



Control Number: 46336



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APPLICATION OF CITY OF §  
 TOMBALL TO OBTAIN A WATER OR §  
 SEWER CERTIFICATE OF §  
 CONVENIENCE AND NECESSITY IN §  
 HARRIS AND MONTGOMERY §  
 COUNTIES §

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 OF TEXAS

**UNDINE TEXAS, LLC'S MOTION TO INTERVENE**  
**AND REQUEST FOR PUBLIC HEARING**

COMES NOW, Undine Texas, LLC ("Undine") and files this Motion to Intervene and Request for Public Hearing ("Motion") in this matter. The Administrative Law Judge's ("ALJ") Order No. 3 in this matter established the deadline to file a Motion to Intervene of 30 days after mailed or last published notice, whichever is later. Accordingly, this Motion is timely filed. In support of its Motion, Undine would respectfully show the following:

**I. DISCUSSION**

The City seeks a CCN to provide exclusive water service across approximately 11,830 acres and exclusive sewer service across approximately 12,320 acres. Undine is an "affected person" with respect to this application pursuant to Tex. Water Code Ann. § 13.002 (Affected Person includes "a retail public utility affected by the requested action of the regulatory authority"). Undine anticipates operating and owning one or more water and sewer systems in the vicinity of the area to be certificated. Among other impacts, Undine's ability to serve customers and its investment in its area water and sewer assets would be adversely affected by the approval of this application.

Undine further asserts that the application does not satisfy the requirements of Texas Water Code §§ 13.241 ("Granting Certificates") and 13.246 ("Notice and Hearing; Issuance or

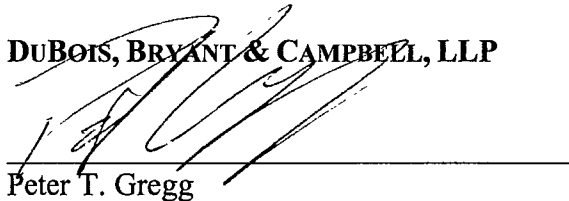
Refusal; Factors Considered”) and the Commission’s implementing regulations at 16 Tex. Admin. Code § 24.102 (“Criteria for Granting or Amending a Certificate of Convenience and Necessity”). Undine asserts, without limitation: (i) that the applicant does not have the financial, managerial, or technical capability to provide continuous and adequate service across the large area the applicant seeks to certificate; (ii) that regionalization or consolidation with another retail public utility is economically feasible; (iii) that it is economically feasible to obtain service from an existing retail public utility; (iv) that the granting of the certificate will not result in the probable improvement of service or lowering of cost to consumers in the area to be certificated; (v) the absence of need for additional service in the requested area; and (vi) the adverse effect of utilities already providing water and sewer service within two miles of the boundary of the requested area.

## **II. CONCLUSION**

WHEREFORE, PREMISES CONSIDERED, Undine Texas, LLC respectfully requests that the Administrative Law Judge grant Undine’s request to intervene in this matter and request for a public hearing, and for such other relief as to which it has shown itself to be entitled. Undine reserves its right to supplement this Motion to Intervene and Request for a Hearing.

Respectfully submitted,

**DUBOIS, BRYANT & CAMPBELL, LLP**



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**Attorneys for Undine Texas, LLC**

**CERTIFICATE OF SERVICE**

By my signature above, I hereby certify that on the 7 day of January, 2017, the foregoing document was serviced via first class mail to the following:

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Director of Public Works  
City of Tomball  
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Tomball, TX 77375

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Public Utility Commission of Texas  
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