

Control Number: 49260



Item Number: 45

Addendum StartPage: 0

DOCKET NO. 49260

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

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS AND PROPOSED PROCEDURAL SCHEDULE**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and in response to Order No. 8, files this Recommendation on Administrative Completeness and Proposed Procedural Schedule. Staff recommends that the application be deemed administratively complete. In support thereof, Staff shows the following:

I. BACKGROUND

On February 25, 2019, Undine Texas, LLC (Undine) and Texas Water Systems, Inc. (TWS) (collectively, Applicants) filed an application for sale, transfer, or merger of facilities and certificate rights in Gregg, Henderson, Limestone, Smith, and Upshur Counties, Texas. On March 11, 2019, Applicants filed an amended application. Specifically, Undine seeks approval to acquire facilities and to transfer a portion of water service area currently owned by TWS under Certificate of Convenience and Necessity (CCN) No. 12473. The requested transfer includes approximately 6,478 acres and 997 current customers.

On October 29, 2019, Order No. 8 was issued, establishing a deadline of January 23, 2020 for Staff to file a recommendation on the administrative completeness of the application and notice and propose a procedural schedule for further processing of the application. Therefore, this pleading is timely filed.

II. ADMINISTRATIVE COMPLETENESS

As detailed in the attached memorandum of Greg Charles in the Commission's Infrastructure Division, Staff has reviewed the application and recommends that the application be found administratively complete.

III. NOTICE

The Commission's notice requirement for sale, transfer, merger applications are provided by 16 Texas Administrative Code (TAC) § 24.239. Specifically, Staff recommends that Applicants be ordered to provide notice according to the attached memorandum of Mr. Charles.

IV. MOTION TO RESTYLE DOCKET AND COMMENTS ON STYLING

This docket is currently styled as the "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." While reviewing the application, Staff has reached the conclusion that this styling is not accurate with regard to the counties listed in the styling. Staff proposes that this docket be restyled as the "Application of Texas Water Systems, Inc. and Undine Texas, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Gregg, Henderson, Smith, Upshur, and Van Zandt Counties."

Additionally, the Application, as amended, seeks to accomplish more than just acquiring facilities and transferring a portion of water service area from Texas Water Systems under CCN No. 12473 to Undine's CCN No. 13260 in this docket. With the amended application, the Applicants also seek to add uncertificated service areas, to decertify some areas from CCN No. 12473, and to obtain dual certification with a portion of Crystal Systems Texas, Inc.'s water CCN No. 10804, and obtain dual certification with a portion of Pritchett WSC's water CCN No. 10478. Staff raises these issues with ALJ, in the event that the ALJ should choose to exercise his discretion as to whether this docket should also be restyled to explicitly indicate these other elements of the amended application.

V. PROCEDURAL SCHEDULE

Staff recommends the application be found administratively complete. Staff therefore proposes the following procedural schedule:

Event	Date
Deadline for Applicants to file proof of notice with the Commission	February 24, 2020
Deadline for Staff to file a recommendation on sufficiency of notice	March 5, 2020
Deadline to intervene	March 25, 2020

VI. CONCLUSION

For the reasons discussed above, Staff respectfully recommends that the application be found administratively complete, that Applicants be directed to provide notice as detailed above and in the attached memorandum, that the docket be restyled, and that the procedural schedule proposed above be adopted for further processing of this docket.

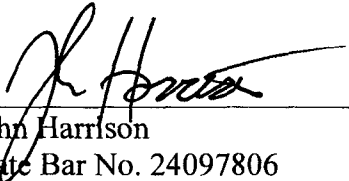
Dated: January 23, 2020

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Thomas S. Hunter
Division Director

Rachelle Nicolette Robles
Managing Attorney

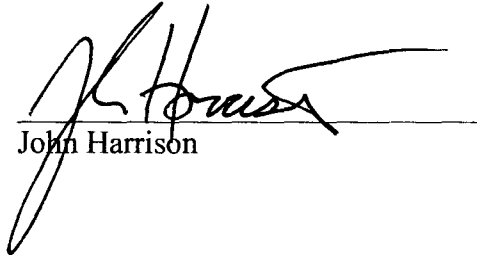


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DOCKET NO. 49260

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 23, 2020, in accordance with 16 TAC § 22.74.



John Harrison

PUC Interoffice Memorandum

To: John Harrison, Attorney
Legal Division

From: Greg Charles, Engineer
Infrastructure Division

Date: January 23, 2020

Subject: **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*

On February 25, 2019, Undine Texas, LLC (Undine or Buyer) and the Texas Water Systems, Inc., (Texas Water Systems or Seller), (collectively, Applicants), filed an application for Sale, Transfer, or Merger (STM) of facilities and certificate rights in Gregg, Henderson, Limestone, Smith and Upshur Counties, Texas, pursuant to Texas Water Code Ann. (TWC) § 13.301 and the 16 Texas Administrative Code (TAC) § 24.239.

On March 11, August 1, August 8, September 13, 2019, Applicants filed amendments and supplemental documents to the application. On December 3 and December 6, 2019, in response to Corrected Order No. 8, the Applicants provided explanations for the need for service. Specifically, the Buyer seeks approval to acquire facilities and to transfer all of the water service area from Texas Water Systems under Certificate of Convenience and Necessity (CCN) No. 12473 to Undine's CCN No. 13260. In addition, Undine seeks to add uncertificated areas, to decertify portions of CCN No. 12473, and to obtain dual certification with a portion of Crystal Systems Texas, Inc.'s water CCN No. 10804, and to obtain dual certification with a portion of Pritchett Water Supply Corporation's water CCN No. 10478.

Staff notes that the current style of this docket considers only a portion of the application regarding the Applicants' STM application, not the request to add uncertificated area, and the request for decertification of a portion of the Seller's CCN area, and for dual certification with portions of other certificated entities. Staff also request the restyle to include the correct county names, Gregg, Henderson, Smith, Upshur, and Van Zandt counties. Consequently, Staff requests that the style of the docket be changed to "*Application of Texas Water Systems, Inc. and Undine Texas, LLC for Sale, Transfer, or Merger of Water Facilities and Certificate Rights, to add uncertificated areas, to Decertify a Portion of Texas Water Systems, Inc.'s Certificated area, to Obtain Dual Certification with a Portion of Crystal Systems Texas, Inc.'s Certificated Area, and to Obtain Dual Certification with a Portion of Pritchett Water Supply Corporation in Gregg, Henderson, Smith, Upshur, and Van Zandt Counties.*"

Based on Staff's review of the application and supplemental documentation filed by the Applicants, Staff found that it is sufficient in the required application and mapping information. Therefore, Staff recommends that the application be deemed sufficient for filing and found administratively complete. Staff further recommends the Applicant be ordered to do the following:

- 1) Provide notice of the application to the following:
 - a) Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area;
 - b) The county judge of each county that is wholly or partially included in the requested area;

- c) Each groundwater conservation district that is wholly or partially included in the requested area;
- d) Landowners who own a tract of land that is at least 25 acres and is wholly or partly located in the requested area to be certified. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the requested area is located;
- e) Any affected customers, and other affected parties in the requested area; and
- f) Publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Gregg, Henderson, Smith, Upshur, and Van Zandt Counties.

2) Provide correct notice of the application to the following neighboring entities:

- Aqua Texas Inc. (CCN No. 13201)
- Ben Wheeler WSC (CCN No. 10749)
- Bi County WSC (CCN No. 10490)
- Carroll WSC (CCN No. 10765)
- City of Gilmer (CCN No. 11264)
- City of Hideaway
- City of Hughes Springs (CCN No. 10531)
- City of Lindale (CCN No. 12795)
- City of Longview (CCN No. 10361)
- City of Ore City (CCN No. 10424)
- City of Tyler (CCN No. 10772)
- City of Van (CCN No. 10768)
- City of White Oak (CCN No. 10422)
- Crystal Systems Texas, Inc. (CCN No. 10804)
- Diana SUD (CCN No. 10425)
- Liberty City WSC (CCN No. 10408)
- Lindale Rural WSC (CCN No. 10758)
- Mims WSC (CCN No. 11650)
- Monarch Utilities I LP (CCN No. 12983)
- Pritchett WSC (CCN No. 10478)
- RPM WSC (CCN No. 10787)
- Sharon WSC (CCN No. 10476)
- Southern Utilities Company (CCN No. 10762)
- Texas Water Systems Inc. (CCN No. 12473)
- Town of Coffee City
- Angelina & Neches River Authority
- Cypress Valley Navigation District
- Northeast Texas Municipal Water District
- Sabine River Authority
- Upper Sabine Valley SWMD
- Gregg County Judge
- Henderson County Judge
- Smith County Judge
- Van Zandt County Judge
- Upshur County Judge

- 3) Provide an accurate map delineating the requested service area with each individual notice to neighboring utilities, other affected parties, and customers. Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>.
- 4) File in the docket a map and copy of notice along with an affidavit specifying every person and entity to whom notice was provided and the date that the notice was provided. It is recommended that the Applicant use the attached notice and affidavit to meet these requirements.

Please note, Staff may determine that additional information is needed to make a final recommendation in this docket. If additional information is needed Staff may send requests for information (RFI) to the Applicant(s). The Applicant(s) will have 20 days from the receipt of the RFI to respond unless additional time is requested by the Applicant(s).

Notice to Current Neighboring Systems, Landowners, Customers, and Cities
UNDINE TEXAS, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO.
13260, NOTICE OF INTENT TO PURCHASE TEXAS WATER SYSTEMS, INC.
FACILITIES AND TO TRANSFER TEXAS WATER SYSTEMS, INC.'S SERVICE AREA
UNDER CCN NO. 12473 IN GREGG, HENDERSON, SMITH, UPSHUR, AND VAN ZANDT
COUNTIES, TEXAS

To: _____ Date Notice Mailed: _____, 2020
(Name of Customer, Neighboring System, or City)

(Address)

(City) State Zip)

<u>Undine Texas, LLC</u>	<u>17681 Telge Road</u>	<u>Cypress, Texas</u>	<u>77429</u>
(Purchaser's Name)	(Address)	(City), (State)	(Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to purchase Texas Water Systems, Inc.'s CCN No. 12473 including water facilities and to transfer all of water certificated service areas to Undine Texas, LLC's CCN No. 13260. This application also includes decertifying portions from CCN No. 12473, dual certification with a portion of Crystal Systems Texas, Inc.'s water CCN No. 10804, and dual certification with a portion of Pritchett Water Supply Corporation's water CCN No. 10478, in Gregg, Henderson, Smith, Upshur, and Van Zandt Counties, TX from:

<u>Texas Water Systems, Inc.</u>	<u>7891 Highway 271, Tyler, Texas</u>	<u>75708</u>
(Seller's Name)	(Address)	(City), (State) (Zip Code)

The sale is scheduled to take place as approved by the Commission (V.T.C.A., Water Code § 13.301). The transaction and the transfer of the CCN includes the following subdivision:
Cape Tranquility, Country Club Estates, Friendship, Garden Acres, Garden Valley Resort, Mount Sylvan, Rosewood & Harmony, Stallion Lake Ranch, and Camp Joy.

A portion of the requested area overlaps the district boundaries of the Sabine River Authority and the Upper Sabine Valley Solid Waste Management District. If Sabine River Authority or the Upper Sabine Valley Solid Waste Management District does not request a public hearing, the Commission shall determine that the district is consenting to Undine Texas LLC's request to provide retail water utility service in the requested area.

The following requested areas subject to this transaction are located as follows:

Camp Joy

The requested area subject to this transaction is located approximately 2 miles north-northeast of downtown Ore City, Texas, and is generally bounded on the north by a line approximately half mile south of Upshur County Landing Road; on the east by Lake O' the Pines; on the south by

Upshur/Marion County Line; and on the west by North Front Street in Upshur County. The total area being requested includes approximately 405 acres and serves 119 current customers.

Cape Tranquility

The requested area subject to this transaction is located within approximately 2 miles north of downtown Coffee City, Texas, and is generally bounded on the north by Jamison Drive; on the east and south by Lake Palestine; and on the west by approximately 200 feet west of County Road 4202 in Henderson County. The total area being requested includes approximately 81 acres and serves 70 current customers.

Country Club

The requested area subject to this transaction is located within approximately 2 miles south-southwest of downtown Gilmer, Texas, and is generally bounded on the north by State Highway 155; on the east by US Highway 271 S; on the south by Sugar Creek; and on the west by FM 2685 in Upshur County. The total area being requested includes approximately 23 acres and serves 34 current customers.

Friendship

The requested area subject to this transaction is located within approximately 1.3 miles west of downtown Gilmer, Texas, and is generally bounded on the north by Lake Gilmer and Kelsy Creek; on the east by Brooks Creek and North Bradford Street; on the south by State Highway 154; and on the west by FM 852 and Kelsey Creek in Upshur County. The total area being requested includes approximately 1,088 acres and serves 92 current customers.

Garden Acres

The requested area subject to this transaction is located within approximately 4.5 miles west of downtown Longview, Texas, and is generally bounded on the north by Mistletoe Street; on the east by Swinging Bridge Road; on the south by Sabine River; and on the west by Hawkins Creek in Gregg County. The total area being requested includes approximately 256 acres and serves 79 current customers.

Harmony and Rosewood

The requested area subject to this transaction is located within approximately 6.2 miles west of downtown Gilmer, Texas, and is generally bounded on the north by FM 852; on the east by FM 1795 and State Highway 154; on the south by Cedar Road; and on the west by Raintree Lakes and Kelsey Creek in Upshur County. The total area being requested includes approximately 1,801 acres and serves 199 current customers.

Mt. Sylvan

The requested area subject to this transaction is located within approximately 4.6 miles southwest of downtown Lindale, Texas, and is generally bounded on the north by Interstate Highway 20; on the east by the intersection of State Highway 110 and County Road 412; on the south by Neches River & County Road 49; and on the west by Mill Break Creek & Neches River in Smith County. The total area being requested includes approximately 5,006 acres and serves 312 current customers.

Stallion Lake and Garden Valley

The requested area subject to this transaction is located within approximately 3.5 miles east/southeast of downtown Van, Texas, and is generally bounded on the north by the intersection of County Road 424 and State Highway 110; on the east by State Highway 110; on the south by

Neches River and ; and on the west by County Road 426 in Smith County. The total area being requested includes approximately 2,080 acres and serves 211 current customers.

The approximate total acreages for the requested areas subject to this transaction includes:

Transferred areas – 5,638 acres; 811 customers

Add uncertificated service areas – 5,076 acres; 186 customers

Decertify areas – 12 acres; 0 customers

Dual area w/ Pritchett WSC, CCN 10478 – 8 acres; 2 customers

Dual area w/ Crystal Systems, CCN 10804 – 21 acres; 6 customers

See enclosed map showing the requested area.

This transaction will have the following effect on the current customers' rates and services:
Customers will be charged the same rates as before the transaction.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date.

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large scale map and a metes and bounds description of the landowner's tract of land.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

Notice for Publication

UNDINE TEXAS, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 13260, NOTICE OF INTENT TO PURCHASE TEXAS WATER SYSTEMS, INC. FACILITIES AND TO TRANSFER TEXAS WATER SYSTEM, INC.'S. SERVICE AREA UNDER CCN NO. 12473 IN GREGG, HENDERSON, SMITH, UPSHUR, AND VAN ZANDT COUNTIES, TEXAS

Undine Texas, LLC	17681 Telge Road	Cypress, Texas	77429
(Purchaser's Name)	(Address)	(City), (State)	(Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to purchase Texas Water Systems, Inc.'s CCN No. 12473 including water facilities and to transfer all of water certificated service areas to Undine Texas, LLC's CCN No. 13260. This application also includes decertifying portions from CCN No. 12473, dual certification with a portion of Crystal Systems Texas, Inc.'s water CCN No. 10804, and dual certification with a portion of Pritchett Water Supply Corporation's water CCN No. 10478, in Gregg, Henderson, Smith, Upshur, and Van Zandt Counties, TX from:

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Decertify areas – 12 acres; 0 customers

Dual area w/ Pritchett WSC, CCN 10478 – 8 acres; 2 customers
Dual area w/ Crystal Systems, CCN 10804 – 21 acres; 6 customers

A copy of the map showing the requested area is available at: 17681 Telge Road, Cypress, Texas 77429

This transaction will have the following effect on the current customers' rates and services:
Customers will be charged the same rates as before the transaction.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date.

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large scale map and a metes and bounds description of the landowner's tract of land.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

PUBLIC UTILITY COMMISSION OF TEXAS



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING UTILITIES AND AFFECTED PARTIES DOCKET NO. 49260

STATE OF TEXAS

COUNTY OF _____

_____ has provided individual notice
to the following entities and customers:

DATE OF NOTICE

OATH

I, _____, being duly sworn, file this form as
_____ (indicate relationship to applicant, that is,
owner, member of partnership, title of officer of corporation, or other authorized representative of
applicant); that in such capacity, I am qualified and authorized to file and verify such form, am
personally familiar with the notices given with this application, and have complied with all notice
requirements in the application and application acceptance letter; and that all such statements made
and matters set for therein are true and correct.

Applicant's Authorized Representative

If the applicant 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.

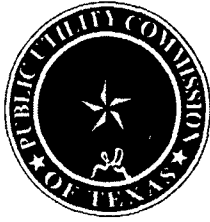
Subscribed and sworn to before me this _____ day of _____, 20____, to
certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____

PUBLIC UTILITY COMMISSION OF TEXAS



PUBLISHER'S AFFIDAVIT

DOCKET NO. **49260**

STATE OF TEXAS

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____,

who being by me duly sworn, deposes and that (s)he is the

_____ of the _____

(TITLE)

(NAME OF NEWSPAPER)

that said newspaper is regularly published in _____

(COUNTY/COUNTIES)

and generally circulated in _____, Texas;

(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

(DATES)

(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this _____ day of _____, 20____,

to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____