



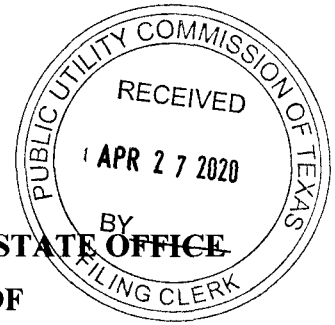
Control Number: 50200



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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 § OF  
ENVIRONMENTAL, LLC FOR §  
AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS

**UNDINE TEXAS, LLC AND UNDINE TEXAS ENVIRONMENTAL, LLC'S  
OBJECTIONS TO SUGARTREE POA'S MOTION TO INTERVENE**

Undine Texas, LLC and Undine Texas Environmental, LLC (Undine) files these Objections to the intervention of the SugarTree POA and the claimed representational intervention of Brandon Smith, Monica Jones, Debbie Yancey,<sup>1</sup> and would respectfully show as follows:

**I. PROCEDURAL HISTORY**

The Commission referred this case to the State Office of Administrative Hearings (SOAH) on March 19, 2020, requesting the assignment of an Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision, if necessary. Due to concerns regarding the coronavirus, the SOAH ALJs departed from the normal practice for Class B applications, as specified in SOAH Order No. 1.<sup>2</sup> Pursuant to SOAH Order No. 1, all requests for intervention were required to be filed by April 21, 2020, and there will not be a separate opportunity to intervene in person at the prehearing conference.<sup>3</sup>

Further, pursuant to the procedural schedule in SOAH Order No. 1, all objections to motions to intervene are required to be filed by April 27, 2020.<sup>4</sup> Therefore, this filing is timely.

<sup>1</sup> Motion to Intervene (Apr. 20, 2020).  
<sup>2</sup> SOAH Order No. 1 at 2-3 (Mar. 26, 2020).  
<sup>3</sup> SOAH Order No. 1 at 3.  
<sup>4</sup> SOAH Order No. 1 at 4.

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## II. OBJECTIONS

Undine objects to the intervention of the SugarTree POA and the claimed representational intervention of Brandon Smith, Monica Jones, and Debbie Yancy (Motion to Intervene) because it does not comply with the Commission's rules, as set forth below:

### A. Failure to provide proof of authority to appear on behalf of another person.

Under 16 Texas Administrative Code (TAC) § 22.101(a), “[t]he presiding officer may require a representative to submit proof of his or her authority to appear on behalf of another person.”<sup>5</sup> In the Motion to Intervene, three individuals that comprise the “Intervening Parties” state their status as homeowners in The Reserve At SugarTree community, and their status as members of The Reserve At SugarTree POA, Inc. These individuals also claim to be filing “on behalf of all the property owners and POA Members....”<sup>6</sup> These three individuals designated Brandon Smith “as the single representative to act for the Intervening Parties and all the Members of The Reserve At SugarTree.”<sup>7</sup>

Undine objects to the intervention of the SugarTree POA and to the three signatories' intervention on behalf of anyone other than themselves. The signatories have failed to provide proof that the SugarTree POA has authorized the intervention in its name or that the SugarTree POA has authorized the signatories to represent the POA in this proceeding, as required by 16 TAC § 22.101(a). Accordingly, Undine requests the ALJs to deny the intervention of the SugarTree POA.

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<sup>5</sup> See *Application of Sw. Pub. Serv. Co. for Auth. to Reconcile Fuel & Purchased Power Costs*, 473-19-1644, 2019 WL 919616, at \*1 (Tex. S.O.A.H. Feb. 19, 2019) (Motion of individual to intervene was denied because: (1) he failed to “specify the particular persons or classes of persons” he was representing; (2) he submitted no proof of his authority to appear on behalf of all citizens of Texas; and (3) the claimed representation is too broad to encompass only persons with a justiciable interest in this case).

<sup>6</sup> Motion to Intervene at 1.

<sup>7</sup> *Id.*

**B. Failure to specify the particular persons or classes of persons the represented in this proceeding.**

Under 16 TAC § 22.101(a), “[t]he authorized representative of a party shall specify the particular persons or classes of persons the representative is representing in the proceeding.”<sup>8</sup> The three signatories of the Motion to Intervene simply stated that they are filing the Motion “on behalf of all the property owners and POA Members,”<sup>9</sup> and designating Brandon Smith as the “single representative to act for the Intervening Parties and all the Members of The Reserve At SugarTree.”<sup>10</sup> These statements do not adequately specify the persons represented in this proceeding other than the three “Intervening Parties” who signed their names on the Motion to Intervene.

Undine objects to the intervention of the three individuals as representatives of anyone other than themselves. They have failed to specify the particular persons they represents in this proceeding, as required by 16 TAC § 22.101(a), and they have failed to demonstrate that they have been authorized to represent everyone whom they claim to be representing. Accordingly, Undine requests the ALJs to deny the intervention of all of the property owners of the SugarTree community.

**III. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Undine requests the ALJs sustain Undine’s objections and deny the Motion to Intervene on behalf of the SugarTree POA and all the property owners and POA members, as set forth herein. Undine also requests any other relief to which it may show itself justly entitled.

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<sup>8</sup> *Sw. Pub. Serv. Co.*, *supra* footnote 5, at \*1; *See also Formal Complaint of Ker-Seva Ltd., Adc W. Ridge, L.P., & Ctr. for Hous. Res., Inc. Against the City of Frisco*, 4, 2016 WL 6566222, at \*1-\*2 (Tex. S.O.A.H. Sept. 9, 2016) (motion to intervene was denied, partially because no list of individuals seeking intervention was given).

<sup>9</sup> Motion to Intervene at 1.

<sup>10</sup> *Id.*

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](mailto:gcrump@lglawfirm.com)

[jmauldin@lglawfirm.com](mailto:jmauldin@lglawfirm.com)



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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.



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GEORGIA N. CRUMP