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REPLY TO CENTRAL FLORIDA OFFICE

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October 21, 2005

HAND DELIVERY

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COMMISSION
CLERK

Ms. Blanca Bayo
Commission Clerk and Administrative Services Director
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No.: 050499-WS; Application of Utilities, Inc., for Authority for Transfer of Majority Organizational Control to Hydro Star, LLC
Our File No.: 30057.103

Dear Ms. Bayo:

Utilities, Inc. provides the following responses to the objections of Michael R. Chase, a customer of Utilities, Inc. of Pennbrooke, and Michael J. Duggar, Esq., a customer of Wedgefield Utilities, Inc.

Utilities, Inc. of Pennbrooke (UIP)

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- RCA _____
- SCR _____
- SGA _____
- SEC 1
- OTH _____

The substance of Mr. Chase's complaints involves three issues:

Issue No. 1. Is UIP subsidizing The Club at Pennbrooke Fairways Golf Course (*Golf Course*) by providing reuse from its wastewater system?

Issue No. 2. Has UIP complied with PSC Order No. PSC-01-1246-PAA-WS, dated June 4, 2001 (*Order*), requiring UIP's predecessor to implement water conservation measures?

Issue No. 3. What does UIP propose to do about the problems with low water pressure that affects some parts of the community?

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As to Issue No. 1, subsidization has not occurred, nor will it occur, because the cost of purchasing the land for the necessary percolation ponds or spray fields to dispose of effluent is greater than the cost of sending reclaimed water as reuse to the Golf Course. Both the St. Johns River Water Management District (*SJRWMD*) and the Florida Department of Environmental Protection (*FDEP*) have promulgated water use policies that promote the optimum use of groundwater resources. The two agencies used their permitting processes in the case of UIP to require that the UIP wastewater treatment plant be upgraded to produce public access reuse quality effluent in order to minimize the use of groundwater withdrawals for golf course irrigation.

As to Issue No. 2, UIP has implemented a number of measures designed to conserve water:

1. UIP is in compliance with the consumptive use permit (*CUP*) issued by the SJRWMD. A water system audit was conducted in preparation of the CUP renewal. In addition, UIP's field personnel document the amount of unmetered water used for flushing activities, distribution system repairs, etc. on a monthly basis. On an annual basis, UIP checks the accuracy and operation of the flow meters at the water plant to confirm the water pumpage data that is reported to SJRWMD.
2. UIP routinely replaces inaccurate or non-functional residential and commercial water meters on a routine basis. Each month, UIP's billing system generates a variance report to Customer Service regarding zero usage and excess usage history. After reviewing the report, Customer Service representatives issue service orders to field personnel to investigate apparent meter malfunctions. This results in the replacement of meters that are no longer accurate or no longer in working order.
3. Unaccounted-for water is approximately 10% on average. Whenever UIP's personnel are notified of leaks or encounter leaks, repairs are made to the pipe as soon as possible thereafter to minimize water loss.
4. UIP modified the disinfection system at both the water and wastewater plants by changing from chlorine gas to sodium hypochlorite in 2004. As a result, potable water is no longer used to inject chlorine, which has reduced the volume of potable water used by UIP.

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5. After the September 2003 acquisition, UIP identified numerous unmetered irrigation services, installed new meters at these locations, and began billing these new accounts. These water services were used to irrigate common areas throughout portions of the Pennbrooke Fairways community and are assumed to have been installed by the developer. If UIP personnel should encounter additional unmetered services in the future, the services will be capped or meters installed as appropriate.

6. UIP requested permission from the FDEP to conduct a pilot study at the water plant at UIP's expense. This pilot study will identify whether the existing undersized cascade aeration unit can be successfully eliminated from use on a permanent basis. If so, water that is lost as it passes through the existing aerator will be eliminated.

7. Monthly bills are distributed in business envelopes, not as postcards. Each bill contains current monthly consumption data as well as other information. UIP does not make billing adjustments for filling pools or any other authorized metered use. Customers must pay for the water delivered to and through the meter as computed from meter readings.

8. Water conservation material is provided at UIP's cost to each new customer when an account is set up. Additionally, in 2003, UIP invested in the upgrade of the wastewater treatment plant to a reuse facility. Now all of the plant's treated effluent is delivered to the Pennbrooke Golf Course for irrigation use on a daily basis. As a consequence, the golf course superintendent no longer needs to augment the irrigation pond by withdrawing groundwater from the golf course's well. This results in the optimum use of available water resources.

9. UIP does not use any irrigation systems to water the landscaping material at its facilities. If it were necessary to do so on a temporary basis at the wastewater treatment plant, reclaimed water produced by the plant would be utilized during this period.

Please note that the Commission required UIP's predecessor to implement water conservation measures as a consequence of the excessive water use by its customers. Because the Commission also determined in the same Order that the predecessor utility was "overearning", or earning in excess of the revenue requirement established for it by the Commission, the predecessor utility was ordered to use \$25,000 per year to subsidize the cost of these water conservation measures for a period of two years. Utilities, Inc. acquired

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the predecessor's facilities in 2003. UIP is not overearning; therefore the funds to pay for water conservation measures are no longer available. Further, the two-year period to implement such measures has expired.

As to Issue No. 3, low water pressure was identified as a problem in certain parts of the system when UIP took over the system in 2003. UIP located three valves in the distribution system that were closed or not in working condition, and opened or replaced them as needed. System hydraulics improved when the valves were opened or repaired, resulting in fewer customer complaints. At the time of the acquisition, customers were irrigating heavily more than two days per week. In coordination with the Pennbrooke Homeowners Association, UIP modified the irrigation schedule. This resulted in a more evenly distributed water demand throughout the week. In addition, UIP replaced two worn-out well pump assemblies at the water supply wells. This action resulted in a net increase in pumping capacity which made UIP better able to meet peak demand conditions. These repairs occurred in 2005.

Wedgefield Utilities, Inc. (Wedgefield)

Although he provides other grounds for objection, Mr. Duggar's main objection to the application involves the quality of the water produced by Wedgefield. Utilities, Inc. will respond to each ground as set out in Paragraph 4 of Mr. Duggar's objection.

(a) Mr. Duggar asserts that the Buyer, Hydro Star, does not have any experience in the water and wastewater industry. Hydro Star, which is managed by a team of experienced and seasoned businessmen, does not contemplate any changes to the current management team of Utilities, Inc. Utilities, Inc. will continue to manage and operate all of its subsidiaries as it has done historically.

(b) Mr. Duggar is concerned that AIG Highstar and its affiliates' intention to invest in water and wastewater utilities in the United States will result in cost-cutting measures, resulting in a reduction of the quality of service to the customers of its subsidiaries, including Wedgefield. Every business must make decisions as to the most effective use of its capital. Regulated utilities are no exception, and especially so, as they must justify their expenditures to the Commission every time that their rates are reviewed for any reason. Cost-effectiveness does not always result in lowering standards. On the contrary, they can directly improve the quality of service.

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The “profit”, or net revenues, received by regulated utilities is limited by the Commission’s own standards and regularly monitored by the Commission. Regulated utilities may not receive a return which is greater than their “revenue requirement”, the percentage of a utility’s revenues over its expenditures. Wedgefield is earning at or below the revenue requirement established for it by the Commission.

Regulated utilities have an obligation to provide their customers with potable water in accordance with the standards applicable at the time. Mr. Duggar complains about the recent notice of elevated Total Trihalomethanes (*TTHM*) in Wedgefield’s water. Prior to 2004, the standards and monitoring requirements set by FDEP for monitoring disinfection byproducts such as TTHM were substantially different. Specifically, in August 2003, FDEP reduced the Maximum Contaminant Level of TTHM from 100 parts per billion to 80 parts per billion (*ppb*).

Beginning in the summer of 2004, DEP required that all utilities serving less than 3,300 people measure the level of TTHM occurring at the point in the distribution system with the longest detention time, instead of sampling at the point of entry of water into the distribution system. Those water systems having a TTHM value in excess of 80 ppb were then required to begin sampling on a quarterly basis, to report the results to FDEP and to generate a rolling annual average TTHM value based on the average quarterly sample value. Wedgefield was in full compliance with FDEP regulations until May 2005, when sufficient quarterly sample data had been gathered that identified that the rolling annual average was greater than 80 ppb. At that time, and in conformance with DEP regulatory procedures, all of Wedgefield’s customers were given notice of the non-compliance. Wedgefield representatives soon met with FDEP to identify the best course of action, and Wedgefield agreed to implement a series of steps to address the non-compliance within a defined time frame.

FDEP standards may be changed by the stroke of a pen. It takes time for a utility to take the steps necessary to bring its system into full compliance. Wedgefield is working with FDEP to implement measures that will bring the water quality into compliance, and anticipates that it will do so within the time allotted by FDEP.

(c) Wedgefield is not aware of any issues or complaints regarding the service it provides, other than the issue raised by Mr. Duggar. Wedgefield has provided consistent and uninterrupted water service to its customers. Its recent non-compliance with the

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amended FDEP standard for trihalomethanes is not due to a lack of ability or mismanagement. It is working with FDEP to modify the disinfection process in use at its facilities to ensure that the water it produces will meet applicable standards.

(d) Again, Wedgefield's recent non-compliance with the amended FDEP standard for TTHM is not due to its lack of ability or mismanagement, nor is it the result of cost-cutting measures. It is the direct result of a change in the applicable standards imposed on Wedgefield by FDEP. FDEP has given Wedgefield an appropriate period of time to implement procedures to reduce the quantity of TTHM in its water. Wedgefield anticipates that it will meet those standards within the time allotted by FDEP.

(e) Please refer to responses to (a) to (d).

(f) The Commission sets Wedgefield's rates. Wedgefield completed its last rate review in 2002. In that docket, the Office of Public Counsel and Wedgefield entered into a joint settlement agreement regarding water rates. The joint settlement agreement was approved by the Commission in Order No. PSC-02-0391-AS-WU, dated March 22, 2002. Please also refer to responses to (a) through (e) above.

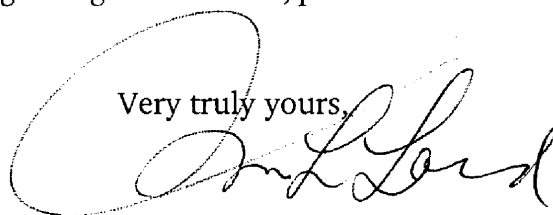
(g) Mr. Duggan is incorrect in his assertion that "[e]nvironmental standards are not changed overnight." Wedgefield has been sampling for trihalomethanes in its distribution system since the summer of 2004 in conformance with DEP standards. Wedgefield was in compliance with the revised rule until May 2005, at which time Wedgefield initiated its best efforts to remedy the non-compliance. These efforts included an engineering analysis of the water system to determine the source of the TTHM and the operational remedies, facility design, permitting and construction activities needed to correct the noncompliance. It is important to note that it would have been of no benefit to initiate the TTHM sampling regimen prior to the summer of 2004, because the Disinfection Byproducts Rule specifically requires that the initial TTHM sampling event occur in the hottest months of the year, June, July, August or September. Mr. Duggan states that he attended the meeting held at the Wedgefield Clubhouse for the benefit of Wedgefield's customers. Therefore, he is aware that, FDEP representatives at the meeting made it clear that Wedgefield had been in compliance until May 2005, and that Wedgefield had followed proper procedures in notifying customers and FDEP thereafter. In addition, FDEP and the Orange County Health Department clearly stated that customers were not at risk by ingesting water containing this level of TTHM. In fact, in order to be at risk, an individual would need to ingest large volumes of water daily for a lifetime before experiencing any ill effects.

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Last, Mr. Duggan asserts that "the Application does not meet minimum Rule requirements under 25-30.037". His assertion is incorrect. The Application does contain the statement set out in sub-section (p) of that Rule. The Commission, whose job it is to interpret and implement such Rule, accepted the Application in the form submitted to the Commission. If the Commission requires further detail, it may request information regarding the exceptions noted. To date, it has elected not to do so.

Should you have any questions regarding the enclosed, please do not hesitate to give me a call.

Very truly yours,



VALERIE L. LORD
For the Firm

VLL/tlc

cc: Martha Brown, Esq., Office of General Counsel (by facsimile only)
Ms. Cheryl Johnson, Division of Economic Regulation (by facsimile only)
Mr. Steven M. Lubertozzi (by facsimile only)
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Robert Brannan, Esquire (by facsimile only)
Michael J. Duggar, Esq. (by U.S. mail)
Mr. Michael R. Chase (by U.S. mail)