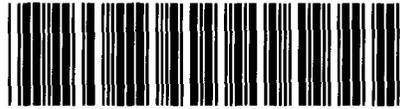
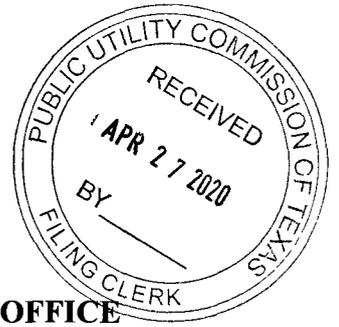


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SOAH DOCKET NO. 473-20-3110.WS
PUC DOCKET NO. 50200

APPLICATION OF UNDINE TEXAS, § BEFORE THE STATE OFFICE
LLC AND UNDINE TEXAS §
ENVIRONMENTAL, LLC FOR § OF
AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS

**UNDINE TEXAS, LLC AND UNDINE TEXAS ENVIRONMENTAL, LLC 'S
REQUESTED MODIFICATIONS TO DISCOVERY DEADLINES**

COMES NOW, Undine Texas, LLC and Undine Texas Environmental, LLC (Undine) and file this request for a modification of discovery deadlines established by the Administrative Law Judges (ALJ) in State Office of Administrative Hearings (SOAH) Order No. 1. In support hereof, Undine would show the following:

I.

In Order No. 1, the ALJs adopted provisions regarding the times by which written discovery responses are due. These deadlines are shorter than the deadlines commonly established in proceedings at SOAH, and in the circumstances in which Undine finds itself, will be difficult to meet.

The circumstances of the novel coronavirus (COVID-19) have mandated that Undine's office and accounting personnel work remotely (i.e., not in the office where hard-copy records are kept), much like Undine's counsel, Public Utility Commission Staff (Staff), Office of Public Utility Counsel (OPUC), and presumably the ALJs and Intervenors. Although many records and documents are stored electronically, that is not true for all of them. For instance, in responding to one of Staff's requests for information, it took four Undine employees over 130 hours to assemble responsive hard-copy documents (that were not available electronically), resulting in a stack of papers over 13-inches high.

Staff and OPUC each have already propounded four sets of written discovery on Undine. Thus far, both Staff and OPUC have been very accommodating in reaching agreements with Undine on timing issues for Undine's responses. Undine is appreciative of their understanding.

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It is likely that written discovery on Undine's application and its direct testimony will increase during the month of May as additional intervenors become active in this docket. While Undine expects to be able to work out discovery matters with these intervenors, the default timelines established by the ALJs do not take into consideration the additional difficulties associated with responding to multiple sets of discovery at a time when Undine's employees are required to work remotely, and separately, during this state-wide health emergency.

II.

Undine respectfully requests that the following deadlines, as set forth on page 5 of Order No. 1, be adjusted as follows in order to provide a reasonable amount of time for Undine to respond to written discovery in this matter. OPUC also requested a change as noted below. In footnotes, Undine has indicated the position of the parties on each request:

1. For written discovery on the Applicant's application and direct testimony:
 - a. Response are due within ~~10~~ 15 calendar days of the discovery request;¹
 - b. – d. No changes requested.
2. For written discovery on Staff's and Intervenors' direct testimony:
 - a. Responses are due within ~~4~~ 6 calendar days of the discovery request;²
 - b. – d. No changes requested.

¹ Undine's request. **Agreed** by Mr. Bradford (Country Vista Homeowners Committee), Mr. Elliott (Demi-John Community Residents), Ms. Butler, Ms. Zarate (Homeowners Association of Tejas Lakes), Mr. Brandon Smith (SugarTree), Mr. Blanchat, Town of Dennis, Ms. Meeker, OPUC, and Staff. **No agreement** by Ms. May or Mr. Chuck Smith (Riverside Ranch Homeowners Association)

² OPUC's request. **Agreed** by Undine, Mr. Brandon Smith (SugarTree), Mr. Blanchat, Ms. Meeker, Ms. Hicks (Town of Dennis), Ms. Zarate (Homeowners Association of Tejas Lakes), Ms. Butler, and Staff. **No agreement** by Mr. Chuck Smith (Riverside Ranch Homeowners Association). **No response** by Mr. Bradford (Country Vista Homeowners Committee), Mr. Elliott (Demi-John Community Residents), or Ms. May.

3. For written discovery on the Applicant's rebuttal testimony and Staff's and Intervenor's cross-rebuttal testimony:
 - a. Responses are due within ~~2-calendar~~ 5 business days of the discovery request;³
 - b. No changes requested.

Undine also requests that written discovery requests received after 2:00 p.m. on a Friday be deemed to have been received on the following Monday.⁴

III.

OPUC has also requested a change to a discovery response deadline. Undine has communicated its proposed revisions, along with OPUC's proposal, to all of the parties and entities who have filed requests or motions to intervene in this proceeding. Because the responses vary, Undine has indicated the parties' positions in footnotes referencing each proposed change.

Undine respectfully asks for the ALJs' consideration and adoption of these changes to the discovery response deadlines. The proposed changes are minor, and will be very helpful to Undine's personnel and Intervenor's as they respond to written discovery requests.

³ Undine's request. **Agreed** by Mr. Bradford (Country Vista Homeowners Committee), Mr. Elliott (Demi-John Community Residents), Ms. Butler, Ms. Zarate (Homeowners Association of Tejas Lakes), Mr. Brandon Smith (SugarTree), Mr. Blanchat, Town of Dennis, Ms. Meeker, and OPUC. **No agreement** by Ms. May, Staff, or Mr. Chuck Smith (Riverside Ranch Homeowners Association).

⁴ Undine's request. The proposal initially communicated to the parties was to have a cut-off of noon on Friday for receipt of discovery requests to be deemed filed that day. At OPUC's request, Undine has modified this proposal to a cut-off of 2:00 p.m. on Friday; discovery requests served after that time to be deemed served on Monday. Undine presumes that the parties agreeing to a noon cut-off will also agree to a 2:00 p.m. cut-off. Therefore, the revised proposal was **agreed** by Mr. Bradford (Country Vista Homeowners Committee), Mr. Elliott (Demi-John Community Residents), Ms. Butler, Ms. Zarate (Homeowners Association of Tejas Lakes), Mr. Brandon Smith (SugarTree), Mr. Blanchat, Ms. Meeker, Staff, and OPUC. **No agreement** by Ms. May, Town of Dennis, or Mr. Chuck Smith (Riverside Ranch Homeowners Association).

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE
& TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900

Austin, Texas 78701

(512) 322-5800

(512) 472-0532 (Fax)

gcrump@lglawfirm.com

jmauldin@lglawfirm.com



GEORGIA N. CRUMP
State Bar No. 05185500

JAMIE L. MAULDIN
State Bar No. 24065694

**ATTORNEYS FOR UNDINE TEXAS, LLC and
UNDINE TEXAS ENVIRONMENTAL, LLC**

CERTIFICATE OF SERVICE

I certify that notice of the filing of this document was provided to all parties of record via electronic mail on April 27, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.



GEORGIA N. CRUMP