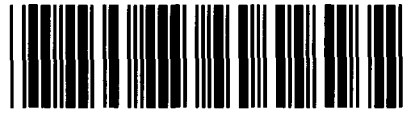


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DOCKET NO. 49379

**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**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER APPROVING
SALE/TRANSFER TO PROCEED**

COME NOW, Undine Texas, LLC (Undine) and Nerro Supply, LLC (Nerro) (collectively, the Applicants), together with the staff of the Public Utility Commission of Texas (Commission Staff) (collectively, the Parties), and file this Joint Motion to Admit Evidence and Proposed Order Approving Sale/Transfer to Proceed. In support thereof, the Parties show the following:

I.

BACKGROUND

On March 27, 2019, Applicants filed an application with the Public Utility Commission of Texas (Commission) for sale, transfer, or merger of facilities and certificate rights in Harris and Montgomery Counties. Specifically, Undine, Certificate of Convenience and Necessity (CCN) No. 13260, seeks approval to acquire facilities and to transfer a portion of Nerro’s water CCN No. 10336. The requested area includes approximately 916 acres and 988 connections.

On August 8, 2019, Undine provided proof of notice and supporting documentation.

On September 9, 2019, Undine provided responses to Staff’s first request for information.

On October 4, 2019, Staff filed its recommendation on transaction.

On October 18, 2019, the Administrative Law Judge issued Order No. 9 soliciting the joint motion to admit evidence and proposed order by November 12, 2019. Therefore, this pleading is timely filed.

II.

JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

- (1) The Application, filed on March 27, 2019 (AIS Item No. 1);

UC

- (2) Undine’s proof of notice and supporting documentation, filed on August 8, 2019 (AIS Item No. 22);
- (3) Undine’s response to Staff’s first request for information, filed on September 9, 2019 (AIS Item No. 31); and
- (4) Commission Staff’s recommendation requesting the entry of an order permitting the proposed transaction to proceed, and attachments thereto, filed October 4, 2019 (AIS Item No. 37).

III.

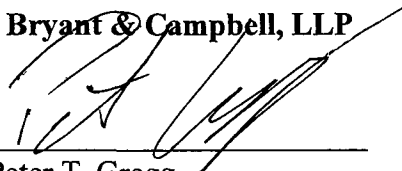
CONCLUSION

The Parties respectfully request that the Commission authorize the proposed transaction to proceed.

Respectfully submitted,

DuBois, Bryant & Campbell, LLP

By: _____

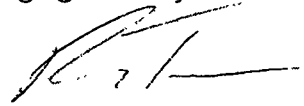

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CERTIFICATE OF SERVICE

I certify by my signature above, that a copy of this document will be served on all parties of record on the 2nd of November 2019, in accordance with 16 TAC § 22.74.

DOCKET NO. 49379

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

JOINT PROPOSED ORDER
APPROVING SALE/TRANSFER TO PROCEED

This Order addresses the March 27, 2019 application of Nerro Supply, LLC (Nerro) and Undine Texas, LLC (Undine) (collectively, the Applicants) for sale, transfer, or merger of facilities and certificate rights in Harris and Montgomery Counties.

On October 4, 2019, Commission Staff recommended that the transaction proceed in this docket.

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. Nerro Supply, LLC is a for-profit corporation registered with the Texas secretary of state under file number 801380548 that provides water service in Texas under CCN No. 12252.
2. Undine Texas, LLC is a for-profit corporation registered with the Texas secretary of state under file number 802339329 that provides water service in Texas under CCN No. 13260.
3. Nerro Supply, LLC owns three water systems (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) under the following PWS numbers:

Nerro Utility Name	PWSID
Hazy Hollow East Estates	TX1700013
Shady Brooks Acres	TX1700031
Spring Creek Valley Estates	TX1010213

4. Undine Texas, LLC owns sixty-three PWS registered with the TCEQ under the following PWS numbers:

Undine Utility Name	PWSID
Angle Acres	200244
Bayou Colony	0200358
Bear Creek	0200359
Beaumont Place	0200360
Beechwood	0200361
Bell Manor	0200362
Bernard Oaks	0200363
Blue Sage Gardens	0200364
Brandi Estates	0200365
Brazos Oaks	0200366
Briar Meadows	0200410
Buffalo Creek	1260084
Castlewood	1010111
College Port	1610132
Colony Cove	0200324
Colony Trails	0200604
Coronado Country	0200275
Country Acres	0200274
Country Meadows	0200273
Crowley II Acres	1260012
Crystal Lake	0790510
Cypress Bend	1010119
Demi John Island	0200234
Demi John Place	0200185
Greengate Acres	1010132
Highland Mobile Home Sub	1010285
Highland Ridge	1010157
Huffman Heights	1010700
John Dame	1260090
Joy Village	1700021
Kucera Farms	0200665
Lakewood Colony	1700029
Larkspur	0200339
Lee Ridge	0200506
Mark V	0200432
Martin Creek	1260122
Meadowlake Estates	1010287
Mooreland	0200094
Peach Creek Oaks	1700051
Pioneer Trails	1700114

Porter Terrace	1700161
Reservoir Acres	1010197
River Ranch/723	0790425
Riverside Estates	0200058
Rock Creek Estates	1260082
Rosharon Road	0200346
Ryan Long 2	0200108
San Bernard	0200460
Sanders View	1260086
Sandy Meadow	0200335
Snug Harbor	0200053
Southwood	0200403
Spanish Bit	1610102
Spring Crossing	0200666
Spring Forest	1700033
Springmont	1010255
Sweetgum Forest	1700113
Tall Cedars	1010219
Tejas Lakes	0790504
Urban Acres	1010252
Village Lakes	0200638
Wilco	0200083
Wolf Glen	0200370

Application

5. On March 27, 2019, Nerro and Undine filed an application for the approval of the sale, transfer or merger of facilities and certificate rights Harris and Montgomery Counties. Specifically, Undine, Certificate of Convenience and Necessity (CCN) No. 13260, seeks approval to acquire facilities and to transfer a portion of Nerro’s water CCN No. 10336.
6. The requested area includes approximately 916 acres and 988 connections and consist of the following:
 - (a) the Hazy Hollow East Estates with 667 total cares and 742 current customers, located 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—PWS Number TX1700013;
 - (b) the Shady Brooks Acres subdivision with 95 total acres and 57 current customers, located 1.5 miles south of downtown Magnolia, Texas, 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—PWS Number TX1700031; and

- (c) the Spring Creek Valley Estates with 154 total acres and 189 current customers, located 1.8 miles northwest of downtown Tomball, Texas, 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—PWS Number TX1010213 .

- 7. In Order No. 4, issued on July 18, 2019, the Administrative Law Judge (ALJ) deemed the Application administratively complete.

Notice

- 8. On August 8, 2019, Carey A. Thomas, Senior Vice President filed an affidavit on behalf of Undine, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on July 26, 2019.

- 9. In Order No. 6, issued on September 5, 2019, the ALJ deemed the notice sufficient.

Evidentiary Record

- 10. On November 12, 2019, the parties jointly moved to admit evidence.
- 11. In Order No. __, issued on _____, 20__ the ALJ admitted the following evidence into the record: (a) the Application, filed on March 27, 2019 (b) Undine’s proof of notice and supporting documentation, filed on August 8, 2019; (c) Undine’s responses to Staff’s first request for information, filed on September 9, 2019; and (d) Commission Staff’s recommendation requesting the entry of an order permitting the proposed transaction to proceed, and attachments thereto, filed October 4, 2019.

System Compliance—Texas Water Code (TWC) § 13.301(e)(3)(A); 16 Texas Administrative Code (TAC) §§ 24.227(a), 24.239(j)(3)(A), (j)(5)(A)

- 12. Applicants have not been subject to any unresolved enforcement action by the Commission, TCEQ, the Texas Department of Health, the Office of Attorney General, or the United States Environmental Protection Agency.

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

- 13. Nerro owns and operates three public water systems to be sold in this transaction that currently provide continuous and adequate service to its customers and does not have any unresolved violations from the TCEQ.

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

14. There are 988 existing connections in the areas to be transferred, therefore there is a need for service.
15. Undine has received no new requests for service and is not requesting to add additional uncertificated area.
16. This application is to transfer only existing facilities, customers and service area.
17. Undine has adequate financial, technical, and managerial capabilities to provide service in case there comes a need for additional service.

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)

18. Nerro and Undine are the only utilities affected by this sale and transfer.
19. The customers in the requested areas will continue to be provided adequate and continuous service after the approval of the transaction.

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)

20. Undine has a sufficient number of licensed operators and the managerial and technical capability to provide adequate and continuous service to the requested service area.
21. Nerro and Undine have sufficient capability to serve the customers and no additional construction is necessary.

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)

22. Nerro is currently serving the existing customers with 3 existing public water systems registered with the TCEQ and has sufficient capacity.
23. Utilities within a two-mile radius were noticed and no protests or requests to opt out were received regarding the proposed transaction.

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)

24. Undine meets the leverage test with an effective debt service coverage ratio greater than 1.25.
25. Undine has demonstrated the financial capability and stability to provide continuous and adequate water service.

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

26. Undine’s projected operating revenues are sufficient to cover the projected operations and maintenance expenses for the first five years after the completion of the proposed sale and transfer.
27. There is no need to require Undine to provide a bond or other financial assurance to ensure continuous and adequate service.

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

28. The requested area will continue to be served by existing facilities and minimal construction is needed; therefore, the proposed transaction will not adversely impact the environmental integrity of the land and have minimal effect on the land.

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

29. Undine will improve customer service to existing customers because the water systems will be operated and maintained by a sufficient number of licensed operators, and there will be no change in rates.

Regionalization or Consolidation—TWC § 13.241(d); 16 TAC § 24.227(b)

30. Undine does not anticipate building any new facilities to continue service the requested area and is not requesting to add service area in the proposed transaction; therefore, regionalization or consolidation is not applicable.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2), and 16 TAC § 24.239.
2. After consideration of the factors in TWC § 13.246(c), Undine has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area. TWC § 13.301(b).
3. Nerro and Undine have demonstrated that the sale of Nerro’s water systems PWS Numbers TX1700013, TX1010213, TX1700031 and transfer a portion of Nerro’s water CCN No. 10336 to Undine 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 Undine and Nerro 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 Undine and Nerro shall file proof that the transaction has been consummated and customer deposits have been addressed.
3. Undine and Nerro 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 Undine and Nerro will have to reapply for approval.
5. Undine and Nerro are advised that water CCN number 10336 will be held by Nerro until the sale and transfer traction is complete in accordance with the Commission's rules.
6. In an effort to finalize this proceeding as soon as possible, Undine and Nerro shall 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 Undine's and Nerro's 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 _____ day of _____ 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE