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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of UTILITIES INC. for authority for transfer of majority organizational control to HYDRO STAR, LLC

COMMISSION DOCKET No. 050499-WS CLERK

OBJECTION TO (DOCKET #050499-WS) APPLICATION OF UTILITIES, INC., FOR AUTHORITY FOR TRANSFER OF MAJORITY ORGANIZATIONAL CONTROL TO HYDRO STAR, LLC AND REQUEST FOR PUBLIC HEARING

COMES NOW, Michael J. Duggar, a customer of Wedgefield Utilities, Inc., a wholly owned subsidiary of Utilities, Inc., and residing at 20305 Majestic Street, Orlando, Florida 32833, and files this objection to the Application of Utilities, Inc., (Docket #050499-WS) for Authority for Transfer of Majority Organizational Control to Hydro Star, LLC and Request for a Public Hearing pursuant to F.S.A. §120. 569 and F.S.A. §120.57, with grounds as follows:

1. Petitioner, Michael J. Duggar, who lives at 20305 Majestic Street, Orlando, Florida 32833 is a customer of Wedgefield Utilities, Inc., a wholly owned subsidiary of Utilities, Inc., as indicated by the Notice of Application for a Transfer of Majority Organizational Control, given on July 26, 2005, pursuant to Section 367. 071 Florida Statutes.
2. As indicated in paragraph (1), the Petitioner received notice of this proposed action via mailing by presorted First-Class Mail. There is no postmark but the notice is dated July 26, 2005.
3. The transfer is important for this homeowner and residents of the Wedgefield community for the following reasons:

- a. Wedgefield residents have recently learned via the Florida Department of Environmental Protection that the water quality of Wedgefield Utilities exceeds the acceptable level of the carcinogen trihalomethanes.
- b. Whereas the maximum contaminant level is 80 parts per billion, in four quarterly tests of Wedgefield Utilities, the results were 113 parts per billion (July 2004), 189 parts per billion (November 2004), 129 parts per billion (February 2005) and 136 parts per billion (June 2005). All tests considerably exceeded the maximum allowable standard.

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- 1 c. The aforementioned results were such an extreme failure that Wedgefield Utilities was found
2 non-compliant after the compilation of but three of the tests. Please note that the November
3 findings were over twice the legal limits set by the E.P.A. as approved for utilities this size by
4 the Florida Legislature.
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8 d. After the first failure in July 2004, Wedgefield Utilities and its parent company, Utilities, Inc.
9 did nothing to remedy the problem.
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12 e. After its second failure in November 2004, where its results were double the legal limit, the
13 Utilities did nothing.
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16 f. After its third finding exceeding the legal limit, and only after it was REQUIRED to by statute
17 did the Utilities BEGIN to deal with the problem. Patrick Flynn, regional director for the
18 Utilities referred at a community meeting August 17th as taking an “aggressive attack” on the
19 problem. Although Mr. Flynn may not have been legally obligated to attack this problem
20 sooner, should not the well-being of the residents prompted action prior?
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24 g. Mr. Flynn referred on more than one occasion to treatment solutions based on “cost-
25 effectiveness” and stated the ozone treatment which Orlando Utilities Commission uses to
26 achieve compliance is much more costly...a/k/a not cost effective, and not worth spending on
27 you folks.
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31 h. The Orlando Sentinel recently published an article which listed Wedgefield as the 9th fastest
32 growing community in Orange County. As a result of the water problems featured on all
33 three local television stations, properties are now becoming more difficult to sell and property
34 values may plummet.
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39 4. The Petitioner objects to the application for the following reasons:

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41 a. On Page 3 under paragraph 5 (d) of the Application, the Buyer states they do not own ANY
42 water or wastewater utilities. Wedgefield does not need new owners with NO
43 EXPERIENCE. On the contrary, this community needs owners who possess the ability to
44 protect the health, safety, and well-being of the citizens it serves.
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48 b. Under paragraph 5 (f), the Application states, “AIG Highstar Capital II, LLP (Highstar II),
49 which comprises the owner of the Buyer, and certain of its affiliates, are seeking to make
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1 SUBSTANTIAL INVESTMENTS (emphasis added) in water and wastewater assets as a
2
3 complement to their existing U.S. energy asset portfolio.” The Petitioner is concerned that
4
5 consistent with previous management, bottom line will dominate over the best interests of the
6
7 health, safety and well-being of the citizens served. The mantra will remain “cost-effective.”

- 8 c. Moving further down paragraph 5 (f) on Page 3, “The acquisition by the Buyer of the shares
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10 of stock in Nuon Global Solutions USA, Inc., will NOT (emphasis added) result in any
11
12 change in management of the Applicant or any of the Regulated Entities, and the
13
14 EXPERTISE of EXISTING MANAGEMENT will REMAIN IN PLACE (emphasis added).”

15 If research serves me correctly, Utilities, Inc., promised in 1996 when it purchased
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17 Wedgefield Utilities that it would bring it up to high standards consistent with its other
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19 utilities. Nine years later and it is failing MISERABLY. The Petitioner is concerned that
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21 continuing the MISERABLE FAILURE in meeting state environmental standards will further
22
23 endanger the health, safety and well-being of the community’s citizens, both young and old.

- 24 d. Lastly on Page 3 in paragraph 5 (f), “By combining the APPLICANT’S MANAGEMENT
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26 APPROACH and REGULATORY and OPERATIONAL EXPERTISE (emphasis added)
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28 with the financial resources and support of the Buyer, the Applicant will continue to have the
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30 ability to provide consistent and uninterrupted service to its customers. The Petitioner
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32 wonders how failing to meet state environmental standards for safe drinking water constitutes
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34 regulatory and operational expertise. The Petitioner believes the “cost-effective” “for-profit”
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36 management approach is not in the best interest of the health, safety, and well-being of the
37
38 community.

- 39 e. Moving to Page 4 of the application, “There are no plans to change either the management
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41 team or the customer services or local area staffs as a result of the proposed transaction.”

42 Ditto the Petitioner’s earlier remarks.

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44 f. “The Regulated Entities..., which has a long history of PROVIDING QUALITY WATER
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46 AND WASTEWATER SERVICES AT JUST AND REASONABLE RATES (emphasis
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48 added).” Petitioner at present has no current data, but Wedgefield Utilities has for years had
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50 the highest rates in the Central Florida area, and some residents here believe the State as a

1 whole. Contaminated water at the highest of prices...with no plans to change the
2 management team...the applicant does not wish to disrupt the yearlong achievement of non-
3 compliance with State standards for safe drinking water.
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6 g. Environmental standards are not changed overnight. The Petitioner has not heard what
7 preemptive measures were taken in preparation for the new lower standards. It is believed that
8 Utilities, Inc. had three (3) years to prepare for the implementation of the law on a utility its
9 size. Rather than take remedial measures to safeguard the health and well-being of its
10 customers, Utilities, Inc. chose to sit on its hands until it was cited with a Notice of Violation.
11 It is this same management team the proposed new owners wish to keep which raises strong
12 concerns and for which the Petitioner objects.
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19 5. The Petitioner believes the most pointed reason for rejecting the application is that the Application does not
20 meet minimum Rule requirements under 25-30.037 *Application for Authority to Transfer*. Each
21 application for transfer of certificate of authorization, facilities, or any portion thereof, to a non-
22 governmental entity shall include the following information:
23
24

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26 (p) *A statement from the buyer that after reasonable investigation, the system being acquired appears to be*
27 *in satisfactory condition and in compliance with ALL applicable standards set by the Department of*
28 *Environmental Protection (DEP) or, if the system is in need of repair or improvement, has any outstanding*
29 *Notice of Violation of ANY standard set by the DEP or any outstanding consent orders with the DEP,*
30 *the buyer shall provide a list of the improvements and repairs needed and the approximate cost to make*
31 *them, a list of the action taken by the utility with regard to the violation, a copy of the Notice of*
32 *Violation(s), a copy of the consent order and a list of the improvements and repairs consented to and the*
33 *approximate cost to make them;*
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40 The Applicant refers to this section on Page 5 in paragraph (h) and alleges to meet this requirement by
41 stating, "the relevant Regulated Entities are working with the DEP to formulate compliance plans." This
42 response is in specific reference to the Notice of Deficiency related to the Wedgefield system. The
43 Petitioner believes this portion of the application is woefully inadequate and fails to meet the minimum
44 standard required in an Application for Authority to Transfer.
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1 The Petitioner requests that the Application for Transfer be rejected due to the lack of experience of the
2 buyer and its failure to provide concrete safeguards to protect the health, safety, and well-being of the
3 citizens it proposes to serve.
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6 The Petitioner would consider acceptance of the Application subject to:
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- 8 a. The Applicant amending its application and fully providing the information requested
9 relating to non-conforming utilities and bringing them into compliance.
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11 b. The Applicant being in full compliance with ALL standards for one full year prior to the
12 transfer.
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15 For purposes of the Wedgefield Utility, the Applicant has failed to meet minimum standards for a full year
16 and a promise to commit to compliance should not suffice.
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19 Respectfully submitted on this
20 24th day of August, 2005, by:

21
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24 Orlando, Florida 32833

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35 Michael J. Duggar
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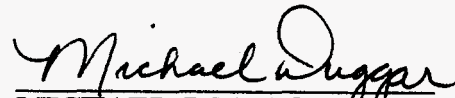
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the *Objection* has been

furnished by Next-Day U.S. Mail and 1st Class United States mail this 24th day of August, 2005
to :

Director, Division of Commission Clerk and Administrative Services, Florida Public Service
Commission, 2540 Shumard Oaks Boulevard, Tallahassee, FL 32399-0850;
Martin S. Friedman, Esquire, *Rose, Sundstrom & Bentley, LLP*, 600 S. North Lake Blvd., Ste.
160, Altamonte Springs, FL 32701;
UTILITIES, INC., c/o Officer, General or Managing Agent, 2335 Sanders Road, Northbrook, IL
60062-6196.


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