, Corix has no specific goals or objectives related to providing utility services in Kentucky other than those currently provided by WSCK. The expansion of operations may be considered at a later time depending on the nature of opportunities and industry conditions.

Witnesses – Steve Lubertozi  
Hamish Cumming



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- 2 – 4 RE: OAG 1 – 39.
- 2 – 5 RE: Hart-Scott-Rodino.
- 2 – 6 RE: Hart-Scott-Rodino.

Responses to these Items are being filed with the Commission in conjunction with a petition for confidentiality.

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2 – 7 Other than referencing the purchaser's financial condition, can the applicants further demonstrate that the purchaser will, in fact, make adequate investments in WSCK following an approval of the transaction? (Is it the case that the seller cannot warrant that the purchaser will make adequate investments in WSCK?)

Response: As an owner of a regulated utility, Corix has an obligation to ensure utility infrastructure is maintained and refurbished to ensure safe and reliable service. Corix is further incented to make prudent investments in utility infrastructure where those investments are able to earn a fair rate of return for the shareholders of the utility.

Witnesses – Steve Lubertozzi  
Hamish Cumming

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2 – 8 RE: PSC 1 – 43. Please explain the role of the board of directors of Water Service Corporation of Kentucky with regard to contracts or agreements with affiliates or related-parties.

Response: The only contract that WSCK has with any affiliate or related party is the Allocation Agreement between WSCK and Water Service Corporation dated December 19, 2007, regarding the provision of certain shared services by Water Service Corporation to WSCK. The approval of the WSCK Board of Directors was not sought or required for that agreement.

Witnesses – Steve Lubertozi

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2 – 9 Will the purchaser commit to structuring a board of directors for Water Service Corporation of Kentucky in which at least one director serving on the board is not an officer, director, employee of the purchaser or a holding or affiliate of the purchaser and who also resides within a service territory of Water Service Corporation of Kentucky? If not, then why not?

Response: No. WSCCK has continued to provide safe and reliable service at reasonable rates under the current corporate structure. No changes are necessary.

Witnesses – Steve Lubertozzi  
Hamish Cumming

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2 – 10 Reference: WSCK's Response to AG 1-3. Please identify:

A. Each instance in the Application and/or supporting documentation through which WSCK and the other Applicants detail how the transaction is consistent with the public interest as that phrase has been interpreted by Orders of the Kentucky Public Service Commission such as the 20 December 2002 Order of the Public Service Commission in Case No. 2002-00317. Please provide specific references to each benefit of the transaction.

B. In addition to the immediately preceding request (in OAG 2 – 10 (A)), please indicate and, if applicable, identify each immediate or readily quantifiable benefit(s). If there are no immediate or readily quantifiable benefit(s), then affirmatively indicate this fact.

Responses:

A. Objection. The request requiring the Applicants to identify every instance through which the Applicants have detailed how this transaction meets a certain criterion is overly broad and unduly burdensome. Without waiving this objection, Applicants rely, in part, on the following facts that support a finding that this transaction is consistent with the public interest.

- Highstar is divesting its Hydro Star investment because it has determined to exit this investment in the water utility space at this time. *See Applicant's Response to Item 1 of the Attorney General's Information Request.*
- No rate or tariff changes are being requested and none are anticipated as a consequence of the Proposed Transaction. *See Application ¶ 20.*
- The management and operational staff of WSCK are anticipated to remain unchanged following the proposed transaction. *See Application ¶ 20.*
- Corix Utilities, as part of the Corix Group, is well financed with stable long term funding and solid access to debt financing, capital markets, and geographic diversity. Ensuring ready access to capital funds to support growth and the continued maintenance of critical infrastructure is vitally important and increasingly so in today's turbulent financial markets. *See Application ¶ 26(a).*
- The Corix Group's senior management team averages in excess of 20 years of utility experience and has a successful track record of utility operations. *See Application ¶ 28(a).*
- Corix Utilities and its affiliates are experienced utility owners and operators. Corix Utilities is fit, willing, and able to finance, own, and operate WSCK. *See Application ¶ 32(a).*
- Because the Proposed Transaction will occur at the holding company level, WSCK's customers will experience a seamless transition in the ownership of Hydro Star and will not experience any adverse impact on any services provided by WSCK. *See Application ¶ 32(b).*
- The members of the Corix Group believe in maintaining a strong local community presence and being a long-term, committed partner in the communities where they operate. Corix Utilities plans to maintain its local presence in the communities in which UI and WSCK currently have operations. *See Application ¶ 32(c).*
- WSCK's corporate existence will not be altered as a result of the Proposed Transaction, it will continue to be subject to the jurisdiction of the Commission under

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- KRS Chapter 278, and, therefore, the Commission will retain the same ratemaking and regulatory authority over WSCK under Kentucky law that it presently has. *See* Application ¶¶ 19, 32(d).
- Corix Utilities is not seeking to recover from customers of WSCK any transaction costs or acquisition premiums relating to the Proposed Transaction, and no rate or tariff changes are being requested or are anticipated as a result of the Proposed Transaction. *See* Application ¶¶ 22, 23, 32(e).
  - After the Proposed Transaction is consummated, WSCK will continue to be managed by, and benefit from, the professionals available at both WSCK and UI, who will be augmented by the additional professional expertise available through their association with the Corix Group. *See* Application ¶ 32(f).
  - After the Proposed Transaction is consummated, UI will continue to provide WSCK with access to capital. *See* Application ¶ 32(g).
  - As part of the Corix Group, WSCK and UI will have access to a wide spectrum of technical and industry expertise in all facets of sustainable water, wastewater, and energy systems, including innovative technologies, operating tools, and regulatory resources required to develop sustainable multi-utility services. *See* Application ¶ 32(h).
  - To the extent that there may be future acquisitions that result in operational cost savings in the provision of utility services, based on a cost-of-service model, benefits would be expected to accrue to all utility customers impacted by those operational cost savings. Where such operational changes have an impact on WSCK, the customers of WSCK would benefit. *See* Applicant's Response to Item 4 of Commission Staff's Second Request for Information.
  - *See generally* Applicant's Response to Item 3 of Commission Staff's First Set of Information Requests.

B. Objection. The request for information is overly broad and unduly burdensome. Without waiving this objection, Applicants state the following: Although few benefits are readily quantifiable, several benefits will be immediate. Most notably, the transaction will enable Highstar to remove itself from the water industry, in which it is currently no longer interested. *See* Case No. 2006-00197, *Kentucky-American Water Company* at 18 (Ky. PSC Apr. 16, 2007). In addition, retention of WSCK and UI staff is one of many immediate benefits identified above and will allow WSCK's customers to enjoy a seamless transition.

Objections – Legal  
Witnesses – Steve Lubertozzi  
Hamish Cumming

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2 – 11 Reference: WSCK’s Response to AG 1 – 7, p. 3 of the attached Allocation Agreement. The Allocation Agreement states that the costs of services provided “shall not include a markup for profit.” Please explain:

A. Please indicate whether the directors of Water Service Corporation of Kentucky monitor the costs of services provided under each affiliate agreement or related-party agreement (whether by name of allocation agreement, contract, or otherwise) in order to determine if (i) the costs are reasonable and (ii) that the allocation process is in the best interest of Water Service Corporation of Kentucky.

B. Please indicate whether, as part of its exercise of the managerial, financial, and technical duties and responsibilities to provide adequate, reasonable service, (i) the Purchaser anticipates that Water Service Corporation of Kentucky will enter into additional contracts or agreements with the Purchaser’s existing holdings or affiliates and/or (ii) the Purchaser anticipates that one or more of Water Service Corporation of Kentucky’s current corporate parents or affiliates will enter into additional contracts or agreements with Purchaser’s existing holding or affiliates. (For example, the service company currently supplies engineering services. Will a current holding or affiliate of the Purchaser, either directly or indirectly, have an option or obligation to provide WSCK with engineering services?)

Responses:

A. Objection. This information request is not relevant to the proceeding presently before the Commission. Allocations of costs have been reviewed in previous rate adjustment cases, and the Commission will continue to have the ability to review the prudent allocation of costs in the context of future rate adjustment applications.

B. At this time, Corix does not have any plans to enter into any agreements between WSCK and/or its affiliates and other Corix affiliates. Any such agreements that are executed in the future will be subject to review by the appropriate regulatory authorities within the context of their authorized jurisdictional review.

Objection – Legal  
Witnesses – Steve Lubertozzi  
Hamish Cumming

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2 – 12 Reference: Response to PSC 1 – 41. Please provide the following documents referenced in and otherwise supporting the response to this request. (i) the company scorecard that Corix utilizes, (ii) the Corix company Code of Conduct, (iii) the Key Performance Indicators analysis/report for Utilities, Inc., and (iv) the Key Performance Indicators analysis/report for WSCK.

Response:

The Corix Group Scorecards are an integral part of Corix's compensation program to ensure proper balance, focus, alignment and accountability, as well as ongoing improvement, at all levels of the organization on the perspectives of:

- Financial
- Customer
- Health & Safety
- Environmental compliance and stewardship
- Business process improvement
- Growth

The Scorecards are approved annually by the Human Resources Committee of the Board of Directors. Copies of the Corix Group's Scorecard and Business Code of Conduct is being contemporaneously filed with a petition for confidentiality.

The 2012 Key Performance Indicators Report for UI is attached hereto. There is no Key Performance Indicators Report for WSCK.

Witnesses – Steve Lubertozi  
Hamish Cumming





## 2012 Corporate KPI Report

Perspectives	Mission	Objectives	Measure
Shareholder	Fair Return	Meet Core EBITDA Plan	Dollars (\$MM)
		Meet Budget $\Delta$ in UI Cash Flow Plan	Net $\Delta$ in UI Cash Flow vs. Budget (\$MM)
		Increase ROE	ROE % (TTM)
		Meet Rate Case Plan	% of Filed Rate Cases in Accordance to Plan
Customer	Safe, Reliable, Cost Effective Service	Timely and Accurate Billing	% Billed On-Time
			% of Accurate Bills
		Field Activities Completed On Time	% Completed by Due Date
		Proper & Timely Resolution of Customer Issues	# of Unreported & Unresolved Significant Issues
Employee	Safe, Challenging, Enjoyable Work Environment	Reduce Work Related Injury Rate	# of OSHA Lost-Time Injuries / 100 Employees
		Complete Facility Inspections	% of Inspections with all Deficiencies Corrected
		Employee Survey Participation	% of Employee Participation
Community	Act with Integrity, Protect the Environment and Enhance the Community	Maintain & Improve Compliance	% of System Days in Compliance
			% of Systems in Compliance or on Compliance Plan
		Community Participation	% of Employee Participation