

Control Number: 47639



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DOCKET NO. 47639

RECEIVED

APPLICATION OF GULF COAST UTILITY §
COMPANY, INC. AND UNDINE TEXAS §
ENVIRONMENTAL, LLC FOR SALE, §
TRANSFER, OR MERGER OF SEWER §
FACILITIES AND CERTIFICATE RIGHTS §
IN BRAZORIA COUNTY §

PUBLIC UTILITY COMMISSION
2019 JAN 16 PM 1:20
PUBLIC UTILITY COMMISSION
FORT WORTH TEXAS

JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE

Date: January 16, 2019

Staff of the Public Utility Commission of Texas (Commission Staff) and Applicants, Gulf Coast Utility Company, Inc. and Undine Texas Environmental, LLC (Applicants), file this Joint Proposed Notice of Approval and Motion to Admit Evidence in response to Order No. 8 and would show the following:

I.

BACKGROUND

On September 22, 2017, Applicants filed an application with the Public Utility Commission of Texas (Commission) for the sale, transfer or merger of sewer facilities and certificate rights in Brazoria County. Following Undine’s application amendment filed on December 17, 2018, Undine is requesting that the facilities and certificate rights transferred from Gulf Coast be added to Undine’s existing sewer CCN No. 20816 rather than have a new CCN created or keep Gulf Coast’s existing CCN number. Commission Staff supports this amendment. The total area being requested comprises the Southwood Estates subdivision of approximately 245 acres with 530 affected customers and the Spring Crossing subdivision of approximately 286 acres and 0 current customers.

On December 17, 2018, Order No. 8 was issued, establishing a deadline of January 16, 2019, for the parties to file joint proposed findings of fact and conclusions of law. Accordingly, this pleading is timely filed.

II.

MOTION TO ADMIT EVIDENCE

The parties move to admit the following evidence into the record of this proceeding: (1) Application of Undine and Gulf Coast, filed September 22, 2017; (2) Commission Staff's Administrative Completeness Recommendation, filed October 23, 2017; (3) Applicants' proof of notice, filed November 22, 2017; (4) Commission Staff's Notice Sufficiency Recommendation, filed on November 30, 2017, (5) Undine's responses to Commission Staff's first request for information, filed January 5, 2018, (6) Applicants' Notice of Completed Transaction, filed November 20, 2018, (7) Commission Staff's Recommendation on the Proposed Transaction, filed January 17, 2018, (8) Commission Staff's Closing Documents Recommendation, filed December 12, 2018, (9) Applicants' First Amendment to Application, filed December 17, 2018; and (10) Applicants' signed consent forms, filed December 21, 2018.

III.

JOINT PROPOSED NOTICE OF APPROVAL

The Joint Proposed Notice of Approval (Attachment A) would grant Applicants' application for sale, transfer or merger of sewer facilities and certificate rights in Brazoria County.

IV.

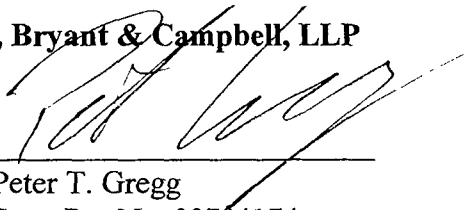
CONCLUSION

The parties respectfully request that the Commission grant the motion to admit evidence specified above, and adopt the attached Joint Proposed Notice of Approval.

Respectfully submitted,

DuBois, Bryant & Campbell, LLP

By: _____


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**Attorneys for Undine Texas
Environmental, LLC**

CERTIFICATE OF SERVICE

I hereby certify by my signature above that a true and correct copy of the foregoing document was served by U.S. Mail and Email on this the 16th day of January, 2019, to the following:

Matthew A. Arth
Public Utility Commission of Texas
Legal Division
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P.O. Box 13326
Austin, Texas 78711-3326
Matthew.Arth@puc.texas.go

ATTACHMENT A

DOCKET NO. 47639

| | | |
|--|----------|----------------------------------|
| APPLICATION OF GULF COAST UTILITY | § | PUBLIC UTILITY COMMISSION |
| COMPANY, INC. AND UNDINE TEXAS | § | |
| ENVIRONMENTAL, LLC FOR SALE, | § | OF TEXAS |
| TRANSFER, OR MERGER OF SEWER | § | |
| FACILITIES AND CERTIFICATE RIGHTS | § | |
| IN BRAZORIA COUNTY | § | |

JOINT PROPOSED NOTICE OF APPROVAL

This Joint Proposed Notice of Approval addresses the application of Gulf Coast Utility Company, Inc. (Gulf Coast) and Undine Texas Environmental, LLC (Undine) for the sale, transfer or merger of certificate rights in Brazoria County. The Commission approves the acquisition of all of the sewer system assets and certificate service area held by Gulf Coast under sewer certificate of convenience and necessity (CCN) No. 20688 and the transfer of those assets and service area to Undine’s CCN No. 20816.

The Commission adopts the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

The Applicants

1. Gulf Coast is a utility company that provides sewer service in Texas under CCN No. 20688.
2. Undine is a for-profit corporation that provides sewer service in Texas under CCN No. 20816.

The Application

3. On September 22, 2017, Gulf Coast and Undine filed an application for the sale, transfer or merger of facilities and certificate rights in Brazoria County. Specifically, Undine’s

application sought approval to acquire all of the sewer system assets and certificated service area held by Gulf Coast under sewer CCN No. 20688 and that Undine be issued a new CCN under which to acquire this service area.

4. On December 17, 2018, Undine filed an amendment to its application to request that the service area be transferred to Undine's sewer CCN No. 20816, rather than have a new CCN issued.
5. The total area being requested for transfer comprises the Southwood Estates subdivision of approximately 245 acres with 530 affected customers and the Spring Crossing subdivision of approximately 286 acres and 0 current customers.
6. On September 26, 2017, Order No. 1: Requiring Commission Staff Comments/Recommendation was issued.
7. On October 23, 2018, Commission Staff filed its Administrative Completeness Recommendation recommending that the application be found sufficient.
8. In Order No. 2, issued on October 26, 2017, the administrative law judge (ALJ) found the application administratively complete.
9. On October 26, 2017, Gulf Coast filed its Clarification Letter regarding the assets to be transferred.
10. In Order No. 4, issued on January 23, 2018, the ALJ approved the transaction to proceed.
11. On July 13, 2018, Order No. 5: Granting Request for Extension of Time to Complete Sale Transaction was issued.
12. On August 21, 2018, Order No. 6: Granting Second Request for Extension of Time to Complete Sale Transaction was issued.

13. On October 5, 2018, Order No. 7: Granting Third Request for Extension of Time to Complete Sale Transaction was issued.
14. On November 20, 2018, Undine filed its Notice of Completed Transaction, including the bill of sale.
15. On December 12, 2018, Commission Staff filed its Closing Documents Recommendation recommending that Undine and Gulf Coasts' closing documents be found sufficient.
16. In Order No. 8, issued on December 17, 2018, the ALJ found the closing documents sufficient.
17. On December 21, 2018, Undine and Gulf Coast filed forms consenting to the CCN service area maps and the certificate provided by Commission Staff.
18. Undine has the facilities and capacity to serve the Southwood Estates subdivision and the Spring Crossing subdivision.
19. Undine has an approved Texas Commission on Environmental Quality (TCEQ) Discharge Permit No. WQ12780-001 for the wastewater treatment system.
20. No improvements are required to either Undine or Gulf Coast's wastewater system to meet TCEQ or Commission standards.
21. Undine has demonstrated the financial capability to serve the requested areas because it has sufficient unrestricted cash available as a cushion for two years of debt service and it has sufficient cash to cover projected operational or maintenance shortages.
22. Service is needed in the requested area to serve the Southwood Estates and Spring Crossing subdivisions.
23. The requested acquisition will not affect any nearby retail public utilities.

24. Approval of the application will not adversely impact the environmental integrity of the area as Undine has facilities needed to serve the requested area.
25. Approval of the application will have minimal effect on the land when Undine connects to the Southwood Estates and Spring Crossing subdivisions.
26. The rates of current Undine customers will not change as a result of the transfer.
27. Undine is capable of providing continuous and adequate service to the requested areas and the transaction will serve the public interest.

Notice

28. Notice of the application appeared in the October 6, 2017 issue of the *Texas Register*.
29. Notice of the application was published in the November 9 and 16, 2017 issues of *The Facts* in Brazoria County.
30. Undine mailed notice of the application to current customers, neighboring systems and cities on November 13, 2017.
31. Undine filed a publisher's affidavit on November 22, 2017, attesting to the provision of notice by publication.
32. Undine filed an affidavit on November 22, 2017, attesting to the provision of notice to landowners, neighboring utilities, and cities.
33. On November 30, 2017, Commission Staff filed its Notice Sufficiency Recommendation recommending that the notice issued be found sufficient.
34. In Order No. 3, issued on December 5, 2017, the ALJ found the notice issued to be sufficient.

Evidentiary Record

35. On January 16, 2019, the parties filed a joint motion to admit evidence into the record.

36. In Order No. ____, issued on _____, 2019, the ALJ admitted the following evidence into the record (1) Application of Undine and Gulf Coast, filed September 22, 2017; (2) Commission Staff's Administrative Completeness Recommendation, filed October 23, 2017; (3) Applicants' proof of notice, filed November 22, 2017; (4) Commission Staff's Notice Sufficiency Recommendation, filed on November 30, 2017, (5) Undine's responses to Commission Staff's first request for information, filed January 5, 2018, (6) Applicants' Notice of Completed Transaction, filed November 20, 2018, (7) Commission Staff's Recommendation on the Proposed Transaction, filed January 17, 2018, (8) Commission Staff's Closing Documents Recommendation, filed December 12, 2018, (9) Applicants' First Amendment to Application, filed December 17, 2018; and (10) Applicants' signed consent forms, filed December 21, 2018.

Informal Disposition

37. More than 15 days have passed since the completion of the notice provided in this docket.
38. Undine, Gulf Coast, and Commission Staff are the only parties to this proceeding.
39. No protests or requests for hearing were filed.
40. The decision is not adverse to any party.

II. CONCLUSIONS OF LAW

1. Undine and Gulf Coast are retail public utilities as defined in Texas Water Code (TWC) § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
2. The Commission has jurisdiction under TWC §§ 13.041, 13.241, 13.246, 13.251, 13.254 and 13.301.
3. Undine and Gulf Coast provided notice of the application as required by TWC § 13.301(a)(2).

4. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission rules.
5. Commission action on this application complied with the 120-day deadline required by 16 TAC § 24.239.
6. Undine and Gulf Coast complied with the completion of the transaction timeline requirement of 16 TAC § 24.239(o) by requesting and obtaining extensions for good cause of the 180 day completion deadline.
7. After considering the factors in TWC § 13.246(c), Undine has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area.
8. Undine and Gulf Coast have demonstrated that the transfer of service area and CCN requested in this application is necessary for the service, accommodation, convenience, and safety of the public, as required under TWC § 13.246(b).
9. Under TWC §§ 13.257(r) and (s), Undine and Gulf Coast are required to record a certified copy of the approved CCN and map, along with a boundary description of the service area, in the real property records in Brazoria County in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
10. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

¹ Administrative Procedure Act, Tex. Gov't Code §§ 2001.001-.902.

III. ORDERING PARAGRAPHS

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. The Commission approves the transfer of certificate rights formerly held by Gulf Coast under CCN No. 20688 in Brazoria County to Undine, as described in this Notice. The rights will be held by Undine under CCN No. 20816.
2. The Commission's official service area boundary map for Gulf Coast and Undine will reflect this change as provided in the attached map.
3. Undine must serve every customer and applicant for sewer service within the approved area that requests sewer service and such service must be continuous and adequate.
4. Undine and Gulf Coast must comply with the recording requirements of TWC §§ 13.257(r) and (s) for the area in Brazoria County affected by the application and file with the Commission evidence of the recording no later than 31 days after receipt of this Notice.
5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas on the ____ day of _____, 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE