

Control Number: 50017



Item Number: 12

Addendum StartPage: 0

DOCKET NO. 50017

APPLICATION OF PURE UTILITIES,	§	PUBLIC UTILITY COMMISSION
LC AND UNDINE TEXAS, LLC FOR	§	
SALE, TRANSFER, OR MERGER OF	§	OF TEXAS
WATER FACILITIES AND	§	
CERTIFICATE RIGHTS IN LIBERTY,	§	
POLK, SAN JACINTO, AND TYLER	§	
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. 2, files this Supplemental 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 September 17, 2019, Pure Utilities, LC (Pure) and Undine Texas Environmental, LLC (Undine), (collectively, Applicants), filed an application for the sale, transfer, or merger of facilities and certificate rights in Liberty, Polk, San Jacinto and Tyler Counties. The Applicants seek to transfer Pure's water systems and transfer the related portion of the water service area held under certificate of convenience and necessity (CCN) No. 12072 to Undine's CCN No. 13260. The requested transfer includes approximately 602 acres and 184 current customers. Applicants filed supplemental information on October 8, 2019 and November 18, 2019.

On October 18, 2019, Order No. 2 was issued establishing a deadline of December 18, 2019, for Staff to file a supplemental recommendation on the administrative completeness of the application 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 from Roshan Pokhrel, Engineering Specialist, in the Commission's Infrastructure Division, Staff has reviewed the application and supplemental information and recommends that the application 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 Roshan Pokhrel using the form of notice and affidavit prepared by Staff.

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	February 3, 2020
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 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.

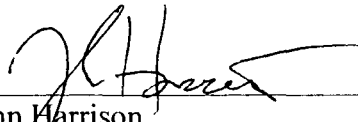
Dated: December 18, 2019

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Thomas S. Hunter
Division Director

Rachelle Nicolette Robles
Managing Attorney

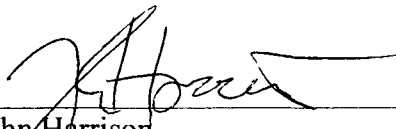


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DOCKET NO. 50017

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on December 18, 2019, in accordance with 16 Texas Administrative Code § 22.74.



John Harrison

PUC Interoffice Memorandum

To: John Harrison, Attorney
Legal Division

From: Roshan Pokhrel, Engineering Specialist
Infrastructure Division

Date: December 18, 2019

Subject: **Docket No. 50017**, *Application of Pure Utilities, LC and Undine Texas, LLC for Sale, Transfer, or Merger of Water Facilities and Certificate Rights in Liberty, Polk, San Jacinto, and Tyler Counties*

On Sep 17, 2019, Undine Texas, LLC (Purchaser) and Pure Utilities, LC (Seller) (collectively, Applicants), filed with the Public Utility Commission of Texas an application for sale, transfer, or merger of facilities and certificate rights in Liberty, Polk, San Jacinto, and Tyler Counties, under Texas Water Code § 13.301 and the 16 Texas Administrative Code § 24.239.

Staff notes that the current style of this docket considers only a portion of the application regarding Applicants' STM application, not the request to add uncertificated area and the request for decertification of a portion of the Seller's CCN area. Consequently, Staff requests that the style of the docket be changed to "*Application of Pure Utilities, LC and Undine Texas, LLC for Sale, Transfer, or Merger of Water Facilities and Certificate Rights in Liberty, Polk, San Jacinto, and Tyler Counties, and to Decertify a Portion of Pure Utilities, LC's Certificated Area, and to Amend Uncertificated Water Service Area in Liberty and Polk Counties.*"

The Purchaser seeks approval to transfer all of the service area under Seller's water CCN No. 12072 and to amend additional area and decertify a small area to clean up the service area boundaries. Also, the Purchaser is requesting dual certification with Tempe Water Supply Corporation, CCN No. 11579. The agreement letter for dual certification was filed with the application. The entire requested area subject to this transaction includes approximately 5,095 acres. The area to be transferred is approximately 4,137 acres, the additional area to be amended is approximately 1,190 acres, and the area to be decertified is approximately 233 acres. The area for dual certification is approximately 95 acres.

Staff has reviewed the information provided in the supplemental application and recommends that the application be deemed sufficient for filing and administratively complete. Staff further recommends the Applicants 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 each week for two consecutive weeks in a newspaper of general circulation in Liberty, Polk, San Jacinto, and Tyler Counties.

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

- Aqua Texas Inc (13203)
- City of Dayton (Proposed Docket 48350)
- City of Liberty (10144)
- Cypress Creek WSC (10426)
- Dodge – Oakhurst WSC (11214)
- Lake Livingston Water Supply & Sewer Service (10147)
- Lake Serene Utilities Inc (13092)
- Leggett WSC (10145)
- Monarch Utilities I LP (12983)
- Onalaska WSC (10119)
- Pixley Water Works (12092)
- Providence WSC (10120)
- Pure Utilities LC (12072)
- R C WSC (10121)
- Soda WSC (10146)
- T & W Water Service Company (12892)
- Tempe WC 1 (11579)
- Tyler County WSC (11528)
- Upper Jasper County Water Authority (12020)
- Woodland Hills Water LLC (12388)
- Yaupon Cove Water Co (10118)
- City of Onalaska
- City of Seven Oaks
- Town of Kenefick
- Town of Livingston
- Angelina & Neches River Authority
- Chambers-Liberty Counties Navigation District
- Liberty County WCID 1
- Liberty County WCID 5
- Liberty County WCID 6
- Lower Neches Valley Authority
- Lower Trinity Groundwater Conservation District
- Memorial Point Utility District
- Polk County FWSD 2
- San Jacinto River Authority
- Trinity River Authority of Texas
- Liberty County Judge
- Polk County Judge
- San Jacinto County Judge
- Tyler County Judge

3) Provide an accurate map delineating the requested 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's 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 Applicants 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. The Applicant will have 20 days from the receipt of the RFI to respond unless additional time is requested by the Applicant.

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

UNDINE TEXAS, LLC, NOTICE OF INTENT TO PURCHASE FACILITIES AND TO TRANSFER ALL OF WATER SERVICE AREA UNDER CCN NO. 12072 FROM PURE UTILITIES, LC IN LIBERTY, POLK, SAN JACINTO, AND TYLER COUNTIES AND TO ADD UNCERTIFICATED AREA, AND TO DECERTIFY A PORTION OF CCN NO. 12072 IN LIBERTY AND POLK COUNTIES, TEXAS

To: _____ Date Notice Mailed: _____, 201____
(Name of Customer, Landowner, Neighboring System, or City)

(Address)

(City State Zip)

<u>Undine Texas, LLC</u>	<u>17681 Telge Road</u>	<u>Cypress, TX</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 Pure Utilities, LC's water facilities and to transfer water certificated service area under CCN No. 12072 in Liberty, Polk, San Jacinto, and Tyler Counties, TX from:

<u>Pure Utilities, LC</u>	<u>207 W. Mill St.</u>	<u>Livingston, TX</u>	<u>77351</u>
(Seller's Name)	(Address)	(City), (State)	(Zip Code)

The requested area overlaps the boundaries of the Trinity River Authority of Texas. If Trinity River Authority of Texas does not request a public hearing, the Commission shall determine that the district is consenting to the Undine Texas LLC's request to provide retail water utility service in the requested area.

The Purchaser is requesting dual certification with Tempe Water Supply Corporation, CCN No.11579.

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 subdivisions:

Bar D Ranchettes

The requested area subject to this transaction is located within approximately 12 miles east/southeast of downtown Shepherd, Texas, and is generally bounded on the north by 1 mile north of Burlington Northern Santa Fe (BNSF) Railway; on the east by Cherry Creek; on the south by BNSF Railway; and on the west by 1,650 feet west of Laddis Road in Liberty County. The total area being requested includes approximately 307 acres and 41 current customers.

Riverboat Bend

The requested area subject to this transaction is located within approximately 1.3 miles east/southeast of Kenefick, Texas, and is generally bounded on the north by FM 2797; on the east by Trinity River; on the south by 590 feet south of River Boat Bend; and on the west by 700 feet west of River Boat Bend in Liberty County. The total area being requested includes approximately 157 acres and 42 current customers.

Six Lakes

The requested area subject to this transaction is located within approximately 9.5 miles east of downtown Shepherd, Texas, and is generally bounded on the north and west by Menard Creek; on the east by Williams Creek; and on the south by 1000 feet south of Barrett Drive in Liberty and Polk Counties. The total area being requested includes approximately 271 acres and 60 current customers.

Bentwood Bend

The requested area subject to this transaction is located within approximately 3.9 miles northeast of downtown Onalaska, Texas, and is generally bounded on the north and east by Rocky Creek Rd; and on the south and west by Baird Branch/Kickapoo Creek in Polk County. The total area being requested includes approximately 69 acres and 23 current customers.

Commodore Cape

The requested area subject to this transaction is located within approximately 5.6 miles south of downtown Onalaska, Texas, and is generally bounded on the north and west by Lake Livingston; on the east by Scenic Loop; and on the south by Inlet Drive in Polk County. The total area being requested includes approximately 145 acres and 105 current customers.

Forest Springs

The requested area subject to this transaction is located within approximately 4.6 miles east of downtown Goodrich, Texas, and is generally bounded on the north by Myrow Road; on the east by Sam Randolph Road; on the south by Bird Road; and on the west by Eagle Pass Road in Polk County. The total area being requested includes approximately 393 acres and 156 current customers.

Lakeside Village

The requested area subject to this transaction is located within approximately 2.6 miles south of downtown Livingston, Texas, and is generally bounded on the north by Old Highway 35; on the east by Lodia Brock Road; on the south by Stallion Station Road; and on the west by US Highway 59 in Polk County. The total area being requested includes approximately 318 acres and 130 current customers.

Spring Creek

The requested area subject to this transaction is located within approximately 5.3 miles southeast of downtown Onalaska, Texas, and is generally bounded on the north by Intersection of US Highway 190 and FM 3126; on the east by Hidden Valley Road; on the south by Nelson Drive; and on the west by FM 3126 in Polk County. The total area being requested includes approximately 912 acres and 135 current customers.

Taylor Lake Estates

The requested area subject to this transaction is located within approximately 7.7 miles east of downtown Shepherd, Texas, and is generally bounded on the north, west and south by Trinity River; and on the east by FM 2610 in Polk County. The total area being requested includes approximately 482 acres and 151 current customers.

Texas Water Supply

The requested area subject to this transaction is located within approximately 2 miles southwest of downtown Seven Oaks, Texas, and is generally bounded on the north by Ravine Road; on the east by Long King Creek; on the south by FM 942; and on the west by Barnett Creek in Polk County. The total area being requested includes approximately 564 acres and 69 current customers.

Tanglewood Forest

The requested area subject to this transaction is located within approximately 6.5 miles west of downtown Point Blank, Texas, and is generally bounded on the north by 550 feet north of Pecan Lane; on the east by Cleveland Road; on the south by Old Dodge Road; and on the west by Mann Road in San Jacinto County. The total area being requested includes approximately 191 acres and 25 current customers.

Town Bluff (Mont Neches)

The requested area subject to this transaction is located within approximately 14 miles east of downtown Woodville, Texas, and is generally bounded on the north by Neches River; on the east and south by County Road 4400; and on the west by FM 92 in Tyler County. The total area being requested includes approximately 352 acres and 34 current customers.

Barlow Lake Estates

The requested area subject to this transaction is located within approximately 16 miles east of downtown Woodville, Texas, and is generally bounded on the north and east by Neches River; on the south by 250 feet south of Mock Drive; and on the west by 250 feet west of Mock Drive in Tyler County. The total area being requested includes approximately 395 acres and 15 current customers.

Whitetail Ridge

The requested area subject to this transaction is located within approximately 8.9 miles west of downtown Woodville, Texas, and is generally bounded on the north by 200 feet north of Noble Road; on the east by 300 feet east of FM 2200; on the south by 200 feet south of Neely Road; and on the west by Horsepen Creek in Tyler County. The total area being requested includes approximately 539 acres and 73 current customers.

The total requested area subject to this transaction includes approximately 5095 acres and 1059 current customers.

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

This transaction will not have an effect on the current customers' 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.

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

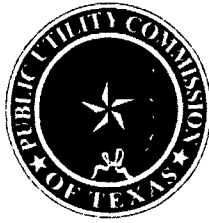
Austin, Texas 78711-3326

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

Utility Representative

Utility Name

PUBLIC UTILITY COMMISSION OF TEXAS



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING
UTILITIES AND AFFECTED PARTIES
DOCKET NO. 50017

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

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Undine Texas, LLC	17681 Telge Road	Cypress, TX	75254
(Purchaser's Name)	(Address)	(City), (State)	(Zip Code)

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

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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.

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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



PUBLISHER'S AFFIDAVIT

DOCKET NO. 50017

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 _____