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APPLICATION OF PK-RE  
DEVELOPMENT COMPANY, INC. DBA  
OAK SHORES WATER SYSTEM AND  
UNDINE DEVELOPMENT, LLC FOR  
SALE, TRANSFER OR MERGER OF  
FACILITIES AND CERTIFICATE  
RIGHTS IN TRAVIS COUNTY

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PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

### COMMISSION STAFF'S LIST OF ISSUES

Comes now the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this List of Issues.

#### I. Background

On July 11, 2016, PK-RE Development Company, Inc. d/b/a Oak Shores Water System (Oak Shores) and Undine Development, LLC (Undine or Applicant) filed an application for the sale, transfer, or merger of facilities and certificate rights in Travis County. Specifically, Undine seeks approval to acquire all of the water and sewer assets of Oak Shores, including 372 acres and 220 customers. Oak Shores' water and sewer certificates of convenience and necessity (CCN) Nos. 12407 and 20948 are proposed to be transferred to Undine.

On October 13, 2016, the Commission issued an Order of Referral directing that Staff may file a list of issues to be addressed by October 24, 2016. Therefore, this pleading is timely filed.

#### II. List of Issues

Staff has identified the following issues that should be addressed in this proceeding.

1. What is the effective date of the proposed sale?
2. Has Undine demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any areas currently certificated to Oak Shores? Tex. Water Code § 13.301(b) (TWC); 16 Tex. Admin. Code § 24.109(b) (TAC).
  - a. If Undine has not demonstrated adequate financial capability, should the Commission require that it provide financial assurance to ensure continuous and

adequate utility service is provided, consistent with TWC § 13.301(c) and 16 TAC § 24.109(c)?

b. If the Commission requires Undine to provide financial assurance, what amount of financial assurance should the Commission require?

3. Will approving the sale serve the public interest? TWC §§ 13.301(d) and (g); 16 TAC §§ 24.109(d) and (h).

a. Is Undine capable of rendering adequate and continuous service to every consumer within the certificated area, taking into account the factors under TWC § 13.246(c)? TWC § 13.251 and 16 TAC § 24.112.

i. Is the service currently provided in the area adequate? TWC § 13.246(c)(1).

ii. Is additional service needed in the requested area? Have any landowners, prospective landowners, tenants, or residents requested service? TWC § 13.246(c)(2).

iii. What is the effect of approving the proposed sale on Undine, on the landowners in the area, and on any retail public utility of the same kind already serving the proximate area? TWC § 13.246(c)(3).

iv. Taking into consideration the current and projected density and land use of the area, does Undine have the ability to provide adequate service to meet the standards of the Texas Commission on Environmental Quality (TCEQ)? TWC § 13.246(c)(4).

v. Is it feasible to obtain service from an adjacent retail public utility? TWC § 13.246(c)(5).

vi. Is Undine financially stable considering, if applicable, the adequacy of the debt-equity ratio of Undine if the proposed sale is approved? TWC § 13.246(c)(6).

vii. What is the effect of approving the sale on environmental integrity? TWC § 13.246(c)(7).

viii. What is the probable improvement of service or lowering of cost to consumers in that area resulting from approving the sale? TWC § 13.246(c)(8).

- ix. What is the effect on the land to be included in the certificated area? TWC § 13.246(c)(9).
- b. Have the conditions of any judicial decree, compliance agreement, or other enforcement order not been substantially met? 16 TAC § 24.112(c)(5)(B).
- c. What is the experience of Undine as a utility service provider? 16 TAC § 24.112(c)(5)(C).
- d. Does Undine have a history of noncompliance with the requirements of the TCEQ, the Commission, or the Texas Department of State Health Services or continuing mismanagement or misuse of revenues as a utility service provider? TWC § 13.301(e)(3); 16 TAC § 24.112(c)(5)(D).
- e. Does Undine have the financial ability to provide the necessary capital investment to ensure the provision of continuous and adequate service to the customers of the water system? TWC § 13.301(e)(4); 16 TAC § 24.112(c)(5)(E).
- f. Has Undine failed to comply with any orders of the TCEQ or the Commission? 16 TAC § 24.109(e)(5)(A).
- g. Was the water system partially or wholly constructed with customer contributions in aid of construction derived from specific surcharges provided by TWC § 13.301(j)? If so, has the notice required by TWC § 13.301(j) been provided?
- h. Was the notice required by TWC § 13.301(k) provided?
- 4. Does Oak Shores currently retain any customer deposits? If so,
  - a. What is the total amount of customer deposits retained;
  - b. Does Oak Shores have proper records to allow deposits and any unpaid interest to be returned; and
  - c. Will customer deposits be returned to customers or transferred to Undine?
- 5. Does the water system being purchased have any deficiencies or problems that need correction to be in compliance with the rules of the Commission and the TCEQ? If so,
  - a. What are those deficiencies or problems;
  - b. How and when will those deficiencies or problems be corrected; and
  - c. Does the purchaser have access to adequate financial resources to timely correct those deficiencies and problems?

6. What is the precise boundary of the service area that is the subject of the purchaser's application?

### **III. Issues Not to be Addressed**

Staff has not identified any issues not to be addressed.

Dated: October 24, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**DOCKET NO. 46150  
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on October 24, 2016, in accordance with 16 TAC § 22.74.



Michael Crnich