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STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
S. CURTIS KISER
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 21, 2012

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COMMISSION
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James A. Laria, President
Legends Country Club Community Association
1690 Legendary Boulevard
Clermont, FL 34711

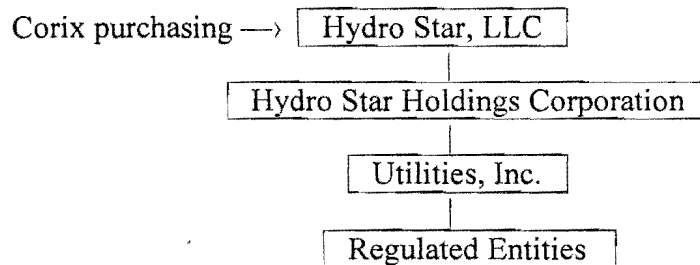
Re: Docket No. 120084-WS - Application of Utilities, Inc. for authority to transfer majority organizational control of Hydro Star, LLC to Corix Utilities (Illinois), LLC.

Dear Mr. Laria:

On May 14, 2012, the Florida Public Service Commission received your letter advising that you object to the transfer of majority organizational control of Hydro Star, LLC (Hydro Star) to Corix Utilities (Illinois), LLC (Corix). This letter is to request that you clarify whether by your letter dated May 9, 2012, you are requesting a formal hearing and that you be a party in the above-referenced docket. A copy of the letter is enclosed with this letter for your ready reference.

As you know, Utilities, Inc. filed an Application for Authority for Transfer of Majority Organizational Control. Corix has entered into a Purchase and Sale Agreement with Highstar Capital Fund II, L.P., to purchase 100% of the issued and outstanding membership interest in Hydro Star, LLC, which owns Hydro Star Holdings Corp, which owns 100% of the outstanding shares of Utilities, Inc. Utilities, Inc. operates regulated utility entities in the State of Florida.

The following chart shows the relationship of this transaction to the Regulated Utility Entities in Florida:



The Application for Transfer states that: "It is not anticipated that the acquisition by Corix of the membership interests in Hydro Star will result in any change in management of any of the

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Regulated Entities, and, as a result, the expertise of existing management will remain in place.” Whether this remains true, you are probably aware that Utilities, Inc. is familiar with the process for filing for rate increases.

Also, I note that you express concern about the continued access to and cost of reclaimed water provided by Acme Water. Acme Water is an unregulated affiliate of Utilities, Inc., and the Commission does not have jurisdiction over its provision of nonpotable water. However, as noted above, the application states that there is no expected change in the operation of the Regulated Entities, to include Utilities, Inc. Utilities, Inc. has advised staff that the Water Management District, through issuance of a Consumptive Use Permit (CUP), controls the amount of water that it can withdraw and sell, and that this permit is up for renewal this summer.

The Commission needs to know your intent regarding your objection to this application. If you choose to pursue the objection, you need to clarify that you are a customer of a Utilities, Inc. Regulated Entity or demonstrate that your substantial interests are being affected. Also, you need to state whether you are requesting a formal hearing, and if so, you must demonstrate that there are disputed issues of material fact. To the extent applicable, any request should comply with the applicable portions of Rule 28-106.201, Florida Administrative Code (copy attached). Upon receiving an appropriate request for formal hearing, the Commission will schedule a formal hearing and all parties will be required to identify the appropriate issues, provide Prehearing Statements, prefile written testimony and other evidence and exhibits (if any), participate in discovery including depositions, and attend a Prehearing Conference in Tallahassee in addition to the hearing. Further, after the conclusion of the hearing, all parties will be required to file post-hearing briefs.

The Commission allows individuals to represent themselves in the hearing process, although you may wish to hire an attorney to represent you. However, if you wish to be represented at the hearing, you would need to hire an attorney or qualified representative to represent your interests.

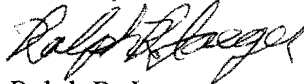
Please advise this Commission by June 20, 2012, if you intend to pursue your objection and wish to request a formal hearing. The request for hearing should be made in writing and should be addressed to Ann Cole, Commission Clerk, Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and reference Docket No. 120084-WS. If we do not receive a response to this letter by June 18, 2012, we will assume that a formal hearing is not being requested and your letter will be placed on the correspondence side of the docket file in this case for informational purposes, where it will be available for review by Commissioners, staff, and interested persons.

If a hearing is not requested, a staff recommendation will be filed in the docket for the Commission’s consideration. A copy of the recommendation will be sent to you, along with a letter advising of when the Commission will rule on the application at one of its regularly scheduled Commission Conferences in Tallahassee. All interested persons will be welcome to participate on this item at the Commission Conference prior to the Commission’s vote.

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If you have any questions, please feel free to contact me at (850) 413-6234.

Sincerely,



Ralph R. Jaeger
Senior Attorney

RRJ:th

Enclosures (2)

cc: Office of Commission Clerk
Division of Economic Regulation (All assigned staff)
Martin Friedman, Esq.
Utilities, Inc. (Patrick Flynn)



12 MAY 14 2012

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12 MAY 14 AM 10:25
COMMISSION
CLERK

May 9, 2012

120084-WS

Commission Clerk
Florida Public Services Commission
2540 Shumard Oaks Boulevard
Tallahassee, FL 32399-0850

FPSC, CLERK CORRESPONDENCE
<input type="checkbox"/> Administrative <input type="checkbox"/> Parties <input checked="" type="checkbox"/> Consumer
DOCUMENT NO. 02725-12
DISTRIB. NO.

RE: Application for Transfer of Majority Organizational Control of Utilities, Inc.

Dear Commissioners,

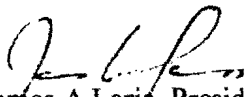
In a letter to all Legends Residents dated April 23rd, 2012 and received in our mail boxes April 26th, 2012, we were notified of the above referenced application for transfer of control.

On behalf of the 843 residences of Legends in Lake County, we respectfully object to said application. Our objection is based upon numerous unanswered questions concerning the intent of the new company's subordinates.

Our reclaimed water is provided by Acme Water who severely cut back the Conditional Use Permit and recently increased their prices. To our knowledge, the Conditional Use Permit issued to Acme expires in August 2012. Acme is not addressed, nor is the August permit expiration.

Hopefully you can empathize with our reluctance without assurances that we will not have further cuts in our supply or increases in our rates. We therefore oppose this transfer.

Respectfully submitted,


 James A Laria, President
 Legends Country Club Community association

28-106.106 Who May Appear; Criteria for Qualified Representatives.

(1) Any party who appears in any agency proceeding has the right, at his or her own expense, to be represented by counsel or by a qualified representative. Counsel means a member of The Florida Bar or a law student certified pursuant to Chapter 11 of the Rules Regulating The Florida Bar. An attorney disbarred in any state shall not be authorized to serve as a qualified representative.

(2)(a) A party seeking representation by a qualified representative shall file a written request with the presiding officer as soon as practicable. The request shall identify the name, address and telephone number of the representative and shall state that the party is aware of the services which the representative can provide, and is aware that the party can be represented by counsel at the party's own expense and has chosen otherwise.

(b) The presiding officer shall consider whether the representative is qualified to appear in the administrative proceeding and capable of representing the rights and interests of the party. The presiding officer may consider a representative's sworn affidavit setting forth the representative's qualifications.

(c) The presiding officer shall determine the qualifications of the representative within a reasonable time after the request required by paragraph (a) is filed.

(3) The presiding officer shall authorize the representative to appear if the presiding officer is satisfied that the representative has the necessary qualifications to responsibly represent the party's interests in a manner which will not impair the fairness of the proceeding or the correctness of the action to be taken.

(4) The presiding officer shall make a determination of the qualifications of the representative in light of the nature of the proceedings and the applicable law. The presiding officer shall consider:

(a) The representative's knowledge of jurisdiction;

(b) The representative's knowledge of the Florida Rules of Civil Procedure relating to discovery in an administrative proceeding;

(c) The representative's knowledge regarding the rules of evidence, including the concept of hearsay in an administrative proceeding;

(d) The representative's knowledge regarding the factual and legal issues involved in the proceedings; and

(e) The representative's knowledge of and compliance with the Standards of Conduct for Qualified Representatives, Rule 28-106.107, F.A.C.

(5) If the presiding officer determines a representative is not qualified, the reasons for the decision shall be in writing and included in the record.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS. History—New 4-1-97, Amended 1-15-07.

28-106.107 Standards of Conduct for Qualified Representatives.

The following standards of conduct are mandatory for all qualified representatives.

(1) A representative shall exercise due diligence to ensure that any motion or pleading is filed and argued in good faith.

(2) A representative shall advise the client to obey the law.

(3) A representative shall not:

(a) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

(b) Engage in conduct that is prejudicial to the administration of justice;

(c) Handle a matter which the representative knows or should know that he or she is not competent to handle;

(d) Handle a legal or factual matter without adequate preparation;

(e) Communicate, or cause another to communicate, as to the merits of the proceeding with the presiding officer except on the record or in writing with a copy promptly delivered to the opposing party; or

(f) Communicate with an adverse party regarding matters at issue in the administrative proceeding where the representative knows that the adverse party is represented by an attorney or other qualified representative.

(4) Failure to comply with these provisions shall authorize the presiding officer to disqualify the representative appearing in the administrative proceeding.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS. History—New 4-1-97.

28-106.108 Consolidation.

If there are separate matters which involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS. History—New 4-1-97.

28-106.109 Notice to Interested Parties.

If it appears that the determination of the rights of parties in a proceeding will necessarily involve a determination of the substantial interests of persons who are not parties, the presiding officer may enter an order requiring that the absent person be notified of the proceeding and be given an opportunity to be joined as a party of record.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS. History—New 4-1-97.

28-106.110 Service of Papers.

Unless the presiding officer otherwise orders, every pleading and every other paper filed in a proceeding, except applications for witness subpoenas, shall be served on each party or on each party's counsel or representative at the last address of record.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS. History—New 4-1-97.

28-106.111 Point of Entry into Proceedings and Mediation.

(1) The notice of agency decision shall contain the information required by Section 120.569(1), F.S. The notice shall also advise whether mediation under Section 120.573, F.S., is available, and if available, that pursuit of mediation will not adversely affect the right to administrative proceedings in the event mediation does not result in a settlement.

(2) Unless otherwise provided by law, persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within twenty-one (21) days of receipt of written notice of the decision.

(3) An agency may, for good cause shown, grant a request for an extension of time for filing an initial pleading. Requests for extension of time must be filed with the agency prior to the applicable deadline. Such requests for extensions of time shall contain a certificate that the moving party has consulted with all other parties, if any, concerning the extension and that the agency and any other parties agree to or oppose the extension. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

(4) Any person who receives written notice of an agency decision and who fails to file a written request for a hearing within twenty-one (21) days waives the right to request a hearing on such matters. This provision does not eliminate the availability of equitable tolling as a defense.

(5) The agency may publish, and any person who has timely requested mediation may, at the person's own expense, cause the agency to publish, a notice of the existence of the mediation proceeding in the Florida Administrative Weekly or in a newspaper of general circulation in the affected area. The mediation notice can be included in the notice of intended agency action.

(a) The notice of the mediation proceeding shall include:

1. A statement that the mediation could result in a settlement adopted by final agency action;

2. A statement that the final action arising from mediation may be different from the intended action set forth in the notice which resulted in a timely request for mediation;

3. A statement that any person whose substantial interests may be affected by the outcome of the mediation shall within twenty-one (21) days of the notice of mediation proceeding file a request with the agency to participate in the mediation; and

4. An explanation of the procedures for filing such a request.

(b) The notice shall also advise that in the absence of a timely request to participate in the mediation, any person whose substantial interests are or may be affected by the result of the mediation waives any right to participate in the mediation.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57, 120.573 FS. History—New 4-1-97, Amended 3-18-98, 1-15-07.

PART II HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on eight and one half inch by eleven inch (8 1/2" x 11") white paper. Unless printed, the impression shall be on one (1) side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Specific Authority 120.54(3), (5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History—New 4-1-97, Amended 9-17-98, 1-15-07.

28-106.2015 Agency Enforcement and Disciplinary Actions.

(1) Prior to entry of a final order to suspend, revoke, or withdraw a license, to impose administrative fines, or to take other enforcement or disciplinary action against a licensee or person or entity subject to the agency's jurisdiction, the agency shall serve upon the licensee an administrative complaint. For purposes of this rule, an agency pleading or communication that seeks to exercise an agency's enforcement authority and to take any kind of disciplinary action against a licensee or other person shall be deemed an administrative complaint.

(2) An agency issuing an administrative complaint shall be the petitioner, and the licensee against whom the agency seeks to take disciplinary action shall be the respondent.

(3) The agency's administrative complaint shall be considered the petition, and service of the administrative complaint on the respondent shall be deemed the initiation of proceedings.

(4) The agency's administrative complaint shall contain:

(a) The name of the agency, the respondent or respondents against whom disciplinary action is sought and a file number.

(b) The statutory section(s), rule(s) of the Florida Administrative Code, or the agency order alleged to have been violated.

(c) The facts or conduct relied on to establish the violation.

(d) A statement that the respondent has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, F.S., and to be represented by counsel or other qualified representative.

(5) Requests for hearing filed by the respondent in accordance with this rule shall include:

(a) The name, address, and telephone number, and facsimile number (if any) of the respondent.

(b) The name, address, telephone number, facsimile number of the attorney or qualified representative of the respondent (if any) upon whom service of pleadings and other papers shall be made.

(c) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.

(d) A statement of when the respondent received notice of the administrative complaint.

(e) A statement including the file number to the administrative complaint.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57, 120.60 FS. History—New 1-15-07.

28-106.202 Amendment of Petitions or Requests for Hearing.

A petition or request for hearing may be amended prior to the designation of the presiding officer by filing and serving an amended petition or amended request for hearing in the manner prescribed for filing and serving an original petition or request for hearing. Thereafter the petitioner may amend the petition or request for hearing only upon order of the presiding officer.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS. History—New 4-1-97, 1-15-07.

28-106.203 Answer.

A respondent may file an answer to the petition.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS. History—New 4-1-97.

28-106.204 Motions.

(1) All requests for relief shall be by motion. All motions shall be in writing unless made on the record during a hearing, and shall fully state the action requested and the grounds relied upon. The original written motion shall be filed with the presiding officer. When time allows, the other parties may, within seven (7) days of service of a written motion, file a response in opposition. Written motions will normally be disposed of after the response period has expired, based on the motion, together with any supporting or opposing memoranda. The presiding officer shall conduct such proceedings and enter such orders as are deemed necessary to dispose of issues raised by the motion.

(2) Unless otherwise provided by law, motions to dismiss the petition or request for hearing shall be filed no later than twenty (20) days after service.

(3) Motions, other than a motion to dismiss, shall include a statement that the movant has conferred with all other parties of record and shall state as to each party whether the party has any objection to the motion.

(4) In cases in which the Division of Administrative Hearings has final order authority, any party may move for summary final order whenever there is no genuine issue as to any material fact. The motion may be accompanied by supporting affidavits. All other parties may, within seven (7) days of service, file a response in opposition, with or without supporting affidavits. A party moving for summary final order later than twelve (12) days before the final hearing waives any objection to the continuance of the final hearing.

(5) In cases in which the Division of Administrative Hearings has recommended order authority, a party may file a motion to relinquish jurisdiction whenever there is no genuine issue as to material fact.

(6) Motions for extension of time shall be filed prior to the expiration of the deadline sought to be extended and shall state good cause for the request.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS. History—New 4-1-97, Amended 1-15-07.

28-106.205 Intervention.

Persons other than the original parties to a pending proceeding whose substantial interest will be affected by the proceeding and who desire to become parties may petition the presiding officer for leave to intervene. Except for good cause shown, petitions for leave to intervene must be filed at least twenty (20) days before the final hearing unless otherwise provided by law. The petition shall conform to subsection 28-106.201(2), F.A.C., and shall include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to agency rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding. The parties may, within seven (7) days of service of the petition, file a response in opposition. The presiding officer may impose terms and conditions on the intervenor to limit prejudice to other parties.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS. History—New 4-1-97, 1-15-07.

28-106.206 Discovery.

After commencement of a proceeding, parties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.390, Florida Rules of Civil Procedure. The presiding officer may issue appropriate orders to