



Control Number: 46150



Item Number: 75

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Mr. and Mrs. Scott Smiley  
3401 Pearce Road  
Austin, Texas 78730

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PUBLIC UTILITY COMMISSION  
FILING CLERK

**VIA HAND DELIVERY**

October 19, 2016

Filing Clerk  
Public Utility Commission of Texas  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

Re: Protest and Request for Hearing on Application Filed by PK-RE Development Company, Inc. dba Oak Shores Water System to Sell its Facilities and Transfer its CCNs to Undine Development, LLC; Austin, Travis County, Texas; PUC Docket No. 46150

Dear Filing Clerk:

As existing utility customers of PK-RE Development Company, Inc. dba Oak Shores Water System ("PK-RE"), this letter provides our protest and request for a public hearing on the proposed sale and transfer of the Certificates of Convenience and Necessity ("CCNs") held by PK-RE to Undine Development, LLC ("Undine"). We are retail water customers of PK-RE at our residence at 3401 Pearce Road, and our mailing address is 3401 Pearce Road, Austin, Texas 78730.

We are opposed to the proposed sale and transfer of CCN No. 12407 (for retail water service) as existing water customers of the utility. We are also opposed to the proposed sale and transfer of CCN No. 20948 (for retail wastewater service) as affected persons that reside in close proximity to the Oak Shores Wastewater Treatment Plant and its wastewater disposal fields. The reasons for our protests and requests for hearing are described in more detail below.

At the outset, please consider the issue of whether PK-RE and Undine should be required to re-issue a Notice of this proposed sale and transfer of CCNs, since the September 19, 2016 Notice incorrectly states that "**Current customer water rates will remain unchanged.**" While we read that promise in the Notice as an encouraging aspect of the proposed transaction, we soon learned that the statement was untrue. Earlier this week, customers began receiving notices of significant rate increases (PUC Docket No. 46333). We believe that rates will increase as much as the utility owners can increase them for the indefinite future, in an attempt to compensate for the poor decisions of the past. The text of the September 19, 2016 Notice issued for PUC Docket No. 46150 is so misleading, on a matter of material importance, that the Applicant should be required to repeat the Notice process (and the opportunity for filing protests and requests for hearing should be re-opened) before this Application should be allowed to proceed.

In addition to the seriously flawed Notice, the sale of the facilities and transfer of the CCNs will adversely affect us in several ways, as described below. Further, it appears that the Applicant has failed to meet its burden of proof regarding its ability to assume the responsibilities imposed on CCN holders.

- In our view, Undine has failed to demonstrate that it is capable of providing continuous and adequate service or that it has the financial ability, resources, and long-term stability to make the expenditures necessary to run this utility. If this entity buys the utility, our properties and residences will be reliant upon its service. Undine should be required to demonstrate its qualifications to serve in a rigorous and stringent review.
- Undine must show that it has sufficient cash available to make the expenditures that PK-RE has declined to make. Both the water and the wastewater systems require immediate and substantial financial investments to serve their existing customers. Because much of the Application has been withheld from public review under claims of Confidentiality, we have no way of reviewing even the most basic financial and organizational information about Undine.
- As we understand it, Undine is a newly created entity. As such, we urge the PUC to utilize extra care in evaluating Undine's qualifications and assertions regarding its capabilities to meet these financial and regulatory challenges.
- Undine should be required to demonstrate how it will comply with all of the regulatory requirements for water and wastewater utilities. First, Undine must demonstrate that it has sufficient treatment, storage, and distribution capacity to provide continuous and adequate water service to all of its existing customers. At times, PK-RE has been forced to ask customers to curtail water use during hot weather, and PK-RE continues to operate under a four-hour per week outdoor watering restriction for its water customers. Clearly, there are infrastructure improvements needed to provide even minimal water service to the existing water customers. Second, Undine must demonstrate that it can immediately design and construct a wastewater force main between the lift station at the Woods of Greenshores and the Oak Shores Wastewater Treatment Plant. Undine should plan to cease the "pump and haul" method of transporting raw sewage from the Woods of Greenshores to the Wastewater Treatment Plant in the next few months. It is completely unacceptable for this utility to continue the current practice of trucking raw sewage for several miles along Pearce Road at a frequency of once or twice a day in order to avoid the construction of a force main between some of the customers and the Wastewater Treatment Plant.

Our Mailing Address and Contact Information:

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Austin, Texas 78730  
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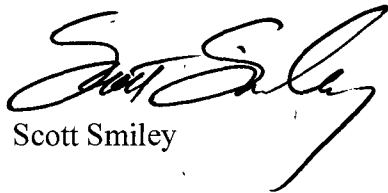
In closing, it is possible that our concerns could be addressed in an Order that addresses a number of critical issues to ensure that the CCN holder can own, operate, construct, and maintain the infrastructure that is essential to reliable and continuous water and wastewater services. Importantly, the CCN holder must accomplish these objectives without burdening the existing customers with the costs of bringing the utilities up to an acceptable level of service. Alternatively, our concerns could be addressed by the withdrawal of the above-referenced Application.

Please accept this Protest and Request for Hearing as a timely filed response to the Applicant's Notice dated September 19, 2016, and please add us to the list of persons who receive notice regarding these proceedings. We respectfully request the careful review of our concerns, as well as the granting of our request for a public hearing on this Application. Thank you for your attention to this important matter.

Sincerely,



Cynthia Smiley



Scott Smiley