



Control Number: 49260



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DOCKET NO. 49260

APPLICATION OF TEXAS WATER §
SYSTEMS, INC. AND UNDINE TEXAS, §
LLC FOR SALE, TRANSFER, OR §
MERGER OF FACILITIES AND §
CERTIFICATE RIGHTS IN GREGG, §
HENDERSON, LIMESTONE, SMITH §
AND UPSHUR COUNTIES §

PUBLIC UTILITY COMMISSION
OF TEXAS

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**UNDINE TEXAS, LLC'S RESPONSE TO
CORRECTED ORDER NO. 8**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Comes now, Undine Texas, LLC ("Undine") and files this Response to Corrected Order No. 8. In support thereof, Undine states the following:

I.

BACKGROUND

On March 11, 2019, Undine and Texas Water Systems, Inc. (collectively, the "Applicants") filed their Amended Application (Document ID No. 49260-10).

On October 28, 2019, the Administrative Law Judge (the "ALJ") issued Corrected Order No. 8 Finding Application Incomplete and Establishing an Opportunity to Cure (Document ID No. 49260-39). The ALJ gave the Applicants until December 23, 2019 to cure the deficiencies as described in the October 23, 2019 memorandum of Greg Charles. Therefore, this pleading is timely filed.

II.

SUPPLEMENTAL APPLICATION INFORMATION

In response to Corrected Order No. 8, Undine hereby files the following information.

Application Deficiencies:

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1. *Provide detailed maps showing potential customers with requests for service located within the requested areas.*

Response:

There are no current known requests for service located within the requested areas. Please see Attachment A.

2. *Provide detailed maps showing existing and proposed water transmission and distribution lines within the requested areas.*

Response:

Undine continues to work with Seller to collect responsive maps, and will supplement this response when they become available. See Attachment B for capacity notes.

3. *Provide a copy of construction approval letters from TCEQ for the necessary facilities, such as distribution systems, that will serve the uncertificated area.*

Response:

There are no currently known requests for service located within the requested areas.

4. *Provide supplemental information for the public water system capacity to support the ability of the Buyer to provide adequate service that includes the uncertificated area.*

Response:

Please see Attachment B for capacity notes on systems with additional requested acreage.

5. *Provide a copy of any developer agreements or requests for service within the uncertificated area that has no existing customers.*

Response:

There are no current known developer agreements or requests for service located within the requested areas.

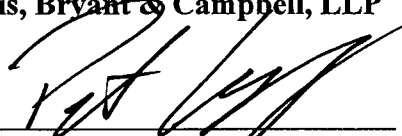
6. *Provide a copy of projected financial statements that include all connections added to this application after the initial filing from February 25, 2019.*

Response:

The changes to the customer count since February 2019 are nominal; therefore, there has been no material change to the financial projections submitted with the initial STM Application.

Respectfully Submitted,

DuBois, Bryant & Campbell, LLP

By: 

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CERTIFICATE OF SERVICE

I certify by my signature above that a true and correct copy of the foregoing document was served on the persons as indicated below on this the 3rd day of December, 2019:

Rachelle Nicolette Robles
Public Utility Commission of Texas
Legal Division
1701 N. Congress Avenue
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ATTACHMENT A

The amendment areas reflected in the application (Document ID No. 49260-1, Attachment M) are generally the result of guidance from Commission Staff. The Applicants' original submittal in that docket reflected a "facilities + 200" area of service. Commission Staff recommended the Applicants amend their application to better define the service area using property lines or verifiable manmade or natural landmarks (see April 10, 2019 Memorandum from D. Reyes to K. Meier, Document Id. No. 49260-18 ("Staff's review indicates that portions of the requested areas . . . need to be revised to include bounded service areas, rather than facility lines plus two hundred feet"))).

The subject application requests additions to CCN 12473 that generally incorporate the following areas: (1) parcels of existing customers that are currently located outside or partially outside existing CCN 12473; (2) parcels that are currently located partially within existing CCN 12473, which are being requested in their entirety (with larger parcels excluded); and (3) parcels located along distribution lines and are currently unserved. The amendment areas were generated using county property and parcel data.

The Applicants assert that this amendment area is a reasonable size to accomplish the goal of identifying the proper service area under CCN 12473, without otherwise expanding the CCN area. Particularly, the amendment area is the minimum size necessary to accomplish the following goals: (1) identify and incorporate existing customers of the utility; (2) incorporate the existing infrastructure associated with the existing service; (3) connect customers along a relevant road by also including unserved properties between served parcels; (4) be able to extend service to those unserved properties with distribution lines at the front of those unserved property; and (5) allow for growth along distribution lines.

As indicated, the requested amendment area generally includes customers currently being served by Texas Water Systems, Inc. and the existing infrastructure and distribution lines used to serve them. The existing utility facilities have sufficient capacity to adequately serve its existing customers as required under applicable rules. Attachment B contains infrastructure and capacity notes indicating sufficient infrastructure is in place to serve existing customers and the customers to be added pursuant to the amendment. There are currently no plans for further development in the amendment area. If Undine is approached by a potential customer or developer for service in the amendment area, Undine will increase its capacity and otherwise upgrade its facilities as necessary to provide the requested service in accordance with applicable regulatory standards and requirements, charging the customer or developer a corresponding cost (CIAC).

As part of this response, the Applicants refer Commission Staff to the Application of Sharyland Water Supply Corporation to Amend a Certificate of Convenience and Necessity in Hidalgo County (Docket No. 43354). The applicant in that matter sought a CCN amendment to add an additional service area of 28,506 acres. Chairman Walker issued a memorandum in the docket (Document ID No. 43354-105), in which she recommended that instead of amending the CCN to add 28,506 acres, the CCN instead be amended to include the existing 613 customers currently outside the CCN area. Chairman Walker also indicated a willingness to include "a small,

reasonable area around existing customers, such as a developing neighborhood, to the extent that there is support in the evidentiary record.”

The Applicants consider the subject application to be completely distinguishable from the Sharyland application. First, the subject application is fundamentally a request for a sale, transfer or merger pursuant to 16 Tex. Admin. Code 24.239. The request for amendment to add additional area to the CCN is ancillary to the sale, transfer or merger. The amendment of the CCN area is in support of the STM application. In the Sharyland application, in contrast, the application was solely a CCN amendment application pursuant to 16 Tex. Admin. Code 24.227. The purpose of the Sharyland application was to expand its existing CCN. The purpose of this application is a transfer of a utility. Second, the applicant in the Sharyland application sought to add 28,506 acres of land pursuant to its CCN amendment. The Applicants in this application seek a fraction of that amount, and, as discussed above, only the amount necessary to accomplish the goal of identifying the proper service area under CCN 12473 as part of the STM application. Ultimately, it is the Applicants’ position that this application seeks to accomplish what Chairman Walker endorsed in her memorandum—the amendment of the CCN area to include existing customers, with a small, reasonable area around existing customers.

Accordingly, the Applicants consider any evaluation of “need for service” to be satisfied under this application.

ATTACHMENT B

Friendship

- A. Expansion Capacity: Pilots Point, Lake Gilmer, approx. 33 lots remaining. Elliot Dean development, Lake Gilmer, 60-80 lots. 20 existing homes on main not subscribed. 2 miles of undeveloped frontage along new main.
- B. Capital Projects Already Completed to Accommodate Growth:
 - 1. Completion of a 2nd Plant, including a new well and a 16,800-gallon storage tank; System now has adequate capacity.

Harmony and Rosewood

- A. Expansion Capacity: Seahorn Subdivision, approx. 40 tracts. Paul Wilson Subdivision. approx. 10 tracts, approx. 15 homes along existing mains not subscribing. Considerable undeveloped road frontage along existing lines in Harmony.
- B. Capital Projects Already Completed to Accommodate Growth:
 - 1. *Rosewood*: System has adequate capacity.
 - 2. *Harmony*: Connected additional 8,800-gallon storage tank; System now has adequate capacity.

Mt. Sylvan

- A. Distribution System: 84,580 feet of main line, including 4-inch PVC, 3-inch PVC, 2-inch PVC and 2-inch galvanized pipe.
- B. Expansion Capacity: Dove Ridge Subdivision approx. 84 lots remaining. New Harmony Hills subdivision. approx. 10 lots remaining. approx. 5 miles of installed main on road frontage which is undeveloped property. Approx. 30 homes currently connected west of the system.
- C. Capital Projects Already Completed to Accommodate Growth:
 - 1. This system is adjacent to Garden Valley. An interconnect was added between these systems. System now has adequate capacity.
 - 2. Completion of a 3rd Plant, including a new well and a 44,000-gallon storage tank. System now has adequate capacity.

Stallion Lake and Garden Valley

- A. Expansion Capacity: In Stallion Lake, over 100 properties have been sold at the subdivision and not yet connected. Several new houses are now in construction. Garden Valley is a golf course community with club house and other amenities with substantial property in development. This property has 100+ lots within the development with new 4" main CR 422 (installed in 2015) with 25 homes in place to connect with unlimited growth.
- B. Capital Projects Already Completed to Accommodate Growth:
 - 1. *Stallion Lake*: System has adequate capacity.
 - 2. *Garden Valley*: Extended main line on CR 422 for subdivision growth. System now has adequate capacity.