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**DOCKET NO. 49169**

**APPLICATION OF UNDINE TEXAS, § PUBLIC UTILITY COMMISSION  
LLC AND UNDINE TEXAS §  
ENVIRONMENTAL, LLC FOR SALE, § OF TEXAS  
TRANSFER, OR MERGER OF §  
FACILITIES AND CERTIFICATE §  
RIGHTS IN BRAZORIA COUNTY §**

**ORDER NO. 6  
APPROVING SALE/TRANSFER TO PROCEED**

This Order addresses the February 4, 2019, application of Undine Texas, LLC (Seller) and Undine Texas Environmental, LLC (Purchaser) (collectively, applicants) for approval of a sale, transfer, or merger of facilities and certificate rights in Brazoria County. The applicants seek to transfer all of Seller's facilities and service area under sewer certificate of convenience and necessity (CCN) number 21106 to Purchaser's sewer CCN No. 20816. On May 13, 2019, Commission Staff recommended that the transaction in this docket be allowed to proceed. The administrative law judge grants that the transaction proposed in this application may proceed and be consummated.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. Seller is a Delaware limited liability company registered with the Texas secretary of state under file number 802339329.
2. Seller is an investor owned utility that provides sewer service in Texas under CCN number 21106 in Brazoria County.
3. Purchaser is a domestic limited liability company registered with the Texas secretary of state under file number 801768069.
4. Purchaser is an investor owned utility that provides sewer service in Texas under CCN number 20816 in Brazoria County.

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**Application**

5. On February 4, 2019, the applicants filed an application for approval to transfer all of Seller's facilities and service area under sewer CCN number 21106 to Purchaser, to be merged into Purchaser's sewer CCN number 20816.
6. The requested service area subject to this transaction consists of:
  - Approximately 25 acres located in the Angle Acres Subdivision approximately two miles east of downtown Angleton, Texas, and generally bounded on the north by East Kiber Street, on the east by FM 523, on the south by Fort Road (CR 233), and on the west by Jamison Road (CR 428); and
  - Approximately 180 acres located in the Beechwood Subdivision approximately 3.5 miles north of downtown Angleton, Texas, and generally bounded on the north by FM 45, on the east by SH 288 Business, on the south by CR 229, and on the west by FM 521.
7. The total area affected by the transfer comprises approximately 205 acres and 178 current customers.
8. In Order No. 2 issued on March 11, 2019, the administrative law judge (ALJ) deemed the application administratively complete.

**Notice**

9. Notice of the application appeared in the *Texas Register* on August 10, 2018.
10. On March 14, 2019, the applicants filed the affidavit of Carey A. Thomas, Purchaser's Senior Vice President and Secretary, attesting that notice was provided to current customers, neighboring utilities, and affected parties on March 13, 2019.
11. In Order No. 3 issued on March 26, 2019, the ALJ deemed the notice sufficient.

**Evidentiary Record**

12. On July 15, 2019, the parties filed a joint motion to admit evidence.
13. In Order No. 5 issued on July 23, 2019, the ALJ admitted the following evidence into the record: (a) the applicants' application, filed on February 4, 2019, as supplemented on

February 19, 2019 and March 12, 2019; (b) the applicants' proof of notice and supporting documentation, filed on March 14, 2019; (c) the applicants' responses to Staff's first request for information, filed on April 9, 2019; and (d) Commission Staff's recommendation on the sale to proceed, filed on May 13, 2019.

**System Compliance—Texas Water Code (TWC) § 13.246(c)(1); 16 Texas Administrative Code (TAC) §§ 24.227(d)(1), 24.239(j)(5)(B)**

14. Seller and Purchaser have not been subject to any unresolved enforcement actions by the Commission, Texas Commission on Environmental Quality (TCEQ), the Texas Department of Health, the Office of the Attorney General, or the United States Environmental Protection Agency.
15. Seller and Purchaser do not have any violations listed in the TCEQ database.

**Adequacy of Existing Service—TWC § 13.246(c)(1); 16 TAC §§ 24.227(d)(1), 24.239(j)(5)(B)**

16. Seller has wastewater discharge permits WQ0012420001 (Angle Acres) and WQ0012113001 (Beechwood) registered with the TCEQ.
17. Seller does not have any violations listed in the TCEQ database.

**Need for Additional Service—TWC § 13.246(c)(2); 16 TAC §§ 24.227(d)(2), 24.239(j)(5)(C)**

18. There are approximately 178 existing customers in the requested area to be transferred, therefore, there is a need for service.
19. Purchaser has received no new requests for service and is not requesting to add additional uncertificated area.
20. This application is to transfer only existing facilities, customers, and service area.

**Effect of Approving the Transaction and Granting the Amendment—TWC § 13.246(c)(3); 16 TAC §§ 24.227(d)(3), 24.239(j)(5)(D)**

21. This transaction will transfer ownership to an affiliated entity operated by the same individuals. Therefore, there will be no effect on any other retail public utility of the same kind servicing the proximate area.
22. Landowners in the area will likely benefit from the transfer of ownership because they will receive an improved level of sewer service.

**Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), 13.246(c)(4), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (d)(4), 24.239(g), (j)(5)(E)**

23. Purchaser has a sufficient number of licensed operators and the managerial and technical capability to provide adequate and continuous service to the requested service area.
24. Purchaser and Seller have sufficient capacity to serve the customers and no additional construction is necessary.
25. Seller has existing wastewater discharge permits from the TCEQ under WQ0012420001 (Angle Acres) and WQ0012113001 (Beachwood). Purchaser has existing wastewater discharge permits from the TCEQ under WQ0014163001 (Sugartree), WQ0013518001 (Mayfair Addition), WQ0013846001 (Grand Ranch Phase 2), and WQ0013769001 (Country Vista Plant). Purchaser does not have any violations listed in the TCEQ database. Sufficient capacity exists with Purchaser's and Seller's existing sewer facilities and wastewater discharge permits, therefore, no additional construction is necessary to serve the requested area.

**Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC §§ 13.246(c)(5); 16 TAC §§ 24.227(d)(5), 24.239(j)(5)(F)**

26. The requested area has existing facilities and is currently being served by Seller.
27. Utilities within a two mile radius were noticed and no protests or requests to opt out were received regarding the proposed transaction.
28. It is not feasible for an adjacent utility to provide service to the requested area.

**Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 13.301(b); 16 TAC §§ 24.11(e), 24.227(a), (d)(6), 24.239(g), (j)(5)(G)**

29. Purchaser meets the leverage test with an effective debt service coverage ratio greater than 1.25
30. Purchaser has demonstrated the financial capability and stability to provide continuous and adequate sewer service.

**Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§, 24.227(e), 24.239(h)**

31. Purchaser's projected operating revenues are sufficient to cover the projected operations and maintenance expense for the first five years after the completion of the proposed sale and transfer.

32. There is no need to require Purchaser to provide a bond or other financial assurance to ensure continuous and adequate service.

**Environmental Integrity—TWC § 13.246(c)(7); 16 TAC §§ 24.227(d)(7), 24.239(j)(5)(H); and Effect on the Land—TWC § 13.246(c)(9); 16 TAC § 24.227(d)(9)**

33. The environmental integrity of the land will not be effected as no additional construction is needed to provide service to the requested area.

**Improvement of Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(d)(8), 24.239(j)(5)(I)**

34. The proposed transaction will improve customer service to existing customers because the sewer system will be integrated in the system of Purchaser, and the rates will not change.

## **II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. After consideration of the factors in TWC § 13.246(c), Purchaser has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC § 13.301(b).
2. Seller and Purchaser have demonstrated that transferring the sewer service area held under CCN number 21106 from Seller to Purchaser will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public. TWC § 13.301(d), (e).

## **III. Ordering Paragraphs**

In accordance with the preceding findings of fact and conclusions of law, the Commission issues the following orders.

1. The sale is approved and the transaction between applicants may proceed and be consummated.
2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits have been addressed.
3. The applicants have 180 days to complete the transaction.

4. Under 16 TAC § 24.109(o), if the transaction is not consummated within this period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
5. The applicants are advised that certificate of convenience and necessity number 21106 will be held by Seller until the sale and transfer transaction is complete in accordance with the Commission's rules.
6. In an effort to finalize this case as soon as possible, the applicants must continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
7. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas the 25<sup>th</sup> day of July 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
HUNTER BURKHALTER  
ADMINISTRATIVE LAW JUDGE