

Control Number: 46150



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PUBLIC UTILITY COMMISSION
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APPLICATION OF PK-RE § BEFORE THE STATE OFFICE
DEVELOPMENT COMPANY, INC. §
d/b/a OAK SHORES WATER SYSTEM §
AND UNDINE DEVELOPMENT LLC § OF
FOR SALE, TRANSFER, OR MERGER §
OF FACILITIES AND CERTIFICATE §
RIGHTS IN TRAVIS COUNTY § ADMINISTRATIVE HEARINGS

**UNDINE DEVELOPMENT LLC'S OBJECTION
TO MOTIONS TO INTERVENE**

NOW COMES, Undine Development LLC ("Undine") and files this objection to: Greenshores on Lake Austin Property Owners Association, Inc.'s Motion to Intervene filed on November 9, 2016, and Motions to Intervene filed by Residents of Woods of Greenshores and Woods of Greenshores Property Owners Association, Inc. on November 15, 2016.

I. INVALID SERVICE

16 Tex. Admin. Code ("TAC") § 22.74 requires a copy of all documents and pleadings served on a presiding officer to be served on all parties.¹ Service on a party may be made by delivery of a copy of the pleading or document to the party's authorized representative or attorney of record either in person; by agent; by courier receipted delivery; by first class mail; by certified mail, return receipt requested; or by registered mail to the party's address of record, or by facsimile transmission.² Service on a party may be made by another method of delivery if expressly provided by order, rule, or other applicable law. However, neither the Public Utility Commission nor the State Office of Administrative Hearings ("SOAH") has expressly ruled on an alternate method of service for this STM application. Undine objects to all three of the above-mentioned Motions to Intervene based on invalid and improper service.

Greenshores on Lake Austin Property Owners Association, Inc. filed its Motion to Intervene on November 9, 2016, and sent the pleading to Undine's representatives via email.

¹ 16 TAC § 22.74(a).

² 16 TAC § 22.74(b).

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Undine was not served with a copy of the pleading through any of the other methods of service as required in 16 TAC § 22.74. Therefore, Greenshores on Lake Austin Property Owners Association, Inc.'s Motion to Intervene was not validly served.

Residents of Woods of Greenshores and Woods of Greenshores Property Owners Association, Inc. both filed Motions to Intervene on November 15, 2016. Undine was not served with either of these Motions to Intervene by any required method, nor was Undine served via email. Undine's counsel only became aware of these filings after visiting the Public Utility Commission Interchange. Therefore, Undine objects to both of these Motions to Intervene because they were not served on the parties to this proceeding as required by 16 TAC § 22.74.

16 TAC § 22.78(a) and SOAH Order No. 1 requires responsive pleadings to be filed within five working days after receipt of the pleading to which the response is made. Undine was not served with any of the Motions to Intervene, as described above. However, if Residents of Woods of Greenshores and Woods of Greenshores Property Owners Association, Inc. had provided adequate and timely service of their Motions to Intervene on November 15, this objection is filed within the five-day time limit required by 16 TAC § 22.78(a) and is therefore timely with respect to those Motions to Intervene.

II. MOTIONS TO INTERVENE WERE NOT TIMELY FILED

Undine also objects to these Motions to Intervene because they were not timely filed. On August 11, 2016, Order No. 2 issued in this proceeding set a deadline to intervene 30 days after Applicants issue notice. Undine provided notice on September 19, 2016. Therefore, the deadline to intervene was October 19, 2016. All three of these groups filed protests within the 30-day time limit but failed to file a Motion to Intervene before the deadline. SOAH Order No. 1 was issued on October 25, 2016, and stated that the only parties to the proceeding were the Applicants and Commission Staff. The Order directed any person or entity to file a motion to intervene pursuant to 16 TAC § 22.104.

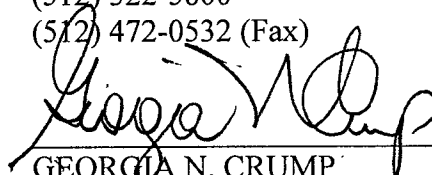
These entities then filed these Motions to Intervene, but have failed to provide good cause for consideration to grant late intervention under 16 TAC § 22.104(d). In fact, these Motions to Intervene use identical language to describe their alleged judiciable interest in the proceeding and provide minimal information as to the identity of the different residential groups and their unique interests in this STM application. Further, two of these groups—Residents of Woods of Greenshores and Woods of Greenshores Property Owners Association, Inc.—are represented by the same authorized representative and attorney.

Therefore, Undine objects to the Motions to Intervene for the foregoing reasons. However, if the Motions are granted, the Residents of Woods of Greenshores and Woods of Greenshores Property Owners Association, Inc. have the same interests and should be aligned.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE
& TOWNSEND, P.C.**

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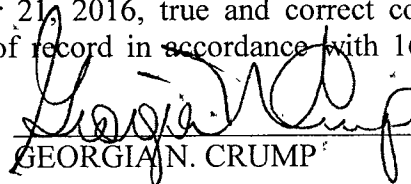
GEORGIA N. CRUMP
State Bar No. 05185500

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State Bar No. 24065694

ATTORNEYS FOR UNDINE DEVELOPMENT LLC

CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2016, true and correct copy of the foregoing document has been served on all parties of record in accordance with 16 Tex. Admin. Code § 22.74.



GEORGIA N. CRUMP