

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

PETITION FOR CONFIDENTIALITY

Corix Utilities (Illinois) LLC (“Corix Utilities”); Hydro Star, LLC (“Hydro Star”); Utilities, Inc. (“UI”); and its Kentucky utility subsidiary, Water Service Corporation of Kentucky (“WSCK”) (collectively “Applicants”), pursuant to 807 KAR 5:001, Section 7, respectfully request the Public Service Commission to grant confidential protection to certain information provided by the Applicants in response to the Attorney General’s supplemental information requests in this proceeding. The information for which confidential protection is sought is (1) information provided in response to requests by the Attorney General that were derived from the Hart-Scott-Rodino (“HSR”) Act filings, (2) Corix Group’s Scorecard, and (3) Corix Infrastructure Inc.’s Code of Conduct.

In support of this request, Applicants state as follows:

Administrative Regulation 807 KAR 5:001, Section 7(2) sets forth a procedure by which certain information filed with the Commission shall be treated as confidential. Specifically, the party seeking confidential treatment must set “forth specific grounds pursuant to KRS 61.870 et seq., the Kentucky Open Records Act, upon which the commission should classify that material

as confidential.” 807 KAR 5:001, Section 7(2)(a)(1). The Kentucky Open Records Act exempts certain records from the requirement of public inspection. *See* KRS 61.878. In particular, KRS 61.878(1)(k) exempts from disclosure “all public records or information the disclosure of which is prohibited by federal law or regulation.” Federal law prohibits disclosure of the HSR Act filings. *See* 15 U.S.C. § 18a(h); *see also* 16 C.F.R. § 803.1(b). The Commission has previously ruled that the entire HSR filing should be granted confidential treatment. *See, e.g.*, Case No. 2011-00124, *Duke Energy Corp., et al.*, at 4 (Ky. PSC Dec. 5, 2011). It naturally follows that responses to questions derived from the HSR filing should be afforded similar treatment

In addition to paragraph (k), KRS 61.878(1)(c)(1) exempts from disclosure:

Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records.

This exception “is aimed at protecting records of private entities which, by virtue of involvement in public affairs, must disclose confidential or proprietary records to a public agency, if disclosure of those records would place the private entities at a competitive disadvantage.” Ky. OAG 97-ORD-66 at 10 (Apr. 22, 2008).

The information contained in the Corix Group’s Scorecard and Corix Infrastructure Inc.’s Code of Conduct is confidential and proprietary. The information is not publicly known and has not been disseminated except to those persons with a legitimate business who need to know and act on the information. In addition, if this information is disclosed, it would present an unfair commercial advantage to Corix’s competitors because it would allow competitors to glean information as to the inner workings of the company. This type of information is generally not available in the market, and competitors do not freely disclose this information to each other. Disclosure of this information could potentially increase costs of doing business. As such, this

document should be granted confidential treatment. *See* Case No. 2005-00433, *Nuon Global Solution USA, BV*, at 6 (Ky. PSC Apr. 3, 2006); *see also* Ky. OAG 09-ORD-031 at 9 (Feb. 16, 2009).

In accordance with the provisions of the Commission's Order dated April 16, 2012, the Applicants shall file an original in paper medium and one copy of the petition. Because the Applicants seek blanket protection for all information contained in these documents, no redacted documents are being attached hereto. The Applicants will also file one copy of each of the documents, under seal, in unredacted format and a CD-ROM containing an electronic version of the same. The Applicants will make these documents available to the Attorney General pursuant to the Confidentiality Agreement.

WHEREFORE, the Applicants respectfully request that the Commission grant confidential protection for (1) information provided in response to requests by the Attorney General that were derived from the Hart-Scott-Rodino ("HSR") Act filings, (2) Corix Group's Scorecard, and (3) Corix Infrastructure Inc.'s Code of Conduct, or in the alternative, schedule an evidentiary hearing on all factual issues while maintaining the confidentiality of the information pending the outcome of the hearing.

Respectfully submitted,




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CERTIFICATE OF SERVICE

This is to certify that the electronic version of the filing is a true and accurate copy of each document filed in paper medium and the electronic version of the filing has been transmitted to the Commission. Upon electronic filing, the Commission and other parties are notified that the electronic version has been transmitted to the Commission. No parties have been excused from participation by electronic means.



ATTORNEY FOR APPLICANTS

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