



Control Number: 48151



Item Number: 12

Addendum StartPage: 0

APPLICATION OF BOLIVAR	§	
UTILITY SERVICES, LLC AND	§	PUBLIC UTILITY COMMISSION
UNDINE TEXAS ENVIRONMENTAL,	§	
LLC FOR SALE, TRANSFER, OR	§	OF TEXAS
MERGER OF FACILITIES AND	§	
CERTIFICATES RIGHTS IN	§	
GALVESTON COUNTY	§	

**UNDINE TEXAS ENVIRONMENTAL, LLC'S  
RESPONSE TO ORDER NO. 2**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Undine Texas Environmental, LLC ("Undine") files this Response to Order No. 2. In support thereof, Undine states the following:

**I.**

**BACKGROUND**

On March 8, 2019, Bolivar Utility Services, LLC ("Bolivar") and Undine (collectively "Applicants") filed with the Public Utility Commission of Texas ("Commission") an application for sale, transfer, or merger of facilities and Certificate of Convenience and Necessity ("CCN") rights in Galveston County, Texas (the "Application").

On March 12, 2018, the Administrative Law Judge ("ALJ") issued Order No. 1 requiring Commission Staff to file its recommendation regarding the administrative completeness of the Application by April 9, 2018.

On April 9, 2018, Commission Staff filed their Recommendation on Administrative Completeness. Commission Staff recommended that Applicants be given until May 9, 2018 to cure the identified deficiencies in the Application and that Commission Staff be given until May 30, 2018 to file a supplemental administrative completeness recommendation.

On April 11, 2018, the ALJ issued Order No. 2 finding that the Application was deficient and incomplete for the reasons specified in the pleading and memorandum of Sean Scaff in the Commission's Water Utility Regulation Division.

## II.

### SUPPLEMENTAL APPLICATION INFORMATION PROVIDED

In response to Order No. 2, Undine hereby files the following information.

#### Deficiency Items to Resolve

- a. *Signed and notarized oaths from the purchaser and seller.*

#### Response:

Attached as Exhibit A are the signed and notarized oaths from purchaser and seller.

- b. *Undine's audited financial statements for calendar years 2016 and 2017. If audited financial statements are not available, provide the unaudited financial reports.*

#### Response:

Attached as Exhibit B are the 2016 and 2017 unaudited financial reports.

- c. *Notarized affidavit, signed by an appropriate representative of an Undine affiliated interest, providing a written guarantee to cover any operations and maintenance cash shortages. The affidavit would serve to satisfy the operations test under 16 TAC § 24.11(e)(3).*

#### Response:

Attached as Exhibit C is the Affidavit of Undine Commitment.

## III.

### CONCLUSION

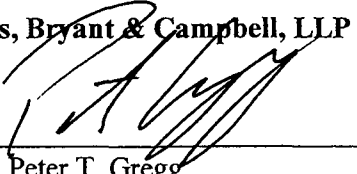
Undine respectfully requests, upon confirmation by Commission Staff, that the ALJ issue an order finding the Application administratively complete and direct Commission Staff to continue application processing. If for any reason Commission Staff does not view the

attachments as sufficient for application acceptance, Undine respectfully requests that it be notified immediately and provided an opportunity to cure any remaining deficiencies that are identified.

Respectfully submitted,

**DuBois, Bryant & Campbell, LLP**

By: \_\_\_\_\_

  
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(512) 457-8008 (fax)

**Attorneys for Undine Texas  
Environmental, LLC**

**CERTIFICATE OF SERVICE**

By my signature above, I do hereby certify that a true and correct copy of the foregoing document was served by U.S. Mail and Email on the person indicated below on this the 18 day of April, 2018:

Richard Nemer  
Public Utility Commission of Texas  
Legal Division  
1701 N. Congress Avenue  
P. O. Box 13326  
Austin, Texas 78711-3326  
[richard.nemer@puc.texas.gov](mailto:richard.nemer@puc.texas.gov)

**EXHIBIT A**

Signed and Notarized Oaths from Purchaser and Seller

**Part G – Oaths and Notices**

**OATH FOR SELLER OR FORMER SERVICE PROVIDER**

STATE OF Texas

COUNTY OF Jefferson

I, T W Harrison, being duly sworn, file this application for sale, lease, rental or merger or consolidation as Manager (indicate relationship to applicant) that is, owner, member of partnership, title as officer of corporation, or other authorized representative of applicant; that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to applicant are true and correct. Statements about other parties are made on information and belief. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Commission.

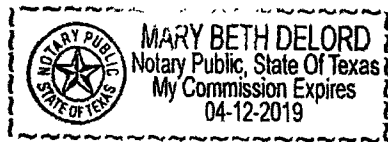
I further state that I have provided to the purchaser or transferee a written disclosure statement about any contributed property as required under Section 13.301(i) and copies of any outstanding Orders of the Texas Commission on Environmental Quality, the Public Utility Commission of Texas, or Attorney General and have also complied with the notice requirements in Section 13.301(k) of the Texas Water Code.

T W Harrison, President  
AFFIANT  
(Utility's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State of Texas, this day 10th of March, 20 18.

SEAL



Mary Beth Delord  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS

MARY BETH DELORD  
PRINT OR TYPE NAME OF NOTARY

MY COMMISSION EXPIRES 4-12-19

One copy of this page must be submitted for each utility involved in this transaction.

OATH FOR PURCHASER OR ACQUIRING ENTITY

STATE OF TEXAS

COUNTY OF HARRIS

I, CAREY A. THOMAS, being duly sworn, file this application for

sale, lease, rental or merger or consolidation as SR. VICE PRESIDENT  
(Indicate relationship to applicant) that is, owner, member of partnership, title as officer of corporation, or other authorized representative of applicant); that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to applicant are true and correct. Statements about other parties are made on information and belief. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Commission.

I am also authorized and do agree to be bound by and comply with any outstanding orders of the Texas Commission on Environmental Quality, the Public Utility Commission of Texas or the Attorney General which have been issued to the system or facilities being acquired and recognize that I will be subject to administrative penalties or other enforcement actions if I do not comply.

Carey A. Thomas  
AFFIANT  
(Utility's Authorized Representative)

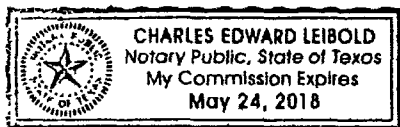
If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

Applicant represents that all other parties to this transaction have been furnished copies of this completed application.

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State of Texas, this day 7<sup>th</sup> of MARCH, 20 18.

SEAL

Charles E. Leibold  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS



CHARLES E. LEIBOLD  
PRINT OR TYPE NAME OF NOTARY

MY COMMISSION EXPIRES

5/24/2018

One copy of this page must be submitted for each utility involved in this transaction.

**EXHIBIT B**

2016 and 2017 Unaudited Financial Reports  
*(Confidential)*



**EXHIBIT C**

**Affidavit of Undine Commitment**

PUBLIC UTILITY COMMISSION OF TEXAS

DOCKET NO. 48151

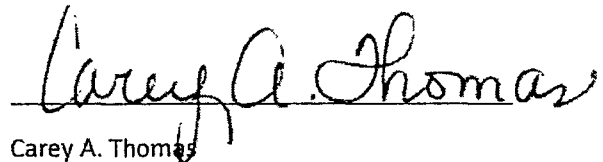
STATE OF TEXAS §

§

COUNTY OF HARRIS §

AFFIDAVIT OF UNDINE COMMITMENT

I, Carey A. Thomas, Senior Vice President of Undine Texas Environmental, LLC hereby certify that Undine, LLC or one of its affiliates guarantees to cover any operations and maintenance cash shortages for the sewer assets acquired from Bolivar Utility Services, LLC in order to satisfy the operations test of 16 Tex. Admin. Code §24.11(e)(3).



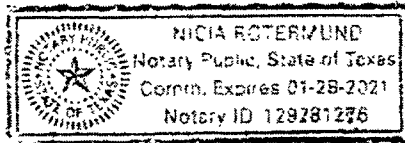
Carey A. Thomas

Senior Vice President


STATE OF TEXAS §

§

COUNTY OF HARRIS §



SWORN to and SUBSCRIBED before me, the undersigned authority, on the 9<sup>th</sup> day of April, 2018 by Carey A. Thomas.



Notary Public, State of Texas