

Control Number: 49379



Item Number: 19

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RECEIVED

APPLICATION OF NERRO SUPPLY §  
INVESTORS, LLC AND UNDINE §  
TEXAS, LLC FOR SALE, TRANSFER, §  
OR MERGER OF FACILITIES AND §  
CERTIFICATE RIGHTS IN HARRIS §  
AND MONTGOMERY COUNTIES §

PUBLIC UTILITY COMMISSION  
OF TEXAS  
2019 JUL 16 9:39  
PUBLIC UTILITY COMMISSION  
OF TEXAS  
CLERK

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

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 3, files this Supplemental Recommendation on Administrative Completeness and Proposed Procedural Schedule. In support thereof, Staff shows the following:

**I. BACKGROUND**

On March 27, 2019, Nerro Supply Investors, LLC (Nerro Investors) and Undine Texas, LLC (Undine) (collectively, Applicants), filed an application for the Sale, Transfer, or Merger of Facilities and Certificate Rights in Haris and Montgomery Counties, Texas. Specifically, the applicants seek to sell and transfer portions of Nerro Investors’ facilities and service area under water Certificate of Convenience and Necessity (CCN) No. 10336 to Undine’s CCN No. 13260. The requested transfer includes approximately 916 acres and 988 current customers.

On April 29, 2019, the Commission administrative law judge (ALJ) issued Order No. 2, finding the application deficient and requiring Applicants to file a supplement to cure deficiencies by May 28, 2019.

On May 28, 2019, Applicants filed a request for a 21-day extension to submit information intended to cure the identified deficiencies. On May 30, 2019, the Commission ALJ issued Order No. 3, granting Applicants request for an extension. On June 19, 2019, Applicants filed supplemental information to cure the application deficiencies.

Order No. 3 also required Staff to file a supplemental recommendation on the administrative completeness of the application and notice and to propose a procedural schedule for further processing of the application by July 18, 2019. Therefore, this pleading is timely filed.

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## II. ADMINISTRATIVE COMPLETENESS

As detailed in the attached memorandum of Emily Sears in the Commission's Water Utility Regulation Division, Staff has reviewed the supplemental information filed by Applicants and recommends that the application, as supplemented, be found administratively complete.

## III. NOTICE

The Commission's notice requirements 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 as detailed in the attached memorandum of Emily Sears.

## IV. PROCEDURAL SCHEDULE

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

Event	Date
Deadline for Applicants to file with the Commission signed affidavits that the notice was given, along with a copy of the notice sent to the affected parties	August 19, 2019
Deadline for Staff to file a recommendation on sufficiency of notice	Within 10 days of the Applicants filing proof of completed notice with the Commission
Deadline for intervention; deadline for intervenors to request a hearing on the merits	30 days after notice is issued

## V. CONCLUSION

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

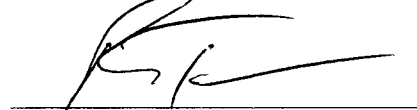
Dated: July 16, 2019

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney




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Rustin Tawater  
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**DOCKET NO. 49379**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on July 16, 2019, in accordance with 16 TAC § 22.74.



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Rustin Tawater

## PUC Interoffice Memorandum

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**To:** Rustin Tawater, Attorney  
Legal Division

**Thru:** Lisa Fuentes, Manager  
Water Utility Regulation Division

**From:** Emily Sears, Financial Analyst  
Water Utility Regulation Division

**Date:** July 15, 2019

**Subject:** **Docket No. 49379** – *Application of Nerro Supply Investors, LLC and Undine Texas, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris and Montgomery Counties*

On March 27, 2019, Nerro Supply Investors, LLC (Seller), and Undine Texas, LLC (Purchaser) (collectively, Applicants), filed an application for the Sale, Transfer, or Merger (STM) of facilities and certificate rights in Harris and Montgomery Counties, Texas, pursuant to Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, Purchaser, under Certificate of Convenience and Necessity (CCN) No. 13260, seeks approval to acquire facilities and to transfer a portion of Seller's water CCN No. 10336. The requested area includes approximately 916 acres and 988 connections.

Based on Staff's review of the additional information filed by the Applicants on June 19, 2019, Staff recommends that the application and mapping information be deemed sufficient for filing and found administratively complete. Staff also recommends the following actions be required of Purchaser:

- 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; and
  - d) any affected customers, and other affected parties in the requested area.
  
- 2) Publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Harris and Montgomery Counties.
  
- 3) Provide correct notice of the application to the following entities:
  - Aqua Texas Inc (CCN Nos. 11157, 13203)
  - Champs (CCN No. 10972)
  - City of Magnolia (CCN No. 11466)
  - City of Tomball (CCN No. 13257)
  - H-M-W SUD (CCN No. 10342)
  - Johnston Water Utility LLC (CCN No. 12788)
  - Pinehurst Decker Prairie WSC (CCN No. 11768)

- Quadvest LP (CCN No. 11612)
  - South Central Water Company (CCN No. 13061)
  - T & W Water Service (CCN No. 12892)
  - Woodland Lakes WSC (CCN No. 12529)
  - Town of Stagecoach
  - Clovercreek MUD
  - Coastal Water Authority
  - Grand Oaks MUD
  - Gulf Coast Waste Disposal Authority
  - Harris County Flood Control District
  - Harris-Galveston Coastal Subsidence District
  - Harris County Improvement District 17
  - Harris County MUD 416
  - Lone Star Groundwater Conservation District
  - Montgomery County MUD 130
  - Montgomery County MUD 131
  - Montgomery County WCID 4
  - North Harris County Regional Water Authority
  - Port of Houston Authority
  - San Jacinto River Authority
  - Harris County Judge
  - Montgomery County Judge
- 4) 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/>.
- 5) Within 30 days of the date of notice, file in the docket a map and copy of notice, along with an affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit for proof of newspaper publication. It is recommended that Purchaser use the attached notices and affidavits to meet these requirements.

**Notice to Current Customers, Neighboring Systems, and Cities**

UNDINE TEXAS, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 13260, NOTICE OF INTENT TO PURCHASE A PORTION OF NERRO SUPPLY INVESTORS, LLC'S WATER FACILITIES AND TO TRANSFER A PORTION OF ITS WATER CCN NO. 10336 IN HARRIS AND MONTGOMERY COUNTIES, TEXAS

To: \_\_\_\_\_ Date Notice Mailed: \_\_\_\_\_, 2019  
(Name of Customer, Neighboring System, or City)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City State Zip)

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

has submitted an application with the Public Utility Commission of Texas (Commission) to purchase a portion of Nerro Supply Investors, LLC's water facilities and to transfer a portion of the water CCN No. 10336 in Harris and Montgomery Counties, TX from:

Nerro Supply Investors, LLC P.O.BOX 691008 Houston, TX 77269  
(Seller's Name) (Address) (City), (State) (Zip Code)

The sale is scheduled to take place as approved by the Commission (Texas Water Code § 13.301). The transaction and the transfer of the CCN includes the following subdivision:  
Hazy Hollow East Estates, Spring Creek Valley Estates, and Shady Brook Acres.

The requested areas subject to this transaction are located approximately:

**Hazy Hollow East Estates**

2.5 miles east/southeast of downtown Magnolia, Texas, and is generally bounded on the north by Little Thorn Lane and 260 feet north of Green Tree Road; on the east by Little Thorn Lane and Mildred Lane; on the south by Magnolia Boulevard/FM1774; and on the west by North Cripple Creek Drive. The total requested area for the water or sewer CCN(s) being transferred includes approximately 667 acres and 742 current customers.

**Shady Brooks Acres**

1.5 miles south of downtown Magnolia, TX, and is generally bounded on the north by Old Hockley Road; on the east by Nichols Sawmill Road; on the south by Country Place Road and Mink Branch; and on the west by Mink Branch. The requested area to be transferred includes approximately 95 total acres and 57 current customers.

**Spring Creek Valley Estates**

1.8 miles northwest of downtown Tomball, TX, and is generally bounded on the north by Spring Creek; on the east by Parkplace Drive; on the south by Brown Road; and on the west by Spring Creek Park. The requested area to be transferred includes approximately 154 total acres and 189 current customers. The total requested area for the water CCN being transferred includes approximately 916 total acres and 988 current customers.

**A copy of the map showing the requested area is available at: 17681 Telge Road, Cypress, Texas 77249**

This transaction will not have an effect on the current customer's rates and services.

*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.

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

\_\_\_\_\_  
Utility Representative

\_\_\_\_\_  
Utility Name



# PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, NEIGHBORING UTILITIES AND  
AFFECTED PARTIES  
DOCKET NO. 49379

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 \_\_\_\_\_

***Notice for Publication***

UNDINE TEXAS, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 13260, NOTICE OF INTENT TO PURCHASE A PORTION OF NERRO SUPPLY INVESTORS, LLC'S WATER FACILITIES AND TO TRANSFER A PORTION OF ITS WATER CCN NO. 10336 IN HARRIS AND MONTGOMERY COUNTIES, TEXAS

Undine Texas, LLC, has filed an application with the Public Utility Commission of Texas to purchase a portion of Nerro Supply Investors, LLC's water facilities and transfer a portion of its CCN No. 10336 in Harris and Montgomery Counties.

The sale is scheduled to take place as approved by the Commission (Texas Water Code § 13.301). The transaction and the transfer of the CCN includes the following subdivision:  
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# PUBLIC UTILITY COMMISSION



## PUBLISHER'S AFFIDAVIT

DOCKET NO. 49379

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 \_\_\_\_\_

A landowner with a tract of land of 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. 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.

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.