

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.; ) Case No. 2012-00133  
and Water Service Corporation of Kentucky )  
for the Transfer and Acquisition )  
of Control Pursuant to KRS 278.020 )

**JOINT MOTION TO SUBMIT CASE  
FOR CONSIDERATION WITHOUT HEARING**

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”) and the Attorney General of the Commonwealth of Kentucky (“AG”), the only intervenor to this case, jointly and respectfully request that this matter be submitted to the Commission for a final decision on the record and without an evidentiary hearing. In support of this motion, the Applicants and AG (collectively “Parties”) state the following:

1. It is the Applicants’ position that the materials previously filed in the record of this case are sufficient to support Commission approval of the proposed transfer, pursuant to the requirements of KRS 278.020(5) and (6).
2. The Applicants have previously stated to the Commission that they would present witnesses at an evidentiary hearing for the purposes of cross examination by the Attorney General, Commission Staff, and the Commissioners. *See* Applicants’ Witness List (filed July 19, 2012). If a hearing is held, the Applicants do not anticipate producing additional direct testimony that is not otherwise in the record of this case.

3. At the request of the AG, the Applicants shall agree to the following proposed conditions for the approval of the transfer:
- a. The Applicants agree to provide a written representation to the Commission that Corix Utilities has no current intention to transfer control of WSCK following the consummation of the transaction that is the subject of the present application and acknowledges that further Commission approval would be required for any such future transfer of control.
  - b. Corix Utilities, UI, and WSCK will adequately fund and maintain WSCK's treatment, transmission and distribution systems, as previously indicated in the Joint Applicants' Response to the Second Information Request of the Commission Staff, Proposed Condition No. 12. The Joint Applicants further agree by and through WSCK for the seventy-two (72) month period following the close of the proposed transaction to provide a written report to the Commission if WSCK is found in violation of (1) a Treatment Technique requirement or (2) a Maximum Contaminant Level (as each of those phrases are used in the National Primary Drinking Water Regulations).
  - c. The Applicants commit to ensuring that WSCK has a meaningful process to monitor all allocations from corporate parents or affiliates to ensure the appropriateness of the allocations.
  - d. The Applicants commit to wait an additional six (6) months from the date of entry of the final order approving the proposed transfer in this pending case (Case No. 2012-00133) before filing any application for an adjustment in the rates of WSCK.

- e. The Applicants agree to dismiss the litigation presently pending in the Franklin Circuit Court for review of the Commission's final order in Case No. 2010-00476 with the following conditions: A dismissal will not represent an abandonment or waiver of WSCK's ability to provide evidence as to the reasonableness of or need for Project Phoenix (or some portion of the project) and to seek the corresponding recovery through rates on a going-forward basis of the costs thereof. This dismissal should reflect that WSCK will not be allowed to recover through rates the depreciation expense for Project Phoenix that has been, to date, excluded. Additionally, WSCK will not seek the recovery of the costs of litigation for Civil Action No. 2011-CI-1770 through rates.
- f. WSCK's books and records will be maintained and housed in Kentucky or shall otherwise be maintained in a manner to be easily accessible to the Commission for inspection at reasonable times on reasonable notice.
- g. WSCK will not seek a higher rate of return on equity than would have been sought if the proposed transfer of control had not occurred.
- h. The proposed transfer of control will not affect the accounting and rate-making treatments of WSCK's excess deferred income taxes.
- i. No early termination costs, change in control payments, or retention bonuses paid to a Hydro Star or UI employee as a result of the proposed transaction will be allocated to WSCK or recovered from WSCK's ratepayers.
- j. Neither WSCK nor its ratepayers, directly or indirectly, will incur any additional costs, liabilities, or obligations in conjunction with Corix Utilities' acquisition of Hydro Star to the extent that this does not include obligations that would not

otherwise be required by the Commission but for the conditions placed on the transfer.

- k. WSCK will not incur any additional indebtedness, issue any additional securities, or pledge any assets to finance any part of the acquisition of Hydro Star.
- l. Any premium that Corix Utilities pays for Hydro Star stock, as well as all transaction-related costs, will not be “pushed down” to WSCK and will not be recovered from WSCK’s ratepayers to the extent that this does not include obligations that would not otherwise be required by the Commission but for the conditions placed on the transfer.
- m. Corix Utilities and UI will take an active and ongoing role in managing and operating WSCK in the interests of customers, employees, and the Commonwealth of Kentucky, and will take the lead in enhancing WSCK’s relationship with the Commission, with state and local governments, and with other community interests, and to advance these goals shall, among other things, arrange for meetings between Corix Utilities’ and UI’s senior management and the Commission and/or its Staff, at least annually.
- n. For at least two years from the date of Corix Utilities’ acquisition of Hydro Star’s stock, Corix Utilities, UI, or WSCK will notify the Commission in writing within ten days of any changes in UI’s or WSCK’s corporate officers and management personnel.
- o. Corix Utilities, UI, or WSCK will advise the Commission following any public announcement of any acquisition by Corix Utilities that will impact the rates of or service provided by WSCK.

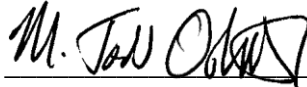
- p. Corix Utilities, UI, and WSCK will comply with all applicable Kentucky statutes and administrative regulations; and supply the service needs of WSCK's customers.
  - q. Corix Utilities, UI, and WSCK will minimize, to the extent possible, any negative impacts on levels of customer service and customer satisfaction resulting from workforce reductions.
4. Having received the commitments identified in paragraph 3 above to be placed as conditions of Commission approval of the proposed transaction, the AG finds the proposed transaction to meet the minimum requirements for Commission approval of the proposed transaction pursuant to KRS 278.020.
  5. The AG has previously indicated to the Commission that he would not present any witnesses at an evidentiary hearing in this matter. *See* Attorney General's Notice Regarding Witnesses (filed July 19, 2012).
  6. The Parties believe that the record for this case is complete and a hearing is unnecessary. Further, the Parties recognize and acknowledge that evidentiary hearings result in costs borne by all parties. It is the Parties' position that, with respect to this case, the costs that would be incurred through the preparation for and participation in an evidentiary hearing outweigh potential benefits, particularly because the only intervenor has no objection to the proposed transaction.<sup>1</sup>

---

<sup>1</sup> To the extent that the Commission will deny the Application if no hearing is held or otherwise finds that an evidentiary hearing is necessary, the Parties acknowledge that an evidentiary hearing should be held and that their joint motion should be denied.

Accordingly, the Parties request that the evidentiary hearing set for August 2, 2012, be cancelled and that this matter be submitted to the Commission for a final decision to be made based on the information provided in the materials filed in the record of this case.<sup>2</sup>

Respectfully submitted,



---

M. TODD OSTERLOH  
STURGILL, TURNER, BARKER & MOLONEY, PLLC  
333 W. Vine Street, Suite 1400  
Lexington, Kentucky 40507  
Telephone No.: (859) 255-8581  
tosterloh@sturgillturner.com

ATTORNEY FOR APPLICANTS

(Attorney General's signature page to follow)

x:\wdox\clients\64592\0001\pleading\00285969.docx

---

<sup>2</sup> The Applicants note that they had notice of the hearing published in newspapers of general circulation in Middlesboro and Clinton, Kentucky, on July 17, 2012. To the extent that the Commission would require publication of a notice indicating that a hearing has been cancelled prior to the hearing, the Applicants must provide the notice to the newspapers on or before July 27, 2012.

JACK CONWAY  
ATTORNEY GENERAL

*David Edward Spenard*

---

David Edward Spenard  
Jennifer Black Hans  
Assistant Attorneys General  
1024 Capital Center Drive, Suite 200  
Frankfort, Kentucky 40601-8204  
T 502-696-5457  
david.spenard@ag.ky.gov  
jennifer.hans@ag.ky.gov  
ATTORNEY FOR ATTORNEY GENERAL