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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 RIVERSIDE RANCH HOMEOWNERS ASSOCIATION'S
REQUEST TO INTERVENE**

Undine Texas, LLC and Undine Texas Environmental, LLC (Undine) files these Objections to Riverside Ranch Homeowners Association's (Riverside Ranch HOA) Request to Intervene,¹ 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. 1.² 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.³ 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, 2020.⁴ Therefore, this filing is timely.

¹ Riverside Ranch HOA Request to Intervene (Apr. 22, 2020). (Riverside Ranch HOA's Motion to Intervene).

² SOAH Order No. 1 at 2-3 (Mar. 26, 2020).

³ SOAH Order No. 1 at 3.

⁴ SOAH Order No. 1 at 4.

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II. OBJECTIONS

Undine objects to Riverside Ranch HOA's Motion to Intervene because it does not comply with the Commission's rules, as set forth below:

A. Motion to Intervene filed late.

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.⁵ Riverside Ranch HOA's Motion to Intervene was filed on the Public Utility Commission's interchange on April 22, 2020, without any time-stamp indicating otherwise. Undine objects to Riverside Ranch HOA's Motion to Intervene because Riverside Ranch HOA filed its Motion after April 21, 2020, the deadline specified in SOAH Order 1. Riverside Ranch HOA has not demonstrated good cause for its late filing. Accordingly, Undine requests the ALJs deny Riverside Ranch HOA's Motion to Intervene.

B. 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."⁶ Six individuals signed Riverside Ranch HOA's Motion to Intervene, claiming to represent "Riverside Ranch Homeowners," and designating Chuck Smith as the Primary Contact.⁷ The signatories explain that they are "each a resident of Riverside Ranch residential subdivision located in Fort Bend County."⁸ Further, these individuals claim to represent "the

⁵ SOAH Order No. 1 at 3.

⁶ 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).

⁷ Riverside Ranch HOA's Motion to Intervene at 1.

⁸ *Id.*

homeowners in the Riverside Ranch subdivision in this matter before the Public Utility Commission,” without providing proof of their authority to undertake such representation.⁹

Undine objects to Riverside Ranch HOA’s Motion to Intervene because the alleged representatives have not provided proof of their authority to appear in this proceeding on behalf of the homeowners in the subdivision, as required by 16 TAC § 22.101(a). Accordingly, Undine requests the ALJs deny Riverside Ranch HOA’s Motion to Intervene.

C. 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.”¹⁰ The signatories to the request to intervene claim to represent “the homeowners in the Riverside Ranch subdivision in this matter before the Public Utility Commission.”¹¹ However, the six signatories to the Motion to Intervene do not identify the homeowners whom they claim to represent in this proceeding. Accordingly, Undine requests the ALJs deny Riverside Ranch HOA’s Motion to Intervene.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Undine requests the ALJs sustain Undine’s objections and deny Riverside Ranch HOA’s Motion to Intervene. Undine also requests any other relief to which it may show itself justly entitled.

⁹ *Id.*

¹⁰ *Sw. Pub. Serv. Co., supra* footnote 6, 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).

¹¹ *Id.* at 1.

Respectfully submitted,

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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