



Control Number: 50200



Item Number: 2

Addendum StartPage: 0

**DOCKET NO. 50200**

**APPLICATION OF UNDINE TEXAS,  
LLC FOR AUTHORITY TO CHANGE  
RATES** §  
§  
§

**BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS**

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**STATEMENT OF INTENT TO CHANGE RATES  
FOR WATER AND WASTEWATER SERVICE**

COMES NOW Undine Texas, LLC (Undine or Applicant) and files this Class B Rate/Tariff Change Application (Rate Application), and in support of this filing would respectfully show the following:

**I. STATEMENT OF JURISDICTION**

The Public Utility Commission of Texas (Commission) has original jurisdiction over this Rate Application pursuant to Texas Water Code (TWC) §§ 13.042 and 13.1871 and 16 Texas Administrative Code (TAC) § 24.27. Pursuant to TWC §§ 13.002(4-b) and 16 TAC § 24.3(16), Undine is a Class B Utility. Undine currently provides utility service through its ownership and operation of 73 utility systems with 6,034 water connections and 2,011 wastewater connections in 10 counties. Applicant has prepared this Rate Application in accordance with Class B Utility requirements.

**II. BACKGROUND STATEMENT**

The Applicant provides water service through Undine Texas, LLC and wastewater utility service through Undine Texas Environmental, LLC in Brazoria, Chambers, Fort Bend, Galveston, Harris, Johnson, Matagorda, Montgomery, Parker, and Tarrant Counties. Undine Texas, LLC owns all the membership units of Undine Texas Environmental, LLC. The Applicant, through Undine Development, LLC also provides wastewater utility service in Travis County, Texas, but as explained in supporting testimony, Undine is not seeking to change rates for the system located in Travis County. Since 2016, Applicant has acquired 73 small to mid-size water and wastewater

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systems. These systems were under-capitalized and often out of regulatory and environmental compliance. In this Application, Undine proposes to combine multiple systems into one tariff each for all water and wastewater customers, except for the system located in Travis County. This Rate Application proposes to increase water and wastewater rates and implement a flat rate for all wastewater customers. Applicant has not previously filed a Statement of Intent to Change Rates for any of the systems covered by this Rate Application. Therefore, the existing rates for each of the acquired systems were set in the last rate change filing for those systems.

Since 2017, Undine has invested millions of dollars to ensure the water and wastewater systems subject to this Rate Application comply with state and federal regulatory standards and experience improved customer service. In this Rate Application, Undine is requesting compensatory rates designed to recover its full cost of service.

The Rate Application has been completed using the latest Class B Rate/Tariff Change Application form issued by the Commission. The Rate Application is based on a test year ending September 30, 2019, and is supported by the schedules, workpapers, and testimonies of several witnesses. The testimonies, tariffs, schedules, and workpapers are being filed contemporaneously with this Statement of Intent. An identical application is being filed with the City of Iowa Colony and the City of Manvel.

### **III. REQUESTED RELIEF AND EFFECTIVE DATE**

Applicant has based its proposed water and wastewater rates on a test year ending September 30, 2019, in line with the definition in 16 TAC § 24.3(72), adjusted for known and measurable changes (Test Year). The operating costs in the Test Year are indicative of an ongoing level of costs to operate and maintain the facilities used and useful in providing water and wastewater service. Applicants seek an overall increase in annual revenues of approximately \$2.63 million for water and approximately \$1.82 million for wastewater.

Further, Applicant is seeking consolidated rates to correspond to the combined operations and management for the systems. Consequently, certain fees on individual system's current tariffs have been introduced, deleted, increased, or decreased so as to be uniform for all customers. Undine seeks Commission approval for all fees now applying uniformly for all systems. Undine is also seeking to have the Commission determine its rate base amount during the review of this Rate Application. Undine is using the most recently-approved depreciation rates for individual assets using the straight-line method. The proposed effective date will be at least 35 days after required notice in compliance with Commission rules at 16 TAC § 24.27(d)(1). In the event that the proposed rates are suspended, Applicant reserves the right to seek interim rates during the pendency of this proceeding.

#### **IV. PARTIES AFFECTED**

This Rate Application affects retail water and wastewater utility customers within the service territory of Water Certificate of Convenience and Necessity No. 13760 and Sewer Certificates of Convenience and Necessity Nos. 20816, 20832, 21019, 21026, 21106, which have been issued to Undine. In addition, Undine provides retail water within the corporate boundaries of the City of Manvel, and retail water and wastewater service within the corporate boundaries of the City of Iowa Colony, both of which have original jurisdiction over retail water and wastewater rates therein pursuant to TWC § 13.042.

#### **V. FILING OVERVIEW**

This Rate Application consists of the following:

1. Statement of Intent to Change Rates;
2. Proposed Protective Order;
3. Rate Filing Package on the Commission-approved form, including all required schedules;
4. Notices;

5. Proposed Tariffs;
6. Affidavit attesting to the correctness of the Application; and
7. Pre-filed direct testimony, including supporting attachments:

Edward R. Wallace, Sr.  
Donald J. Clayton  
William Andrew (Andy) Thomas  
Fred (Rick) Melcher III  
Georgia N. Crump

#### **VI. CONTACT INFORMATION AND AUTHORIZED REPRESENTATIVES**

Applicant's business address is:

17681 Telge Road  
Cypress, Texas 77429

Applicant's authorized representative for this Rate Application is:

Benny Wilkinson  
Vice President Financial Due Diligence  
17681 Telge Road  
Cypress, Texas 77429  
Telephone: (713) 574-7772  
Email: BWilkinson@UndineLLC.com

Undine's authorized legal representatives are:

Georgia N. Crump  
gcrump@lglawfirm.com  
Jamie L. Mauldin  
jmauldin@lglawfirm.com  
LLOYD GOSSELINK ROCHELLE  
& TOWNSEND, P.C.  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
(512) 322-5800  
(512) 472-0532 (Fax)

#### **VII. RATE CASE EXPENSES**

Pursuant to the Texas Water Code and 16 TAC § 24.44, Undine seeks to recover all reasonable and necessary rate case expenses that it incurs in connection with the Application.

Applicant proposes to recover reasonable and necessary rate case expenses through a surcharge

over a 24-month period. Applicant reserves the right to request that all rate case expense issues be severed from this proceeding and considered in a separate docket/proceeding, if such severance would serve the interest of efficiency and avoid the need to estimate and update rate case expenses before the expenses are finalized. Applicant also reserves the right to supplement the Application with a rate case expense recovery request and evidence supporting same.

#### **VIII. NOTICE**

Pursuant to 16 TAC § 24.27(d), Applicant is providing notice of this Rate Application to all customers of Applicant affected by the rate change, and to the Office of Public Utility Counsel. Notice will be mailed separately to each customer, or hand-delivered. Applicant will mail separate notice to the Cities of Iowa Colony and Manvel, Texas. Applicant is providing notice on the Commission-approved form, and will include instructions on how a ratepayer may file a protest. Applicant will provide proof of notice pursuant to Commission rules at 16 TAC § 24.27(b)(5) upon completing notice, which will consist of an affidavit attesting to notice completion.

#### **IX. MOTION FOR ENTRY OF A PROTECTIVE ORDER**

Applicant requests that a Protective Order of the standard form used by the Commission be entered promptly in this case. The draft Protective Order is included in the Rate Application. Until a Protective Order is issued in this proceeding, Applicant will provide access to confidential materials only to parties that agree in writing to be bound by the Proposed Protective Order as if it had been issued by the Commission.

#### **X. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Undine Texas, LLC respectfully requests approval of its proposed rate and tariff changes contained in this Application to be effective no sooner than January 24, 2020. Additionally, Applicant requests all other and further relief, general or special, at law or in equity, to which Applicant may show itself to be justly entitled.

Respectfully submitted,

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

816 Congress Avenue, Suite 1900

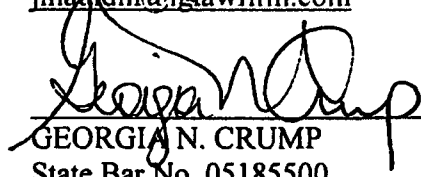
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GEORGIA N. CRUMP  
State Bar No. 05185500

JAMIE L. MAULDIN  
State Bar No. 24065694

ATTORNEYS FOR UNDINE TEXAS, LLC

**DOCKET NO. 50200**

<b>APPLICATION OF UNDINE TEXAS</b>	<b>§</b>	<b>BEFORE THE</b>
<b>LLC FOR AUTHORITY TO CHANGE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RATES</b>	<b>§</b>	<b>OF TEXAS</b>

**PROTECTIVE ORDER**

This Protective Order shall govern the use of all information deemed confidential (Protected Materials) or highly confidential (Highly Sensitive Protected Materials), including information whose confidentiality is currently under dispute, by a party providing information to the Public Utility Commission of Texas (Commission) or to any other party to this proceeding.

It is ORDERED that:

1. **Designation of Protected Materials.** Upon producing or filing a document, including, but not limited to, records on a computer disk or other similar electronic storage medium in this proceeding, the producing party may designate that document, or any portion of it, as confidential pursuant to this Protective Order by typing or stamping on its face “PROTECTED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 50200” (or words to this effect) and consecutively Bates Stamping each page. Protected Materials and Highly Sensitive Protected Materials include the documents so designated, as well as the substance of the information contained in the documents and any description, report, summary, or statement about the substance of the information contained in the documents.
2. **Materials Excluded from Protected Materials Designation.** Protected Materials shall not include any information or document contained in the public files of the Commission or any other federal or state agency, court, or local governmental authority subject to the Public Information Act.<sup>1</sup> Protected Materials also shall not include documents or information which at the time of, or prior to disclosure in, a proceeding is or was public knowledge, or which becomes public knowledge other than through disclosure in violation of this Protective Order.

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<sup>1</sup> Tex. Gov’t Code Ann. § 552.001-552.353 (West 2012 & Supp. 2016).



3. **Reviewing Party.** For the purposes of this Protective Order, a “Reviewing Party” is any party to this docket.
4. **Procedures for Designation of Protected Materials.** On or before the date the Protected Materials or Highly Sensitive Protected Materials are provided to the Commission, the producing party shall file with the Commission and deliver to each party to the proceeding a written statement, which may be in the form of an objection, indicating: (a) any exemptions to the Public Information Act claimed to apply to the alleged Protected Materials; (b) the reasons supporting the producing party’s claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (c) that counsel for the producing party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
5. **Persons Permitted Access to Protected Materials.** Except as otherwise provided in this Protective Order, a Reviewing Party may access Protected Materials only through its “Reviewing Representatives” who have signed the Protective Order Certification Form (see Attachment A). Reviewing Representatives of a Reviewing Party include its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in this proceeding. At the request of the PUC Commissioners, copies of Protected Materials may be produced by Commission Staff. The Commissioners and their staff shall be informed of the existence and coverage of this Protective Order and shall observe the restrictions of the Protective Order.
6. **Highly Sensitive Protected Material Described.** The term “Highly Sensitive Protected Materials” is a subset of Protected Materials and refers to documents or information that a producing party claims is of such a highly sensitive nature that making copies of such documents or information or providing access to such documents to employees of the Reviewing Party (except as specified herein) would expose a producing party to unreasonable risk of harm. Highly Sensitive Protected Materials include but are not limited to: (a) customer-specific information protected by § 32.101(c) of the Public Utility

Regulatory Act;<sup>2</sup> (b) contractual information pertaining to contracts that specify that their terms are confidential or that are confidential pursuant to an order entered in litigation to which the producing party is a party; (c) market-sensitive fuel price forecasts, wholesale transactions information and/or market-sensitive marketing plans; and (d) business operations or financial information that is commercially sensitive. Documents or information so classified by a producing party shall bear the designation “HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 50200” (or words to this effect) and shall be consecutively Bates Stamped. The provisions of this Protective Order pertaining to Protected Materials also apply to Highly Sensitive Protected Materials, except where this Protective Order provides for additional protections for Highly Sensitive Protected Materials. In particular, the procedures herein for challenging the producing party’s designation of information as Protected Materials also apply to information that a producing party designates as Highly Sensitive Protected Materials.

7. **Restrictions on Copying and Inspection of Highly Sensitive Protected Material.**

Except as expressly provided herein, only one copy may be made of any Highly Sensitive Protected Materials except that additional copies may be made to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record. The Reviewing Party shall maintain a record of all copies made of Highly Sensitive Protected Material and shall send a duplicate of the record to the producing party when the copy or copies are made. The record shall specify the location and the person possessing the copy. Highly Sensitive Protected Material shall be made available for inspection only at the location or locations provided by the producing party, except as specified by Paragraph 9. Limited notes may be made of Highly Sensitive Protected Materials, and such notes shall themselves be treated as Highly Sensitive Protected Materials unless such notes are limited to a description of the document and a general characterization of its subject matter in a manner that does not state any substantive information contained in the document.

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<sup>2</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (PURA).

8. **Restricting Persons Who May Have Access to Highly Sensitive Protected Material.**

With the exception of Commission Staff, the Office of the Attorney General (OAG), and the Office of Public Utility Counsel (OPUC), and except as provided herein, the Reviewing Representatives for the purpose of access to Highly Sensitive Protected Materials may be persons who are (a) outside counsel for the Reviewing Party, (b) outside consultants for the Reviewing Party working under the direction of Reviewing Party's counsel, or (c) employees of the Reviewing Party working with and under the direction of Reviewing Party's counsel who have been authorized by the presiding officer to review Highly Sensitive Protected Materials. The Reviewing Party shall limit the number of Reviewing Representatives that review Highly Sensitive Protected Materials to the minimum number of persons necessary. The Reviewing Party is under a good faith obligation to limit access to each portion of any Highly Sensitive Protected Materials to two Reviewing Representatives whenever possible. Reviewing Representatives for Commission Staff, OAG, and OPUC, for the purpose of access to Highly Sensitive Protected Materials, shall consist of their respective counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by them and directly engaged in these proceedings.

9. **Copies Provided of Highly Sensitive Protected Material.**

A producing party shall provide one copy of Highly Sensitive Protected Materials specifically requested by the Reviewing Party to the person designated by the Reviewing Party who must be a person authorized to review Highly Sensitive Protected Material under Paragraph 8. Representatives of the Reviewing Party who are authorized to view Highly Sensitive Protected Material may review the copy of Highly Sensitive Protected Materials at the office of the Reviewing Party's representative designated to receive the information. Any Highly Sensitive Protected Materials provided to a Reviewing Party may not be copied except as provided in Paragraph 7. The restrictions contained herein do not apply to Commission Staff, OPUC, and the OAG when the OAG is representing a party to the proceeding.

10. **Procedures in Paragraphs 10-14 Apply to Commission Staff, OPUC, and the OAG and Control in the Event of Conflict.**

The procedures in Paragraphs 10 through 14 apply to responses to requests for documents or information that the producing party designates

as Highly Sensitive Protected Materials and provides to Commission Staff, OPUC, and the OAG in recognition of their purely public functions. To the extent the requirements of Paragraphs 10 through 14 conflict with any requirements contained in other paragraphs of this Protective Order, the requirements of these Paragraphs shall control.

11. **Copy of Highly Sensitive Protected Material to be Provided to Commission Staff, OPUC and the OAG.** When, in response to a request for information by a Reviewing Party, the producing party makes available for review documents or information claimed to be Highly Sensitive Protected Materials, the producing party shall also deliver one copy of the Highly Sensitive Protected Materials to the Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) in Austin, Texas. Provided however, that in the event such Highly Sensitive Protected Materials are voluminous, the materials will be made available for review by Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) at the designated office in Austin, Texas. The Commission Staff, OPUC (if OPUC is a party) and the OAG (if the OAG is representing a party) may request such copies as are necessary of such voluminous material under the copying procedures specified herein.
12. **Delivery of the Copy of Highly Sensitive Protected Material to Commission Staff and Outside Consultants.** The Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by them to the appropriate members of their staff for review, provided such staff members first sign the certification specified by Paragraph 15. After obtaining the agreement of the producing party, Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by it to the agreed, appropriate members of their outside consultants for review, provided such outside consultants first sign the certification in Attachment A.
13. **Restriction on Copying by Commission Staff, OPUC and the OAG.** Except as allowed by Paragraph 7, Commission Staff, OPUC and the OAG may not make additional copies of the Highly Sensitive Protected Materials furnished to them unless the producing party agrees in writing otherwise, or, upon a showing of good cause, the presiding officer directs

otherwise. Commission Staff, OPUC, and the OAG may make limited notes of Highly Sensitive Protected Materials furnished to them, and all such handwritten notes will be treated as Highly Sensitive Protected Materials as are the materials from which the notes are taken.

14. **Public Information Requests.** In the event of a request for any of the Highly Sensitive Protected Materials under the Public Information Act, an authorized representative of the Commission, OPUC, or the OAG may furnish a copy of the requested Highly Sensitive Protected Materials to the Open Records Division at the OAG together with a copy of this Protective Order after notifying the producing party that such documents are being furnished to the OAG. Such notification may be provided simultaneously with the delivery of the Highly Sensitive Protected Materials to the OAG.
15. **Required Certification.** Each person who inspects the Protected Materials shall, before such inspection, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPUC shall be used only for the purpose of the proceeding in Docket No. 50200. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated herein shall not apply.

In addition, Reviewing Representatives who are permitted access to Highly Sensitive Protected Material under the terms of this Protective Order shall, before inspection of such material, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

The Reviewing Party shall provide a copy of each signed certification to Counsel for the producing party and serve a copy upon all parties of record.

16. **Disclosures between Reviewing Representatives and Continuation of Disclosure Restrictions after a Person is no Longer Engaged in the Proceeding.** Any Reviewing Representative may disclose Protected Materials, other than Highly Sensitive Protected Materials, to any other person who is a Reviewing Representative provided that, if the person to whom disclosure is to be made has not executed and provided for delivery of a signed certification to the party asserting confidentiality, that certification shall be executed prior to any disclosure. A Reviewing Representative may disclose Highly Sensitive Protected Material to other Reviewing Representatives who are permitted access to such material and have executed the additional certification required for persons who receive access to Highly Sensitive Protected Material. In the event that any Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged in these proceedings, access to Protected Materials by that person shall be terminated and all notes, memoranda, or other information derived from the protected material shall either be destroyed or given to another Reviewing Representative of that party who is authorized pursuant to this Protective Order to receive the protected materials. Any person who has agreed to the foregoing certification shall continue to be bound by the provisions of this Protective Order so long as it is in effect, even if no longer engaged in these proceedings.
17. **Producing Party to Provide One Copy of Certain Protected Material and Procedures for Making Additional Copies of Such Materials.** Except for Highly Sensitive Protected Materials, which shall be provided to the Reviewing Parties pursuant to Paragraphs 9, and voluminous Protected Materials, the producing party shall provide a Reviewing Party one copy of the Protected Materials upon receipt of the signed certification described in Paragraph 15. Except for Highly Sensitive Protected Materials, a Reviewing Party may make further copies of Protected Materials for use in this proceeding pursuant to this Protective Order, but a record shall be maintained as to the documents reproduced and the number of copies made, and upon request the Reviewing Party shall provide the party asserting confidentiality with a copy of that record.

18. **Procedures Regarding Voluminous Protected Materials.** 16 Texas Administrative Code § 22.144(h) (TAC) will govern production of voluminous Protected Materials. Voluminous Protected Materials will be made available in the producing party's voluminous room, in Austin, Texas, or at a mutually agreed upon location, Monday through Friday, 9:00 a.m. to 5:00 p.m. (except on state or Federal holidays), and at other mutually convenient times upon reasonable request.
19. **Reviewing Period Defined.** The Protected Materials may be reviewed only during the Reviewing Period, which shall commence upon entry of this Protective Order and continue until the expiration of the Commission's plenary jurisdiction. The Reviewing Period shall reopen if the Commission regains jurisdiction due to a remand as provided by law. Protected materials that are admitted into the evidentiary record or accompanying the evidentiary record as offers of proof may be reviewed throughout the pendency of this proceeding and any appeals.
20. **Procedures for Making Copies of Voluminous Protected Materials.** Other than Highly Sensitive Protected Materials, Reviewing Parties may take notes regarding the information contained in voluminous Protected Materials made available for inspection or they may make photographic, mechanical or electronic copies of the Protected Materials, subject to the conditions in this Protective Order; provided, however, that before photographic, mechanical or electronic copies may be made, the Reviewing Party seeking photographic, mechanical or electronic copies must provide written confirmation of the receipt of copies listed on Attachment B of this Protective Order identifying each piece of Protected Materials or portions thereof the Reviewing Party will need.
21. **Protected Materials to be Used Solely for the Purposes of These Proceedings.** All Protected Materials shall be made available to the Reviewing Parties and their Reviewing Representatives solely for the purposes of these proceedings. Access to the Protected Materials may not be used in the furtherance of any other purpose, including, without limitation: (a) any other pending or potential proceeding involving any claim, complaint, or other grievance of whatever nature, except appellate review proceedings that may arise from or be subject to these proceedings; or (b) any business or competitive endeavor of

whatever nature. Because of their statutory regulatory obligations, these restrictions do not apply to Commission Staff or OPUC.

22. **Procedures for Confidential Treatment of Protected Materials and Information Derived from Those Materials.** Protected Materials, as well as a Reviewing Party's notes, memoranda, or other information regarding or derived from the Protected Materials are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials shall be maintained in a secure place and shall not be placed in the public or general files of the Reviewing Party except in accordance with the provisions of this Protective Order. A Reviewing Party must take all reasonable precautions to insure that the Protected Materials including notes and analyses made from Protected Materials that disclose Protected Materials are not viewed or taken by any person other than a Reviewing Representative of a Reviewing Party.
23. **Procedures for Submission of Protected Materials.** If a Reviewing Party tenders for filing any Protected Materials, including Highly Sensitive Protected Materials, or any written testimony, exhibit, brief, motion or other type of pleading or other submission at the Commission or before any other judicial body that quotes from Protected Materials or discloses the content of Protected Materials, the confidential portion of such submission shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they contain Protected Material or Highly Sensitive Protected Material and are sealed pursuant to this Protective Order. If filed at the Commission, such documents shall be marked "PROTECTED MATERIAL" and shall be filed under seal with the presiding officer and served under seal to the counsel of record for the Reviewing Parties. The presiding officer may subsequently, on his/her own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation or reference to Protected Materials is such that such submission should remain under seal. If filing before a judicial body, the filing party: (a) shall notify the party which provided the information within sufficient time so that the producing party may seek a temporary sealing order; and (b) shall otherwise follow the procedures in Rule 76a, Texas Rules of Civil Procedure.



24. **Maintenance of Protected Status of Materials during Pendency of Appeal of Order Holding Materials are not Protected Materials.** In the event that the presiding officer at any time in the course of this proceeding finds that all or part of the Protected Materials are not confidential or proprietary, by finding, for example, that such materials have entered the public domain or materials claimed to be Highly Sensitive Protected Materials are only Protected Materials, those materials shall nevertheless be subject to the protection afforded by this Protective Order for three (3) full working days, unless otherwise ordered, from the date the party asserting confidentiality receives notice of the presiding officer's order. Such notification will be by written communication. This provision establishes a deadline for appeal of a presiding officer's order to the Commission. In the event an appeal to the Commissioners is filed within those three (3) working days from notice, the Protected Materials shall be afforded the confidential treatment and status provided in this Protective Order during the pendency of such appeal. Neither the party asserting confidentiality nor any Reviewing Party waives its right to seek additional administrative or judicial remedies after the Commission's denial of any appeal.
25. **Notice of Intent to Use Protected Materials or Change Materials Designation.** Parties intending to use Protected Materials shall notify the other parties prior to offering them into evidence or otherwise disclosing such information into the record of the proceeding. During the pendency of Docket No. 50200 at the Commission, in the event that a Reviewing Party wishes to disclose Protected Materials to any person to whom disclosure is not authorized by this Protective Order, or wishes to have changed the designation of certain information or material as Protected Materials by alleging, for example, that such information or material has entered the public domain, such Reviewing Party shall first file and serve on all parties written notice of such proposed disclosure or request for change in designation, identifying with particularity each of such Protected Materials. A Reviewing Party shall at any time be able to file a written motion to challenge the designation of information as Protected Materials.
26. **Procedures to Contest Disclosure or Change in Designation.** In the event that the party asserting confidentiality wishes to contest a proposed disclosure or request for change in designation, the party asserting confidentiality shall file with the appropriate presiding officer its objection to a proposal, with supporting affidavits, if any, within five (5) working

days after receiving such notice of proposed disclosure or change in designation. Failure of the party asserting confidentiality to file such an objection within this period shall be deemed a waiver of objection to the proposed disclosure or request for change in designation. Within five (5) working days after the party asserting confidentiality files its objection and supporting materials, the party challenging confidentiality may respond. Any such response shall include a statement by counsel for the party challenging such confidentiality that he or she has reviewed all portions of the materials in dispute and, without disclosing the Protected Materials, a statement as to why the Protected Materials should not be held to be confidential under current legal standards, or that the party asserting confidentiality for some reason did not allow such counsel to review such materials. If either party wishes to submit the material in question for in camera inspection, it shall do so no later than five (5) working days after the party challenging confidentiality has made its written filing.

27. **Procedures for Presiding Officer Determination Regarding Proposed Disclosure or Change in Designation.** If the party asserting confidentiality files an objection, the appropriate presiding officer will determine whether the proposed disclosure or change in designation is appropriate. Upon the request of either the producing or Reviewing Party or upon the presiding officer's own initiative, the presiding officer may conduct a prehearing conference. The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the presiding officer determines that such proposed disclosure or change in designation should be made, disclosure shall not take place earlier than three (3) full working days after such determination unless otherwise ordered. No party waives any right to seek additional administrative or judicial remedies concerning such presiding officer's ruling.
28. **Maintenance of Protected Status during Periods Specified for Challenging Various Orders.** Any party electing to challenge, in the courts of this state, a Commission or presiding officer determination allowing disclosure or a change in designation shall have a period of ten (10) days from: (a) the date of an unfavorable Commission order; or (b) if the Commission does not rule on an appeal of an interim order, the date an appeal of an interim order to the Commission is overruled by operation of law, to obtain a favorable ruling in state district court. Any party challenging a state district court determination allowing

disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from a state appeals court. Finally, any party challenging a determination of a state appeals court allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from the state supreme court, or other appellate court. All Protected Materials shall be afforded the confidential treatment and status provided for in this Protective Order during the periods for challenging the various orders referenced in this paragraph. For purposes of this paragraph, a favorable ruling of a state district court, state appeals court, Supreme Court or other appellate court includes any order extending the deadlines in this paragraph.

29. **Other Grounds for Objection to Use of Protected Materials Remain Applicable.** Nothing in this Protective Order shall be construed as precluding any party from objecting to the use of Protected Materials on grounds other than confidentiality, including the lack of required relevance. Nothing in this Protective Order constitutes a waiver of the right to argue for more disclosure, provided, however, that unless the Commission or a court orders such additional disclosure, all parties will abide by the restrictions imposed by the Protective Order.
30. **Protection of Materials from Unauthorized Disclosure.** All notices, applications, responses or other correspondence shall be made in a manner which protects Protected Materials from unauthorized disclosure.
31. **Return of Copies of Protected Materials and Destruction of Information Derived from Protected Materials.** Following the conclusion of these proceedings, each Reviewing Party must, no later than thirty (30) days following receipt of the notice described below, return to the party asserting confidentiality all copies of the Protected Materials provided by that party pursuant to this Protective Order and all copies reproduced by a Reviewing Party, and counsel for each Reviewing Party must provide to the party asserting confidentiality a letter by counsel that, to the best of his or her knowledge, information, and belief, all copies of notes, memoranda, and other documents regarding or derived from the Protected Materials (including copies of Protected Materials) that have not been so returned, if any, have been destroyed, other than notes, memoranda, or other

documents which contain information in a form which, if made public, would not cause disclosure of the substance of Protected Materials. As used in this Protective Order, “conclusion of these proceedings” refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law. If, following any appeal, the Commission conducts a remand proceeding, then the “conclusion of these proceedings” is extended by the remand to the exhaustion of available appeals of the remand, or the running of the time for making such appeals of the remand, as provided by applicable law. Promptly following the conclusion of these proceedings, counsel for the party asserting confidentiality will send a written notice to all other parties, reminding them of their obligations under this Paragraph. Nothing in this Paragraph shall prohibit counsel for each Reviewing Party from retaining two (2) copies of any filed testimony, brief, application for rehearing, hearing exhibit or other pleading which refers to Protected Materials provided that any such Protected Materials retained by counsel shall remain subject to the provisions of this Protective Order.

32. **Applicability of Other Law.** This Protective Order is subject to the requirements of the Public Information Act, the Open Meetings Act,<sup>3</sup> the Texas Securities Act<sup>4</sup> and any other applicable law, provided that parties subject to those acts will notify the party asserting confidentiality, if possible under those acts, prior to disclosure pursuant to those acts. Such notice shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
33. **Procedures for Release of Information under Order.** If required by order of a governmental or judicial body, the Reviewing Party may release to such body the confidential information required by such order; provided, however, that: (a) the Reviewing Party shall notify the producing party of the order requiring the release of such information within five (5) calendar days of the date the Reviewing Party has notice of the

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<sup>3</sup> Tex. Gov’t Code Ann. § 551.001-551.146 (West 2012 & Supp. 2016).

<sup>4</sup> Tex. Rev. Civ. Stat. Ann. arts. 581-1 to 581-43 (West 2010 & Supp. 2016).

order; (b) the Reviewing Party shall notify the producing party at least five (5) calendar days in advance of the release of the information to allow the producing party to contest any release of the confidential information; and (c) the Reviewing Party shall use its best efforts to prevent such materials from being disclosed to the public. The terms of this Protective Order do not preclude the Reviewing Party from complying with any valid and enforceable order of a state or federal court with competent jurisdiction specifically requiring disclosure of Protected Materials earlier than contemplated herein. The notice specified in this section shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

34. **Best Efforts Defined.** The term “best efforts” as used in the preceding paragraph requires that the Reviewing Party attempt to ensure that disclosure is not made unless such disclosure is pursuant to a final order of a Texas governmental or Texas judicial body, the written opinion of the Texas Attorney General sought in compliance with the Public Information Act, or the request of governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials. The Reviewing Party is not required to delay compliance with a lawful order to disclose such information but is simply required to timely notify the party asserting confidentiality, or its counsel, that it has received a challenge to the confidentiality of the information and that the Reviewing Party will either proceed under the provisions of § 552.301 of the Public Information Act, or intends to comply with the final governmental or court order. Provided, however, that no notice is required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
35. **Notify Defined.** “Notify” for purposes of Paragraphs 32, 33 and 34 means written notice to the party asserting confidentiality at least five (5) calendar days prior to release; including when a Reviewing Party receives a request under the Public Information Act.

However, the Commission, OAG, or OPUC may provide a copy of Protected Materials to the Open Records Division of the OAG as provided herein.

36. **Requests for Non-Disclosure.** If the producing party asserts that the requested information should not be disclosed at all, or should not be disclosed to certain parties under the protection afforded by this Protective Order, the producing party shall tender the information for in camera review to the presiding officer within ten (10) calendar days of the request. At the same time, the producing party shall file and serve on all parties its argument, including any supporting affidavits, in support of its position of non-disclosure. The burden is on the producing party to establish that the material should not be disclosed. The producing party shall serve a copy of the information under the classification of Highly Sensitive Protected Material to all parties requesting the information that the producing party has not alleged should be prohibited from reviewing the information.

Parties wishing to respond to the producing party's argument for non-disclosure shall do so within five working days. Responding parties should explain why the information should be disclosed to them, including why disclosure is necessary for a fair adjudication of the case if the material is determined to constitute a trade secret. If the presiding officer finds that the information should be disclosed as Protected Material under the terms of this Protective Order, the presiding officer shall stay the order of disclosure for such period of time as the presiding officer deems necessary to allow the producing party to appeal the ruling to the Commission.

37. **Sanctions Available for Abuse of Designation.** If the presiding officer finds that a producing party unreasonably designated material as Protected Material or as Highly Sensitive Protected Material, or unreasonably attempted to prevent disclosure pursuant to Paragraph 36, the presiding officer may sanction the producing party pursuant to 16 TAC § 22.161.
38. **Modification of Protective Order.** Each party shall have the right to seek changes in this Protective Order as appropriate from the presiding officer.
39. **Breach of Protective Order.** In the event of a breach of the provisions of this Protective Order, the producing party, if it sustains its burden of proof required to establish the right to injunctive relief, shall be entitled to an injunction against such breach without any

requirements to post bond as a condition of such relief. The producing party shall not be relieved of proof of any element required to establish the right to injunctive relief. In addition to injunctive relief, the producing party shall be entitled to pursue any other form of relief to which it is entitled.

ATTACHMENT A

Protective Order Certification

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket and that I have received a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPUC shall be used only for the purpose of the proceeding in Docket No. 50200. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated here shall not apply.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Party Represented

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Party Represented

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date



ATTACHMENT B

I request to view/copy the following documents:

Document Requested	# of Copies	Non-Confidential	Protected Materials and/or Highly Sensitive Protected Materials

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Party Represented

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

DOCKET NO. 50200

APPLICATION OF UNDINE TEXAS,  
LLC FOR AUTHORITY TO CHANGE  
RATES

§  
§  
§

BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS

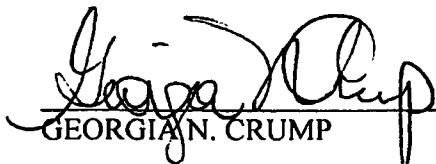
**STATEMENT UNDER SECTION 4 OF THE PROTECTIVE ORDER  
AND LIST OF CONFIDENTIAL/HIGHLY SENSITIVE INFORMATION**

Undine Texas, LLC's (Undine) filing package includes customer specific information and confidential employee related information. The public disclosure of this information would harm Undine or third parties with whom Undine must maintain an ongoing business relationship. Therefore, this information is protected under the Public Information Act, Tex. Gov't Code §§ 552.101, 552.102. The following is a list of attachments that include such information, along with the sponsoring witness, the designation of the information, and applicable legal exemption.

Witness	Exempt Material	Designation	Exempt Under Tex. Gov't Code
Rick Melcher	Attachment C Customer Complaint Log; PUC Complaints	Confidential	§ 552.101, § 552.102
Application	Attachment 5 Employee W2s; 1096 and 1099s	Confidential	§ 552.101, § 552.102

I certify that I have reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the applicable designation of Confidential (Protected) Materials or Highly Sensitive (Highly Sensitive Protected) Materials detailed in the Protective Order accompanying this Application.

Date: December 20, 2019

  
GEORGIA N. CRUMP

**DOCKET NO. 50200**

**APPLICATION OF UNDINE TEXAS     §                   BEFORE THE  
LLC FOR AUTHORITY TO CHANGE   §                   PUBLIC UTILITY COMMISSION  
RATES                               §                   OF TEXAS**

**DIRECT TESTIMONY  
OF  
EDWARD R. WALLACE, SR.**

**ON BEHALF OF  
UNDINE TEXAS, LLC**

**DECEMBER 20, 2019**

**DIRECT TESTIMONY OF  
EDWARD R. WALLACE, SR.**

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**ATTACHMENTS:**

Attachment A: Undine’s Legal Structure

DOCKET NO. 50200

APPLICATION OF UNDINE TEXAS § BEFORE THE  
LLC FOR AUTHORITY TO CHANGE § PUBLIC UTILITY COMMISSION  
RATES § OF TEXAS

DIRECT TESTIMONY OF  
EDWARD R. WALLACE, SR.

I. INTRODUCTION

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- Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**
- A. My name is Edward R. Wallace Sr. My principal place of business is 17681 Telge Road, Cypress, Texas 77429.
- Q. WHERE ARE YOU EMPLOYED AND IN WHAT CAPACITY?**
- A. I am employed as the President and CEO of Undine Group, LLC and for this proceeding, Undine Texas, LLC, and Undine Texas Environmental, LLC, which I will hereafter refer to as “Undine” or the “Company.”
- Q. HAVE YOU PREVIOUSLY TESTIFIED IN A COMMISSION PROCEEDING?**
- A. No. I have not testified in a Public Utility Commission of Texas (Commission) hearing. However, I have provided testimony before the state regulatory commissions of South Carolina and Florida. I have also participated in rate proceedings at the Texas Commission on Environmental Quality (TCEQ) for Ni America in 2008 and 2011 that were settled.
- Q. WHAT IS YOUR EDUCATIONAL BACKGROUND, TRAINING, AND WORK EXPERIENCE?**
- A. I graduated, *cum laude*, from Texas A&M University with a Bachelor of Business degree. I am a certified public accountant licensed to practice in the State of Texas. I

1 have worked as a consultant to, or an employee in, the utility industry my entire career  
2 and have over twenty years of experience in water and wastewater. I was first  
3 employed by Coopers & Lybrand in 1978 where I ultimately became a partner. During  
4 my time with Coopers & Lybrand, I served on its behalf at the Financial Accounting  
5 Standards Board from 1986 until 1988, working on projects in the leasing and utility  
6 industries. From 1991 until 1995 I worked in investment banking, structuring  
7 transactions for both private and public companies in the leasing and utility industries.  
8 During those years, I was either a partner of various regional private firms or employed  
9 as a Director by CS First Boston.

10 In 1996, I founded AquaSource, Inc., (a multi-state water and wastewater  
11 company) and led a team of individuals responsible for completing over 150  
12 transactions in just over two years for clients involved in the water/wastewater industry  
13 and the propane gas industry. During that time, the business grew from 16 employees  
14 with no revenues to over 1,100 employees and almost \$200 million in revenue.  
15 Beginning in April 2007, I co-founded Ni America and became President of the water  
16 and wastewater utilities and its subsidiaries; eventually growing that utility to over  
17 45,000 customers. In 2015, I co-founded Undine, LLC, where I continue to serve as  
18 President and CEO.

19 **Q. WHAT ARE YOUR JOB RESPONSIBILITIES IN YOUR CURRENT**  
20 **POSITION?**

21 A. As President and CEO of Undine, LLC, I am ultimately responsible for all acquisitions  
22 and day-to-day operations of three utility subsidiaries, serving approximately 9,073  
23 LUEs in Texas. As President of Undine specifically, my responsibilities include the

1 day-to-day oversight of the Company's management, its water and wastewater  
2 treatment operations, billing and customer service, and supervision of environmental  
3 compliance.

4 **II. PURPOSE OF TESTIMONY**

5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

6 A. The purpose of my testimony is to support the Undine application for rate relief for  
7 service provided to customers in the various water systems owned by Undine Texas,  
8 LLC and the wastewater systems owned by Undine Texas Environmental, LLC. I also  
9 will provide: (1) an overview of Undine's ownership structure; (2) a description of  
10 Undine's commitment to bring under-capitalized utility systems into regulatory and  
11 environmental compliance and to strive to achieve best industry practices in customer  
12 service and operations; (3) an explanation of the decision to merge the tariffs for the  
13 approximate 64 water systems owned by Undine Texas, LLC; (4) an explanation of the  
14 decision to merge the tariffs for the 9 wastewater systems owned by Undine Texas  
15 Environmental, LLC under a single flat rate, changing from individual rates for each  
16 system on a consumption basis; (5) justification of the need for rate relief in all aspects  
17 of our capital projects; (6) a description of Undine's proposed capitalization and  
18 subsequent accounting treatment of certain expenses normally expensed under the  
19 NARUC chart of accounts; (7) an explanation of why we use independent third-party  
20 professionals to operate our systems; (8) an explanation of how Undine allocates our  
21 affiliate expenses; (9) an explanation of tariff changes; and (10) why we have excluded  
22 from this rate case certain water and wastewater assets owned by Undine Development,  
23 LLC. I will also provide information on Undine's customer base in certain cities, and  
24 its requested capital structure and return on equity.

1 **III. OWNERSHIP STRUCTURE**

2 **Q. WHAT IS THE LEGAL STRUCTURE OF UNDINE GROUP, LLC AND ITS**  
3 **UTILITIES? CAN YOU PLEASE EXPLAIN WHAT THE VARIOUS**  
4 **ENTITIES DO?**

5 A. Attached as Attachment A is an overview of Undine’s legal structure. Undine Group,  
6 LLC is a holding company that receives funding from our investors and distributes  
7 monies to the underlying utilities depending upon its nature.

8 Undine Management, LLC, is a holding company whose sole purpose is to  
9 collect equity contributions from management.

10 Undine, LLC is a holding company that owns 100% of the membership interest  
11 of all operating utilities. Its purpose is to be a funding entity for any potential future  
12 bank debt.

13 Undine Operating, LLC employs all of Undine’s 17 employees. It manages all  
14 aspects relating to its operating subsidiaries and incurs all costs that are not directly  
15 associated with specific utilities. For ratemaking purposes, reasonable and necessary  
16 expenses are allocated to the various utilities. Those costs not directly associated with  
17 utility operations are not allocated to rate payers; such costs include but are not limited  
18 to due diligence costs, business development costs, education expenses, and meeting  
19 costs.

20 Undine Development, LLC owns the 232 water and 167 wastewater customers  
21 living in the Greenshores Subdivision on Lake Austin.

22 Undine Texas, LLC owns all the membership units of Undine Texas  
23 Environmental, LLC. Undine Texas, LLC owns and operates 6,034 water connections  
24 in 64 locations and almost 300 miles of main line, the majority of which is aged and



1 badly in need of repair. In addition, Undine Texas, has filed three STMs to acquire an  
2 additional 4,484 water living unit equivalents (LUE).

3 Undine Texas Environmental, LLC owns and operates 2,011 wastewater  
4 connections in 9 locations and over 150 miles of force main, much of which is old and  
5 in need of repair. In addition, Undine Texas, LLC has filed three STMs to acquire an  
6 additional 642 sewer LUEs.

7 **IV. REGULATORY AND ENVIRONMENTAL COMPLIANCE**

8 **Q. WHAT IS UNDINE'S COMMITMENT TO REGULATORY AND**  
9 **ENVIRONMENTAL COMPLIANCE, BEST INDUSTRY PRACTICES, AND**  
10 **CUSTOMER SERVICE, AND HOW HAS IT DEMONSTRATED THAT**  
11 **COMMITMENT?**

12 **A.** Undine LLC was founded to acquire small to mid-sized water and wastewater  
13 companies. Undine LLC management consists of 17 dedicated employees with over  
14 two hundred combined years of water and wastewater experience. The members of the  
15 management team of Undine LLC pride themselves on having the reputation and  
16 dedication to bring under-capitalized utility systems into regulatory and environmental  
17 compliance and striving to achieve best industry practices in customer service and  
18 operations. For the last three years, Undine has been acquiring many under-capitalized  
19 systems in Texas including, but not limited to, the systems owned by the Martin family  
20 doing business as Suburban Utility Company, Community Utility Company, and  
21 Consumers Water Company. Andy Thomas, as Undine's Vice-President of Capital  
22 and Operations, will discuss the details of the work performed to bring those systems  
23 into regulatory compliance in this regard in his testimony.

1           We have embraced our continued belief that the foundation of good customer  
2 service is communication, which we believe begins with the direct Company to  
3 customer communication opportunities we provide in our Town Hall forums. Our  
4 commitment to customer service through this type of communication, as well as the  
5 addition of facilities, equipment, and payment options, is described in detail in the  
6 testimony of Undine witness Mr. Rick Melcher. In summary, at Undine we strive to  
7 continue to improve our policies, procedures, and customer service with the goal of  
8 becoming the role model for Texas' privately owned regulated water and wastewater  
9 utilities.

10                           **V.    OVERVIEW OF APPLICATION**

11   **Q.    PLEASE SUMMARIZE UNDINE'S REQUEST IN THIS APPLICATION.**

12   A.    In this Application, Undine proposes to combine multiple systems into one tariff each  
13 for all water and wastewater customers, except for one system in Central Texas. The  
14 Application proposes to increase water and wastewater rates and to implement a flat  
15 rate for all wastewater customers.

16   **Q.    WHAT TEST YEAR IS USED FOR THE APPLICATION?**

17   A.    The Application is based on a test year ending September 30, 2019.

18                           **VI.   CONSOLIDATED TARIFFS**

19   **Q.    PLEASE EXPLAIN THE REASONS FOR MERGING THE WATER TARIFFS.**

20   A.    Undine proposes to merge 64 water systems into one tariff. There are several reasons  
21 for doing this. The majority of our water systems are located within 100 miles of  
22 Houston, with the exception of one small system in the Dallas/Fort Worth area. Once  
23 we acquired the systems, we realized that the nature of the repairs that are being made

1 in these systems are almost identical to one another. In the majority of cases, Undine  
2 has been replacing all assets above the ground; specifically, we have been making  
3 major replacements to facilities such as pump houses, chemical switches, and pressure  
4 and storage tanks. It is our continuing belief that capital costs are better spread over  
5 more customers as opposed to fewer customers, thereby reducing the rate burden on  
6 the customers of smaller systems for repairs irrespective of whether such costs solely  
7 benefit the customers of the smaller system. Without spreading such costs  
8 appropriately over a greater number of customers, providing quality service to those  
9 smaller systems would quickly become cost-prohibitive.

10 **Q. THIS APPLICATION ALSO PROPOSES TO MERGE THE RATES FOR NINE**  
11 **WASTEWATER SYSTEMS UNDER A SINGLE FLAT RATE. PLEASE**  
12 **EXPLAIN THE REASONS FOR THIS MERGER OF TARIFFS.**

13 A. The majority of our wastewater systems are located in the Houston and Dallas/Fort  
14 Worth areas. Once we acquired the systems, we realized that the nature of the  
15 wastewater repairs that we were making in these systems were very similar. In the  
16 majority of cases, Undine has been updating its systems and replacing equipment  
17 necessary to meet the system's related permit requirements. Similar to our water  
18 customers, it is our continuing belief that capital costs are better spread over more  
19 customers as opposed to fewer customers, thereby reducing the rate burden on the  
20 customers of smaller systems for repairs, irrespective of whether such costs solely  
21 benefit the customers of the smaller system.

22 In a number of our wastewater systems, Undine does not provide water to its  
23 wastewater customers. The rising cost of meter-reading is becoming a problem for our

1 utility systems. In our wastewater systems in which other utilities provide water  
2 service, our ability to obtain accurate meter readings at an affordable cost is becoming  
3 extremely difficult.

4 Undine uses winter averaging for some of its wastewater billing (the averaging  
5 of December, January, and February water usage), effectively billing its customers at a  
6 flat rate for the next twelve months. In lieu of continuing to being held hostage by  
7 other utilities for billing information, we propose implementing flat rates system-wide.  
8 We understand that there is an argument that system-wide flat rates are unfair to those  
9 customers who use less water than the average. However, in our experience, only a  
10 limited number of customers have to pay more for services billed using flat rates; the  
11 vast majority of customers' bills are reduced because of the reduction of the cost related  
12 to obtaining meter reads.

13 **Q. DO THESE WATER AND WASTEWATER SYSTEMS QUALIFY FOR**  
14 **TARIFF CONSOLIDATION UNDER TEXAS STATUTES?**

15 A. Yes, they do. All of the water systems under the proposed water tariff, and all of the  
16 wastewater systems under the proposed wastewater tariff, are substantially similar in  
17 terms of facilities, quality of service, and cost of service. The proposed water tariff  
18 also provides for rates that promote water conservation for single-family residences  
19 and landscape irrigation. Andy Thomas will be providing additional testimony on the  
20 substantial similarity of the water and wastewater systems. Don Clayton will be  
21 providing additional testimony on the similarity of these systems' cost of service.

1       **Q.     HOW DO YOU JUSTIFY ALMOST TRIPLING SUBURBAN’S BASE RATES?**

2       A.     When Undine took over as Temporary Manager of the Suburban systems on  
3             September 24, 2017, the customers were paying an average of \$68 a month. As part of  
4             the settlement agreement in that acquisition dated August 7, 2017, we agreed to:  
5             (1) roll the rates back to their previous levels that are some of the lowest in the state  
6             (\$23 base and a usage fee of \$2.15 per thousand); (2) not charge any temporary  
7             management fee even though we were so entitled (the previous manager had charged  
8             \$34.01 per connection as a temporary management fee); and (3) not file a rate case for  
9             at least 15 months after closing the acquisition.

10            We agreed to those terms because we believe in the regulatory process. At the  
11            time we thought the customers, some of whom were entirely without water service,  
12            were being treated unfairly and had no real input into the rate process regarding what  
13            they were being charged. As of the date of this rate application, we have not requested  
14            a change in Suburban rates for approximately 28 months. On our first day as  
15            Temporary Manager, we sought the approval of a neighboring utility for an emergency  
16            interconnect, and constructed and completed a temporary interconnect as a way to  
17            provide water to the Beaumont Place subdivision that had previously been without  
18            water for a week. We have completed the repairs and capital improvements agreed to  
19            with the TCEQ at a cost of approximately \$1.3 million, and we have communicated  
20            regularly with the Suburban customers through Town Hall meetings as to the nature of  
21            the work we were performing and what it could potentially mean to their rates. The  
22            neighboring utility has since approached Undine to keep the interconnect in place to  
23            have it available in the event of an emergency. Undine, as well as the neighboring

1 utility, believe having this secondary water source provides a much-needed backup  
2 system for each utility's water supply.

3 **Q. BESIDES THE SUBURBAN CUSTOMERS, CUSTOMERS IN OTHER**  
4 **SYSTEMS ACQUIRED BY UNDINE WILL ALSO EXPERIENCE**  
5 **SIGNIFICANT RATE INCREASES. HOW DO YOU EXPLAIN THOSE**  
6 **INCREASES?**

7 A. The majority of the systems we acquired have not had a rate increase in ten or more  
8 years. It is not surprising that their existing rates are some of the lowest in the state.  
9 As shown by Mr. Thomas, and as I've previously described in my testimony, many of  
10 the systems, when acquired by Undine, were run-down, had had no maintenance or  
11 repairs for many years, and were in danger of ceasing to operate entirely. Undine has  
12 made significant investments of capital and effort to improve these systems and thereby  
13 improve the quality of life of the customers who depend on these systems for safe water  
14 and to safely dispose of their wastewater. The decision to request the rate changes  
15 encompassed by this Rate Application was not made lightly; Undine understands the  
16 impact increased rates have on our customers. At the same time, however, our  
17 customers are receiving great value for their payments and we are proud of how we  
18 have improved these vital utilities.

19 **Q. PLEASE EXPLAIN WHY UNDINE CHOSE THE RATE DESIGN IT IS**  
20 **PROPOSING HERE.**

21 A. In our proposed rate design, we hope to accomplish two major objectives—encourage  
22 water conservation and reduce the impact on low/fixed income customers. By setting  
23 the first tier of usage to include 0 to 6,000 gallons, we are keeping rates as low as

1 possible for a large percentage of our customers, many of whom use an average of less  
2 than 6,000 gallons in one month. The range of this first tier also encourages  
3 conservation by allowing customers to use a reasonable amount of water without  
4 jumping up to a higher gallonage rate.

5 **VII. CAPITALIZATION OF CERTAIN REPAIRS**

6 **Q. HOW DOES UNDINE ACCOUNT FOR LEAK REPAIRS?**

7 A. The Uniform System of Accounts for Class B Water and Wastewater Utilities as  
8 outlined by the National Association of Regulatory Utility Commissioners (NARUC)  
9 requires certain costs, including leak repairs under a certain length of pipe normally  
10 accounted for as a unit of property, be accounted for as routine maintenance expenses  
11 in account 636 Contractual Services – Other.

12 Undine has consistently improved the pressure of the under-capitalized systems  
13 it has acquired. In turn, the increased pressure has resulted in a more than normal  
14 number of system leaks. From the date of their acquisition to September 30, 2019,  
15 Undine has capitalized the repairs for almost 1,000 main leaks. From a regulatory  
16 perspective, those costs do not represent either capital items as prescribed by the  
17 NARUC chart of accounts, or period costs that reasonably should be expected to be  
18 incurred at the same level in the future. We believe that our accounting treatment is  
19 consistent with the position taken by other regulatory commissions for similar costs.  
20 Further, we believe that the proposed treatment of these costs allows Undine to recover  
21 such costs over a reasonable period without the customer incurring an unreasonable  
22 increase in rates.

1                   **VIII. EXCLUSION OF UNDINE DEVELOPMENT SYSTEMS**

2       **Q. THE APPLICATION INCLUDES ALL OF UNDINE'S WATER AND**  
3       **WASTEWATER CUSTOMERS EXCEPT THOSE OWNED BY UNDINE**  
4       **DEVELOPMENT, LLC. PLEASE EXPLAIN WHY THOSE CUSTOMERS**  
5       **WERE NOT INCLUDED?**

6       A. Undine Development, LLC was formed to own greenfield utility projects, and owns  
7       the assets relating to its Greenshores on Lake Austin and Woods of Greenshores  
8       subdivisions representing 232 water customers and 167 wastewater customers. Those  
9       assets are significantly different from other water and wastewater assets owned by the  
10      Company. Surface water is supplied to the subdivisions from Lake Austin and is  
11      processed through a reverse osmosis system. The wastewater system is burdened by  
12      expensive pump-and-haul costs resulting from the need to build a pipeline over 1,000  
13      feet long and 40 feet deep to protect the habitat of the Golden Cheeked Warbler. Undine  
14      believes that the nature of these assets is different enough to not be considered  
15      appropriate for a consolidated tariff under Texas statutory requirements.

16                   **IX. USE OF THIRD-PARTY OPERATORS**

17      **Q. PLEASE EXPLAIN UNDINE'S USE OF THIRD-PARTY OPERATORS.**

18      A. We have been asked many times why we use third-party operators instead of employing  
19      our own operators to run our systems. Using third-party operators provides us the  
20      opportunity to run our systems with highly-trained professionals without relying on  
21      operators left over from acquisitions, many of whom are friends and family of previous  
22      owners. They also provide us access to highly-trained individuals specializing in  
23      Department of Transportation (DOT), environmental, and safety requirements. From a



1 management and cost-containment standpoint, fixed third-party contracts allow us to  
2 manage financial expectations and customer costs.

3 We worked with our current operator, Utility Partners, LLC, at our previous  
4 company Ni America, LLC. We strive to make our third-party contractors function as  
5 close to our own operations and employee costs as possible. At Ni America we  
6 developed a contract with Utility Partners, LLC that included, but was not limited to,  
7 day-to-day operations of the plant, personnel experienced in DOT, environmental and  
8 safety requirements, routine testing, billing, customer service, new customer turn-offs  
9 and turn-ons, and routine maintenance for a cost of \$17.50 per customer per month.

10 When we started operating systems at Undine, we discussed our operator  
11 requirements with larger and more recognized national service companies. Most were  
12 not interested due to our size and the nature of our contract. One suggested it could  
13 operate the systems for \$22.50 per customer per month, not including routine  
14 maintenance. We also discussed the concept with local companies that operate  
15 municipal utility districts. The best price they could offer was \$12.50 per customer,  
16 and that did not include billing or customer service. We hired one of those companies  
17 to run our systems for over a year. However, we were unsatisfied with the level of  
18 routine maintenance that company provided, and Undine ultimately went back to its  
19 previous operations contractor, Utility Partners, LLC. Totally independent from  
20 Undine in all ways, they understood and agreed with the basic concepts of our contract  
21 previously negotiated for Ni America and agreed to apply it to Undine. They currently  
22 are charging \$17.50 per customer per month with the exception of certain special  
23 circumstances where prices are negotiated as they arise.

1 **X. NEED FOR RATE RELIEF**

2 **Q. PLEASE EXPLAIN UNDINE'S NEED FOR RATE RELIEF.**

3 A. As of September 30, 2019, Undine has spent approximately \$6.3 million on the systems  
4 it has acquired in Texas. Our total capital budget over five years for those systems is  
5 approximately \$17 million. From a regulatory standpoint, Undine has closed into fixed  
6 assets approximately \$4.9 million, and we have included as post-test year adjustments  
7 another \$1.1 million for projects that should be closed into fixed assets by the start of  
8 the rate year. I cannot stress enough the need for the Company to earn a fair return on  
9 its investment in these systems. Investment in Texas by institutional investors is based  
10 on the trust the Commission has earned in the investor community for being a fair  
11 regulator. In that regard, we have requested a return on equity at the rate of 9.75%, as  
12 I discuss further below.

13 **XI. SERVICE IN MUNICIPALITIES**

14 **Q. DOES UNDINE SERVE CUSTOMERS IN ANY CITY?**

15 A. Yes. Forty water customers in the Orbit Brandi Estates system reside within the city  
16 limits of the City of Manvel, and 50 water customers in the Gulf Coast Magnolia Bend  
17 system reside within the city limits of Iowa Colony. Both of these cities have original  
18 jurisdiction authority to set utility rates within their city limits.

19 **Q. DOES UNDINE SEEK TO CHANGE RATES FOR CUSTOMERS IN THESE**  
20 **CITIES?**

21 A. Yes.

1     **Q.     HAS UNDINE FILED A RATE FILING APPLICATION WITH THE CITIES**  
2           **OF MANVEL AND IOWA COLONY CONTEMPORANEOUSLY WITH THIS**  
3           **FILING?**

4     **A.     Yes.**

5                                   **XII.   TARIFF CHANGES**

6     **Q.     THE FILING ELIMINATES THE \$40 PER MONTH SURCHARGE FOR THE**  
7           **SUBDIVISIONS OF FOREST MANOR AND HEATHERGATE ESTATES**  
8           **(FORMERLY SERVED BY COMMUNITY UTILITY COMPANY). PLEASE**  
9           **EXPLAIN THE REASON FOR THE ELIMINATION OF THE SURCHARGE**  
10          **AND WHAT THE COMPANY IS PLANNING TO DO WITH THE MONIES**  
11          **THAT HAVE BEEN COLLECTED UNDER THE SURCHARGE.**

12    **A.     The purpose of the \$40 per month surcharge was to provide money for the extensive**  
13          **capital improvements needed in these two subdivisions in the former Community**  
14          **Utility Company (Community) system. During the acquisition process, Undine**  
15          **performed extensive due diligence, which resulted in a Capital Plan that we believe**  
16          **will bring the Community subdivisions into compliance in accordance with current**  
17          **TCEQ regulations. As of September 30, 2019, the Company has a recorded liability**  
18          **relating to the surcharge of approximately \$369,000. It is our plan to use those monies**  
19          **and any others collected during this rate case to continue capital projects in our Capital**  
20          **Plan at those communities. Senior Vice-President Andy Thomas' testimony provides**  
21          **support for the use of those funds.**

22    **Q.     THE COMPANY HAS MADE SUBSTANTIAL CHANGES TO THE**  
23          **SEVENTEEN TARIFFS IN THIS FILING RELATING TO MISCELLANEOUS**

1           **CHARGES AND FEES. PLEASE DISCUSS THE REASONS FOR THESE**  
2           **PROPOSED CHANGES AND HOW THEY WILL AFFECT OTHER**  
3           **REVENUE AND CONTRIBUTIONS IN AID OF CONSTRUCTION.**

4       A.     One of the challenges of aggregating water and wastewater systems is to modernize old  
5           and outdated tariffs for other fees (including, but not limited to, bad check charges, late  
6           fees, and reconnection fees) and applying them consistently across the entire Company.  
7           Undine currently has 17 tariffs, some of which are over ten years old. In the process  
8           of reaching a standard tariff for these items, we reviewed all of the tariffs for their  
9           reasonableness. We found that the majority of the miscellaneous fees did not cover  
10          their current cost. Where applicable, we changed those fees to be in line with the related  
11          documented expense. We also noted that some fees like return check fees and customer  
12          deposits were statutory and could not be changed.

13                 Undine also reviewed existing tap fees. The systems Undine acquired are older  
14                 than the norm. New subdivisions generally have meters and taps at the road, whereas  
15                 Undine's are often not located at the normal location and may be at the house or even  
16                 in the backyard, making most of Undine's new connections to be considered long taps.  
17                 Undine changed the existing tap fees from our 17 tariffs to our estimate of current costs  
18                 as provided by our third-party contractor. Currently, Undine pays \$600 for a short tap  
19                 and \$800 for a long tap, plus the meter cost. In an effort to hedge the rising cost of  
20                 meter reads, Undine is currently installing cellular read meters (at an installed cost of  
21                 approximately \$350) for new installations and replacements.

22                 None of the existing tariffs differentiate between revenue and contributions in  
23                 aid of construction (CIAC). Because our tap fees do not cover our current costs for

1 that service we have consistently treated the tap fee as CIAC and capitalized the  
2 corresponding related cost. For consistency, Undine will continue that practice.

3 The majority of customers pay their bills via the internet, direct pay, or credit  
4 card. We have traditionally absorbed third party fees and accounted for them in  
5 Miscellaneous Expense as cost of service, but are now proposing to pass those  
6 additional convenience charges onto the customers.

7 **XIII. CAPITAL STRUCTURE AND RETURN ON EQUITY**

8 **Q. WHAT IS UNDINE'S CAPITAL STRUCTURE?**

9 A. Undine's actual capital structure is 77.35 percent equity and 22.65 percent debt. Please  
10 see Mr. Clayton's testimony for further details and an explanation.

11 **Q. WHAT IS UNDINE'S PROPOSED RETURN ON EQUITY?**

12 A. Undine's proposed return on equity is 9.75 percent. I believe this number is appropriate  
13 for a number of reasons. The majority of our acquisitions are composed of rural  
14 companies that could not obtain capital at any cost. Their lack of capital is a direct  
15 cause of the degradation of those systems and their current need for repairs. Our ability  
16 to acquire and repair those systems results from our ability to attract non-traditional  
17 sources of equity. Those sources of equity are generally deemed riskier than the public  
18 markets. We believe that the condition of the acquired systems justifies a higher return  
19 on equity in order to continue to encourage non-traditional sources of capital to invest  
20 in water and wastewater assets in the state of Texas.

1                                   **XIV. ACCOUNTING FOR AFFILIATE EXPENSES**

2     **Q.     PLEASE DESCRIBE UNDINE’S AFFILIATES.**

3     A.     All of the Undine companies are affiliates under common ownership. Undine  
4            Operating, LLC is the only one that allocates costs to the other affiliates. The  
5            allocations are at cost, with no mark-up or profit. Undine Operating, LLC employs all  
6            of Undine’s 17 employees. It manages all aspects relating to its operating subsidiaries  
7            and incurs all overhead costs that are not directly associated with specific utilities.

8     **Q.     PLEASE DESCRIBE HOW UNDINE OPERATING’S COSTS ARE**  
9            **ALLOCATED TO UNDINE’S OPERATIONS.**

10    A.     Undine Texas does not incur direct labor or have any employees, but rather relies on a  
11            consolidated services model in which labor and other costs are centralized and allocated  
12            to the utilities. Broad categories of costs allocated by Undine Operating, LLC are  
13            payroll, payroll taxes, office costs, and travel.

14    **Q.     PLEASE DISCUSS THE COST ALLOCATION METHODOLOGY USED TO**  
15            **ALLOCATE UNDINE OPERATING, LLC’S COST TO UNDINE.**

16    A.     The costs described above are allocated to water and sewer utilities based on equivalent  
17            residential customers (ERCs). Undine Operating, LLC removes costs that are not  
18            directly associated with utility operations including, but not limited to, due diligence  
19            costs, business development costs, education expenses, and meeting costs. Those costs  
20            are not charged to ratepayers.

21  
22

1     **Q.     PLEASE SUMMARIZE THE BENEFITS THAT ACCRUE TO UNDINE’S**  
2           **CUSTOMERS AS A RESULT OF USING UNDINE OPERATING, LLC.**

3     A.    Undine Operating, LLC provides shared services more effectively and efficiently than  
4           could be provided on an individual utility basis. Based upon my years of experience  
5           in operating water and wastewater utilities, and my substantial understanding of what  
6           it takes to make these businesses run efficiently and for the benefit of ratepayers, I  
7           believe that both the methodology used to allocate overhead costs, and the resulting  
8           costs to the utility, are reasonable.

9     **Q.     DOES UNDINE OPERATING, LLC, PROVIDE ANY SERVICES TO**  
10          **NON-AFFILIATED THIRD PARTIES?**

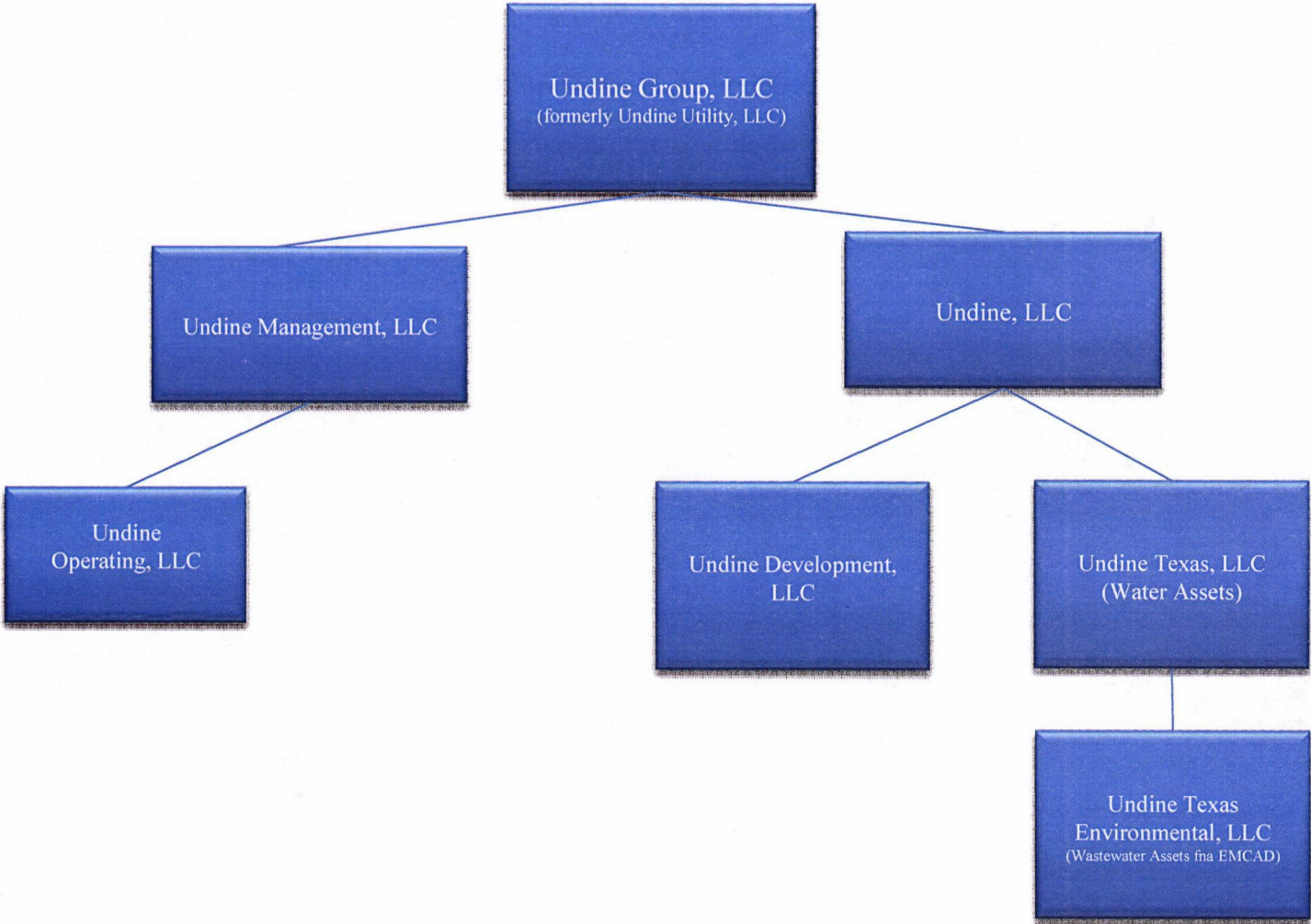
11    A.    No.

12    **XV. CONCLUSION**

13    **Q.     DOES THIS CONCLUDE YOUR TESTIMONY?**

14    A.    Yes, it does.

# UNDINE ORGANIZATIONAL STRUCTURE





**DOCKET NO. 50200**

**APPLICATION OF UNDINE TEXAS  
LLC FOR AUTHORITY TO CHANGE  
RATES**

§  
§  
§

**BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS**

**DIRECT TESTIMONY  
OF  
FRED (RICK) W. MELCHER III**

**ON BEHALF OF  
UNDINE TEXAS, LLC**

**DECEMBER 20, 2019**

**DIRECT TESTIMONY OF  
FRED (RICK) MELCHER**

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**ATTACHMENTS:**

Attachment A	Customer Notices and Neighborhood Signs
Attachment B	Copy of Town Hall Presentation
Attachment C	<i>Confidential</i> Customer Complaints

**DOCKET NO. 50200**

<b>APPLICATION OF UNDINE TEXAS</b>	<b>§</b>	<b>BEFORE THE</b>
<b>LLC FOR AUTHORITY TO CHANGE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RATES</b>	<b>§</b>	<b>OF TEXAS</b>

**DIRECT TESTIMONY OF  
FRED (RICK) MELCHER**

1                                    **I.        INTRODUCTION**

2    **Q.        PLEASE STATE YOUR NAME, OCCUPATION, AND ADDRESS**

3    A.        My name is Fred (Rick) W. Melcher III and I am employed as Manager of Public  
4                Relations for Undine Texas, LLC. My business address is 17681 Telge Road, Cypress,  
5                Texas, 77429.

6    **Q.        HAVE YOU PREVIOUSLY TESTIFIED IN A COMMISSION PROCEEDING?**

7    A.        No, I have not testified in a Public Utility Commission of Texas (Commission)  
8                proceeding. However, I have provided testimony on behalf of Ni America before the  
9                regulatory commissions of South Carolina and Florida. I have also participated in rate  
10                proceedings in Texas on behalf of Ni America in 2008 and 2011 at the Texas  
11                Commission on Environmental Quality (TCEQ), which were settled.

12   **Q.        WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND?**

13   A.        I am a 1980 graduate of Texas A&M University with a Bachelor of Business  
14                Administration degree. I was first employed in the regulated utility industry in 1978  
15                by Southwestern Bell Telephone Company, and trained to manage personnel working  
16                with customers in the Business Office and in AT&T Phone Center Stores. From 1997  
17                to 2002 I was Manager of Public Relations for AquaSource Utility Company, a

1 provider of water and wastewater services. I was Public Relations Manager for  
2 Ni America from its inception in 2007 to its sale in 2015.

3 **Q. WHAT ARE YOUR DUTIES IN YOUR CURRENT POSITION?**

4 A. As Manager of Public Relations for Undine Texas, LLC (Undine or Company), it is  
5 my responsibility to serve as the liaison between our operating subsidiaries and  
6 regulators, our customers, other governmental agencies, the media, and the general  
7 public. In that capacity, my duties include coordinating meetings between operating  
8 subsidiary personnel and regulators, customers, and the media, attending state  
9 commission and utility association meetings on behalf of our utilities when appropriate,  
10 and testifying in state commission hearings when necessary. My primary function is  
11 to facilitate and coordinate meetings between the Company and our customers and  
12 regulators in order to promote open communications, customer understanding of utility  
13 procedures, and better customer service in general. I believe these meetings and my  
14 personal response to many customer questions through our call center provide  
15 substantially better communications and understanding of the utility issues that are of  
16 concern to all of our customers. My availability and Undine's responsiveness are  
17 evidenced by the fact that I provide my cell phone number to all customers with the  
18 commitment of "24\7" communications.

19 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

20 A. I am testifying on behalf of Undine Texas, LLC.

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**II. PURPOSE OF TESTIMONY**

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

A. The purpose of my testimony is to provide information about Undine’s policy and practice with regard to customer outreach and customer support, and to address the Company’s policy for receiving and responding to customer inquiries and customer complaints.

**Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

A. The Company has a strong commitment to, and improvement of, customer service and we are dedicated to customer and regulatory communications. We have made vast improvements to customer service and customer education, including the rate case process and proceedings. The Company has undertaken significant efforts to educate our customers about rate relief proceedings in general, the specific need for the rate relief sought in this case, and the repairs and improvements the Company has made, including those required to meet state regulatory standards.

**III. CUSTOMER OUTREACH AND CUSTOMER SERVICE**

**Q. HAVE YOU MET WITH ANY OF THE CUSTOMERS REGARDING THIS PROCEEDING?**

A. Yes. It is our policy to meet with customers in a Town Hall setting and provide a presentation that shows the conditions present when the systems were acquired, the necessary improvements, and other supporting information pertaining to the rate case. The first of these meetings to announce the rate case was held on Thursday, November 14, 2019, and additional meetings will be held over the coming months.

1 **Q. WHAT HAS UNDINE DONE TO IMPROVE CUSTOMER SERVICE?**

2 A. Undine management brings its customers the unique benefit of experienced utility  
3 acquisition, infrastructure renovation, regulatory compliance and reporting, necessary  
4 and adequate financial capacity, and improved customer service and communications.  
5 As described by Mr. Wallace, Undine has the financial resources to implement the  
6 required capital improvement plans and to provide maintenance, repairs, and any  
7 additional capital investment as needed to bring our previously undercapitalized  
8 systems into regulatory compliance.

9 Many of the existing customer service issues we experience are related to the  
10 aged and failing infrastructure of the systems we have acquired. Through the  
11 implementation of capital improvements these issues are being addressed and resolved.

12 Other issues are related to the previous utility owners' lack of communication  
13 and unresponsiveness to customer concerns and complaints. Through our commitment  
14 to providing excellent customer service we are dedicated to responsiveness to all  
15 customer calls and to achieving customer satisfaction whenever possible.

16 In an effort to improve customer service wherever possible we have also  
17 provided a number of payment options for our customers' convenience. Payments may  
18 now be mailed by check or money order, or online at UndineLLC.com by credit card  
19 or check, or set up for auto draft via credit card or check, or in our office with cash,  
20 money order or check.

21 To make communication of emergency or other important notices more timely  
22 and efficient, Undine has obtained the Immediate Response Information System (IRIS).  
23 IRIS is the industry leader in mass notification, enabling us to send text messages, voice

1 messages, and emails directly to our customers, thereby eliminating the need for  
2 emergency and other communications to be made via neighborhood signs, door  
3 hangers, media announcements, or direct mail.

4 **Q. WHAT IS UNDINE'S PHILOSOPHY WITH RESPECT TO**  
5 **COMMUNICATIONS AND CUSTOMER EDUCATION?**

6 A. We believe that well-informed customers and regulators best serve the interests of all  
7 stakeholders. Water and sewer utilities and their customers face ever-increasing capital  
8 and operational costs to address higher levels of environmental regulation and the  
9 conditions of aging infrastructure. The interests of everyone with a stake in water and  
10 sewer utility operations are best served through open, regular, and frank  
11 communications. We also endeavor to keep the Commission and the TCEQ apprised  
12 as necessary of our utility and customer issues and concerns. To this end, we have met  
13 on a number of occasions with the Commission, with personnel at the Austin  
14 headquarters and regional offices of the TCEQ, as well as the Commission's Consumer  
15 Complaint Division. We are also coordinating our Town Hall meetings pertaining to  
16 the rate case with the Commission's Consumer Outreach Department.

17 In our experience, we find that the greatest number of customer inquiries  
18 and complaints in a ratemaking proceeding result from a lack of understanding about  
19 regulated utilities and the role of regulatory agencies. In addition, we think that  
20 having a customer base that is educated with respect to the workings of a specific  
21 rate relief proceeding lends itself to more meaningful participation by customers in  
22 the process when they do choose to participate. We believe that it is important that  
23 customers be provided information with respect to how water and sewer utility rate

1 relief proceedings work, why they are needed from time to time, what occurs in a  
2 typical proceeding, and how customers may participate.

3 **Q. WHAT EFFORTS HAS UNDINE MADE TO EDUCATE CUSTOMERS**  
4 **ABOUT RATE RELIEF PROCEEDINGS IN GENERAL AND IN REGARD**  
5 **TO THIS RATE CASE SPECIFICALLY?**

6 A. The Company has provided, and is continuing to provide, Town Hall style meetings  
7 that go beyond the description of rate relief proceedings in general. The presentations  
8 include an introduction to the Company, descriptions of the Public Utility Commission  
9 and the Texas Commission on Environmental Quality and their respective functions  
10 and contact information where appropriate, the improvements needed for the utility to  
11 meet regulatory requirements, and the status of these improvements. Specific  
12 improvements and the Company's Capital Improvement Plan (CIP) are discussed in  
13 greater detail by Andy Thomas in his testimony. Additional information regarding  
14 water capacity requirements and water quality and wastewater regulations is provided  
15 in the Town Hall presentations. To ensure that customers were made aware of the  
16 meetings, direct mailings of notification were made to each customer and neighborhood  
17 signs were posted. Copies of these customer notices, and neighborhood signs are  
18 attached to my testimony as Attachment A.

19 A copy of our Town Hall presentation is attached to my testimony as  
20 Attachment B. Representatives of the Commission's Consumer Outreach Program  
21 were invited to attend these meetings and were present. Representative Armando Walle  
22 and a representative from Senator Carol Alvarado's office were present at the Suburban  
23 Town Hall meeting, as well.



1           The presentations made at our Town Hall meetings discussed the TCEQ  
2           violations existing in our systems prior to acquisition by our Company, the need for  
3           and the status and cost of improvements and repairs required to remedy those  
4           violations, the need for and implementation of improved and more frequent operational  
5           and maintenance procedures, and the resulting need for rate relief. Customers were  
6           informed of their rights in the rate process and provided contact numbers for both the  
7           Company, the Commission, and the TCEQ to address questions or comments about the  
8           proceeding and the means by which they could comment to the Public Utility  
9           Commission. The presentation made at customer meetings has also been made  
10          available to all of our customers on the Company website and includes information and  
11          support for the requested rate increase.

12   **Q.   WERE THERE ANY OTHER TOPICS DISCUSSED IN THESE**  
13   **PRESENTATIONS?**

14   A.   Yes. Water quality issues relating to discoloration resulting from iron and/or  
15          manganese in the source groundwater have been a major concern to many of our  
16          customers. These issues have been on-going prior to the acquisition of the systems by  
17          Undine, and our presentation discusses the operational and maintenance requirements  
18          necessary to treat these secondary constituents, as well as the general statements made  
19          by the Environmental Protection Agency regarding these conditions. The operational  
20          issues being addressed are improvements to the systems. These improvements  
21          necessarily result in increased expenses, and as such, are described as part of the  
22          rationale for the rate increase.

1           Additionally, the TCEQ requires utilities to obtain Customer Service  
2           Agreements as a part of the Service Application. The Service Agreement provides for  
3           inspection of the customer's premises in order to ensure no cross-connections are  
4           present that could potentially contaminate the water supply. The Agreement also  
5           requires a certification that the customer's service line connection to the utility is  
6           installed according to necessary TCEQ-approved specifications and standards. These  
7           required agreements were not present in each of the utilities we acquired, and  
8           accordingly were considered violations by the TCEQ that must be remedied.

9           Additionally, all customers were made aware that the introduction of fats, oils,  
10          or grease into a wastewater collection system is highly problematic and is a major cause  
11          of sanitary sewer overflows (SSOs), resulting from blockages due to solidified grease.  
12          With respect to improved customer communications, the Company has also completed  
13          the installation of the IRIS, which allows us to provide up-to-the-minute  
14          communications pertaining to service outages, boil water notices, and other critical or  
15          emergency information.

16           **IV. CUSTOMER COMPLAINT POLICY AND EXPERIENCE**

17   **Q. PLEASE DESCRIBE THE COMPANY'S COMPLAINT POLICY.**

18   A.   When the Company receives a customer complaint, however it is received, the issue is  
19          investigated to determine appropriateness of billing, operations procedure, and/or  
20          Company policy and compliance with Commission and/or TCEQ regulations.  
21          Undine's customer service policy is to respond to all customer calls within 24 hours.  
22          The customer is notified of the Company's decision and advised that, if they disagree  
23          with the decision, they may escalate their complaint to the Commission. Customers

1 are advised of the pertinent utility regulation and provided a copy of the applicable  
2 tariff to demonstrate appropriate charges. The complaint is logged in accordance with  
3 16 Texas Administrative Code (TAC) § 24.153, showing details including name and  
4 address of complainant, date complaint was received by the utility, a description of the  
5 nature of the complaint, and the adjustment or disposition. As importantly, Undine  
6 management regularly reviews the complaint trends and locations in order to address  
7 and improve systematic and/or procedural issues.

8 **Q. HOW MANY CUSTOMER COMPLAINTS HAVE BEEN FILED AT THE**  
9 **COMMISSION DURING THE TIME THAT UNDINE HAS OWNED THE**  
10 **SYSTEMS?**

11 A. Undine's 8,045 combined water and sewer customers have filed a total of 43  
12 complaints with the Commission during the past two years. These complaints are  
13 summarized as follows:

- 14 • Water outage / low pressure – 16
- 15 • Billing issues – 15
- 16 • Fees – 7
- 17 • Leaks – 3
- 18 • Water quality / color – 1
- 19 • Drought Plan restrictions – 1

20 **Q. HOW MANY CUSTOMER COMPLAINTS HAVE BEEN RECEIVED BY**  
21 **UNDINE PERSONNEL OR CALL CENTER?**

22 A. Undine's 8,045 combined water and sewer customers have made a total of 202  
23 complaints to the Company during the past two years, either by telephone, email, text  
24 and/or in Town Hall meetings. Details of these complaints and Undine's responses are

1 included in Attachment C (confidential and provided under seal). The complaint log  
2 is summarized as follows:

- 3 • Water outage / low pressure – 74
- 4 • Water quality / color – 56
- 5 • Drought Plan – 41
- 6 • Sewer backup / overflow – 11
- 7 • Billing issues – 9
- 8 • Leaks – 4
- 9 • Failure to restore property to prior condition – 3
- 10 • Service agreement requirement – 3
- 11 • Previous owner issues – 1

12 **Q. IS UNDINE SATISFIED WITH THE NUMBER OF COMPLAINTS IT HAS**  
13 **RECEIVED?**

14 A. No. Due to the highly undercapitalized, unimproved, and aged nature of the majority  
15 of the systems we have acquired, our commitment and endeavors to bring the systems  
16 into regulatory compliance within a reasonable timeframe has not been sufficient to  
17 immediately eliminate the majority of customer issues and complaints. The complaints  
18 to the Consumer Protection Division primarily pertain to outages caused by equipment  
19 failures prior to their replacement, and temporary outages due to leak repairs caused by  
20 improved water pressure after installation of new pressure tanks and pumps. We  
21 continue to make numerous leak repairs and replace or repair defective equipment as  
22 promptly as possible, in accordance with 16 TAC § 24.205. Our goal is to eliminate  
23 these problems and thereby eliminate customer complaints.

24 **V. CONCLUSION**

25 **Q. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?**

26 A. Yes it does.

1 are advised of the pertinent utility regulation and provided a copy of the applicable  
2 tariff to demonstrate appropriate charges. The complaint is logged in accordance with  
3 16 Texas Administrative Code (TAC) § 24.153, showing details including name and  
4 address of complainant, date complaint was received by the utility, a description of the  
5 nature of the complaint, and the adjustment or disposition. As importantly, Undine  
6 management regularly reviews the complaint trends and locations in order to address  
7 and improve systematic and/or procedural issues.

8 **Q. HOW MANY CUSTOMER COMPLAINTS HAVE BEEN FILED AT THE**  
9 **COMMISSION DURING THE TIME THAT UNDINE HAS OWNED THE**  
10 **SYSTEMS?**

11 A. Undine's 8,045 combined water and sewer customers have filed a total of 43  
12 complaints with the Commission during the past two years. These complaints are  
13 summarized as follows:

- 14 • Water outage / low pressure – 16
- 15 • Billing issues – 15
- 16 • Fees – 7
- 17 • Leaks – 3
- 18 • Water quality / color – 1
- 19 • Drought Plan restrictions – 1

20 **Q. HOW MANY CUSTOMER COMPLAINTS HAVE BEEN RECEIVED BY**  
21 **UNDINE PERSONNEL OR CALL CENTER?**

22 A. Undine's 8,045 combined water and sewer customers have made a total of 202  
23 complaints to the Company during the past two years, either by telephone, email, text  
24 and/or in Town Hall meetings. Details of these complaints and Undine's responses are

1 included in Attachment C (confidential and provided under seal). The complaint log  
2 is summarized as follows:

- 3 • Water outage / low pressure – 74
- 4 • Water quality / color – 56
- 5 • Drought Plan – 41
- 6 • Sewer backup / overflow – 11
- 7 • Billing issues – 9
- 8 • Leaks – 4
- 9 • Failure to restore property to prior condition – 3
- 10 • Service agreement requirement – 3
- 11 • Previous owner issues – 1

12 **Q. IS UNDINE SATISFIED WITH THE NUMBER OF COMPLAINTS IT HAS**  
13 **RECEIVED?**

14 A. No. Due to the highly undercapitalized, unimproved, and aged nature of the majority  
15 of the systems we have acquired, our commitment and endeavors to bring the systems  
16 into regulatory compliance within a reasonable timeframe has not been sufficient to  
17 immediately eliminate the majority of customer issues and complaints. The complaints  
18 to the Consumer Protection Division primarily pertain to outages caused by equipment  
19 failures prior to their replacement, and temporary outages due to leak repairs caused by  
20 improved water pressure after installation of new pressure tanks and pumps. We  
21 continue to make numerous leak repairs and replace or repair defective equipment as  
22 promptly as possible, in accordance with 16 TAC § 24.205. Our goal is to eliminate  
23 these problems and thereby eliminate customer complaints.

24 **V. CONCLUSION**

25 **Q. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?**

26 A. Yes it does.

Undine Texas LLC  
October, 14, 2019

Subject: **SUBURBAN TOWN HALL MEETING**

**Thursday, November 14<sup>th</sup>  
6:30 – 8:30pm  
Mead Middle School  
3500 Lauder Rd.  
Houston, Texas 77039**

Dear Castlewood, Beaumont Place, Reservoir Acres and Cypresswood Customers:

Undine Texas LLC has owned and operated the Suburban Utility system for over one year now and we've made many significant improvements and upgrades to these systems. When we acquired this utility in July, 2018, there were numerous violations in utility requirements and standards.

You may have noticed the recent additions or replacement of the water storage tanks, pressure tanks and pump houses at each of the water treatment plants. All of these improvements are designed to meet Texas Commission on Environmental Compliance ("TCEQ") utility requirements and are designed to provide a more reliable and consistent water supply for all of our customers.

The Suburban systems are a privately-owned utility, under the jurisdiction of the Public Utility Commission ("PUC"), and as such, follow all PUC rules and regulations regarding rates and service. These regulations allow utilities to recover necessary cost increases in operations and maintenance, as well as the reasonable and necessary costs of improvements that are made to bring the utility into regulatory compliance.

We expect to be filing an application with the Texas PUC in November, requesting a rate increase to recover these cost increases. When that application is filed, you will receive a separate notice of the rate filing which describes what the proposed rate will be as well as your rights under the Texas rate approval process for regulated utilities.

This Town Hall Meeting is not intended to substitute for a hearing before the PUC. It is designed to allow us to meet with our customers to explain our need for rate relief in an informal setting and to answer any questions you may have about the rate application. Keep in mind, ANY change in rates requires approval from the Texas PUC.

Undine appreciates all of our customers and we hope you will be able to attend the Town Hall meeting and find it to be an opportunity for an open discussion of how the utility system works and the reasons behind our need for rate relief. We look forward to seeing you there.

Sincerely,  
Undine Management

# **TOWN HALL MEETING**

**Undine Texas, LLC**

**Thursday, November 14<sup>th</sup>**

**6:30-8:30 p.m.**

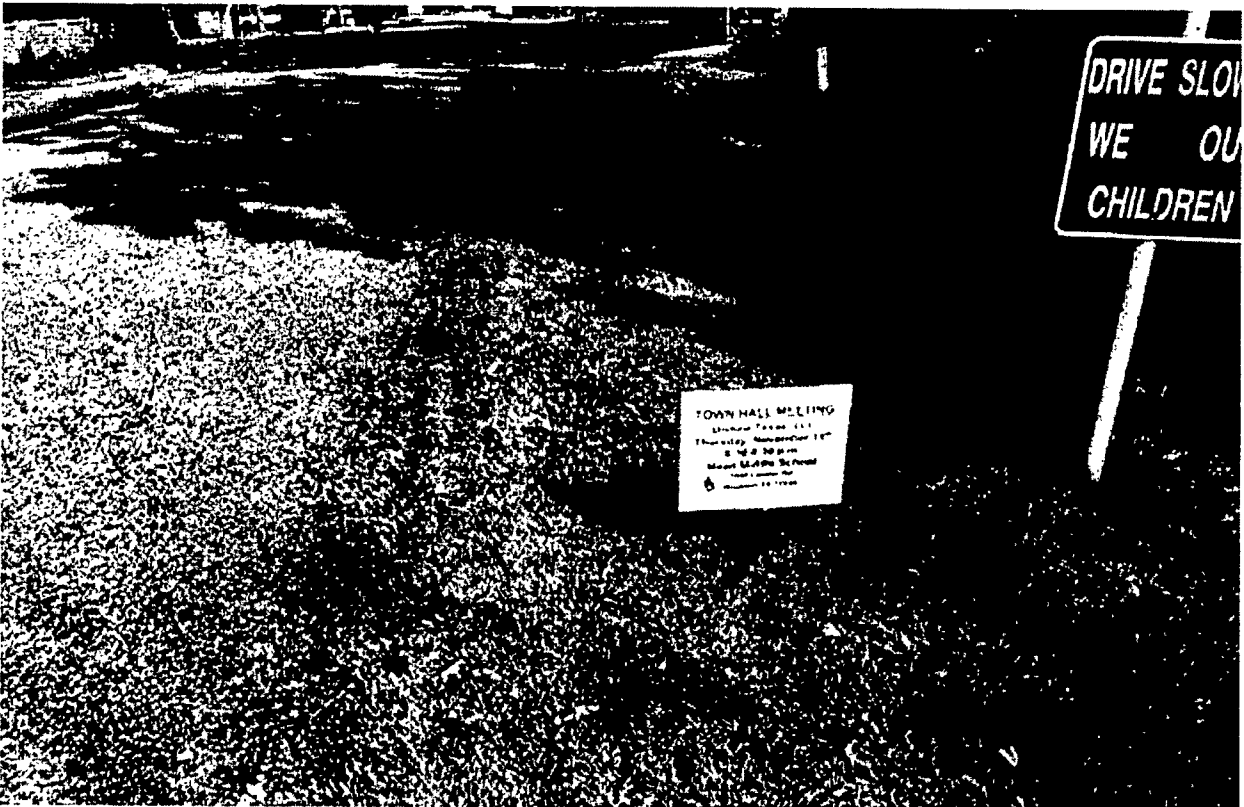
**Mead Middle School**

**3500 Lauder Rd**

**Houston TX 77039**

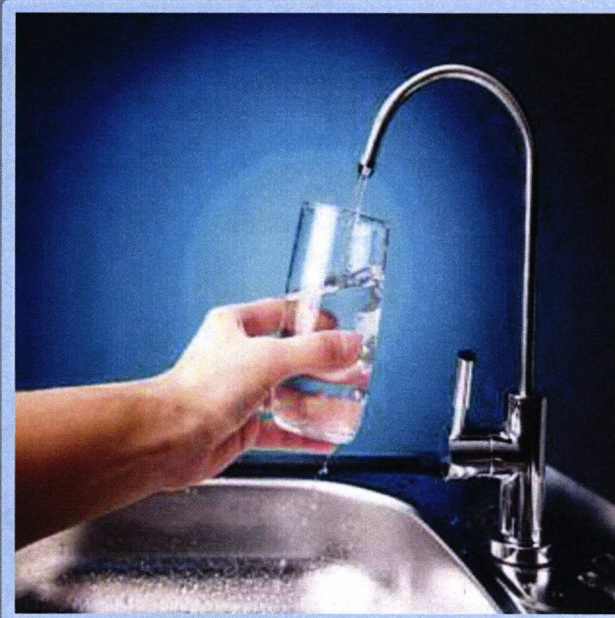






Melcher Attachment A

# UNDINE RATES PRESENTATION



**UNDINE TEXAS, LLC**  
*Regulated Water  
and Wastewater Utilities*

**Emphasizing Regulatory Compliance  
and Quality Customer Service**

## Undine LLC

- We are a privately-owned utility, acquiring small to mid-sized regulated water and wastewater systems throughout Texas
- Commitment to bring utilities into regulatory compliance by making cost-effective improvements, eliminating violations and to improving customer service
- Dedicated to providing open communications with our customers and the Regulators

# Regulated Privately Owned Utilities (Investor Owned Utilities / "IOU")

- Must meet all regulatory guidelines and standards
- EPA surveys – small IOUs have the most violations
- EPA determined – the best future for small IOUs is to be purchased by large, responsible utility
- **IOU rates must reflect full cost of service**
- Rates must also provide a reasonable rate of return to ensure continued investment and compliance by private owners

# THE UTILITY REGULATORS

# **TEXAS**

## **Water & Wastewater Regulators**

**“PUCT”**

Public Utility Commission of Texas

**“TCEQ”**

Texas Commission On Environmental  
Quality



# Public Utility Commission of Texas

## **What We Do: (Rates and Service)**

The Public Utility Commission of Texas regulates the state's electric, telecommunication, and water and sewer utilities, implements respective legislation, and offers customer assistance in resolving consumer complaints.

### **Mission:**

We protect customers, foster competition, and promote high quality infrastructure.

**512-936-7000**    **<http://www.puc.texas.gov/>**





## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

The Texas Commission on Environmental Quality strives to protect our state's public health and natural resources consistent with sustainable economic development. Our goal is clean air, clean water, and the safe management of waste.

We ensure safe drinking water:

- **Reporting, monitoring, notification requirements regarding water quality**
- **Wastewater and storm-water permitting requirements**
- **Participation in the permitting process**

**512-239-1000**

**<http://tceq.state.tx.us/>**

# NEEDED IMPROVEMENTS

# SUBURBAN IMPROVEMENT PLAN

In March, 2017, the four Suburban water systems were found by the TCEQ to contain a number of violations that effected water capacity, water quality and the distribution system.

Under our ownership, Undine pledges to maintain proper operations, approved accounting methods and records-keeping and will begin repair, replacement and installation of improvements, designed to correct the violations in the system.

## Improvement Plan (cont'd)

The system also requires implementation of improved and more frequent operational and maintenance procedures in order to provide continuous, reliable service.

These physical and operational improvements will provide substantially better service than residents have experienced in the past.

# Capacity Requirements

- **Ground Storage Tank** 200 gallons per connection
- **Well Capacity** .6 gallons per minute per connection
- **Required Pressure** 35+ psi
- **Drought Plan Regulation**  
Utility MUST enforce outside water use restrictions  
whenever usage exceeds system capacity

# BEAUMONT PLACE

## Violations

- Need 2 or more wells of  $> .6\text{gpm/connection}$
- Storage tank of 200 gallons / connection
- Pressure tank of 20 gallons/connection
- Service Pumps @ 2.0 gallons / connection

# BEAUMONT PLACE Improvement Plan

- Install new pump house / control room
- Install needed pumps/piping
- Provide storage capacity of 200 gallons/connection
- Additional well of .6 gpm
- Provide pressure tanks of 20 gallons/connection
- Install back-up generator
- **Secondary treatment for secondary constituents**
- Watertight service lines, storage, and pressure tanks
- Leak detection survey

# CASTLEWOOD

## Violations

- Need 2 or more wells of  $> .6\text{gpm/connection}$
- Storage of 200 gallons / connection
- Service Pumps @ 2.0 gallons / connection



# CASTLEWOOD Improvement Plan

- Install new pump house / control room
- Total ground storage capacity of 200 gallons/connection
- Install needed pumps/piping
- Additional well of .6 gpm
- **Secondary treatment for secondary constituents**
- Watertight service lines, storage, and pressure tanks
- Install back-up generator
- Leak detection survey

# RESERVOIR ACRES

## Violations

- Ground storage of 200 gallons/connection
- Pressure tank of 20 gallons/connection

# RESERVOIR ACRES

## Improvement Plan

- Install new pump house / control room
- Total ground storage capacity of 200 gallons/connection
- Pressure tank of 20 gallons/connection
- 2 or more wells of .6 gpm
- Watertight service lines, storage, and pressure tanks
- Install needed pumps/piping, back-up generator
- Secondary treatment
- Leak detection survey

# CYPRESS BEND

## Violations

- Storage of 200 gallons per connection
- Well capacity of .6 gpm/connection
- Pressure tank of 20 gallons/connection

# CYPRESS BEND Improvement Plan

- Install new pump house / control room
- Install 1000 gallon pressure tank
- Total ground storage capacity of 200 gallons/connection
- Pressure tank of 20 gallons/connection
- Water well of .6 gpm/connection
- Secondary treatment
- Watertight service lines, storage, and pressure tanks
- Install needed pumps/piping, back-up generator
- Leak detection survey

# Typical Pump Houses "BEFORE"

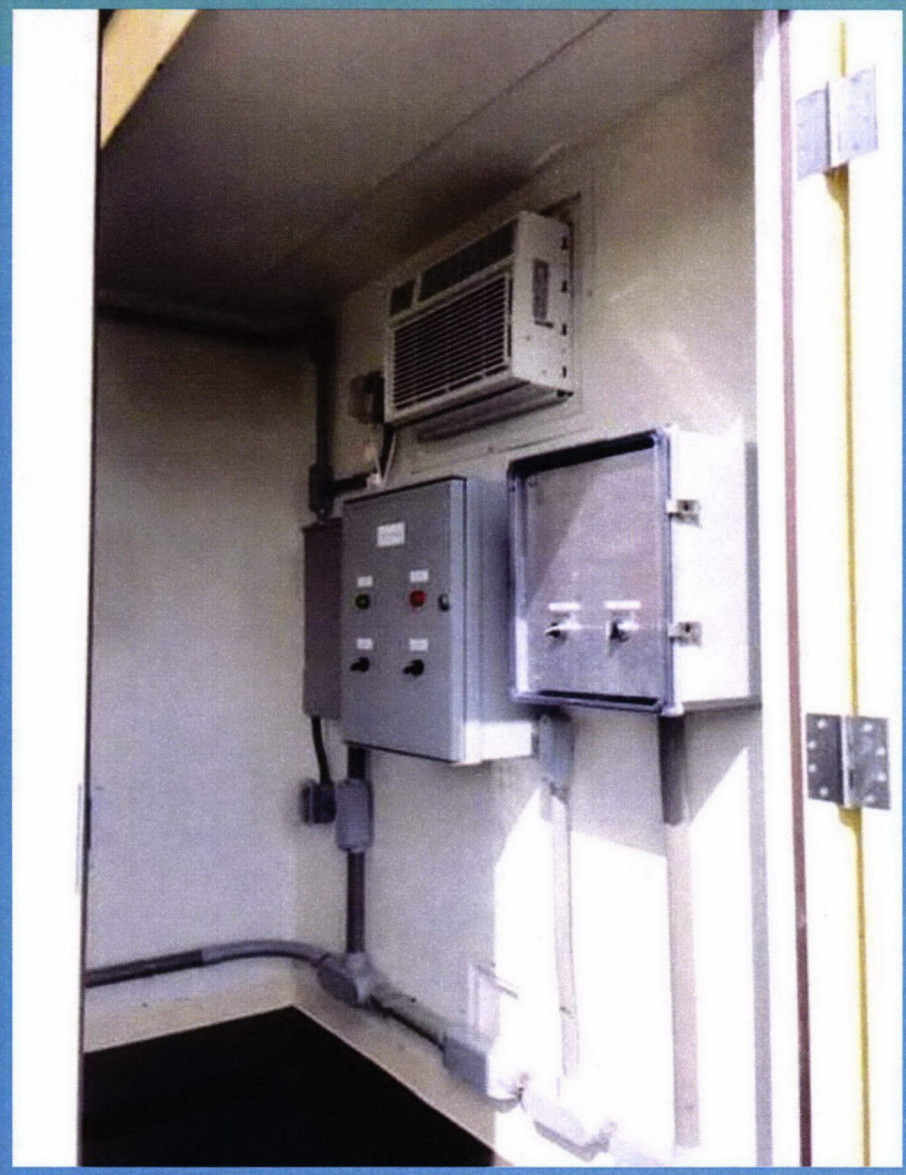


# NEW Control Room/Pump House

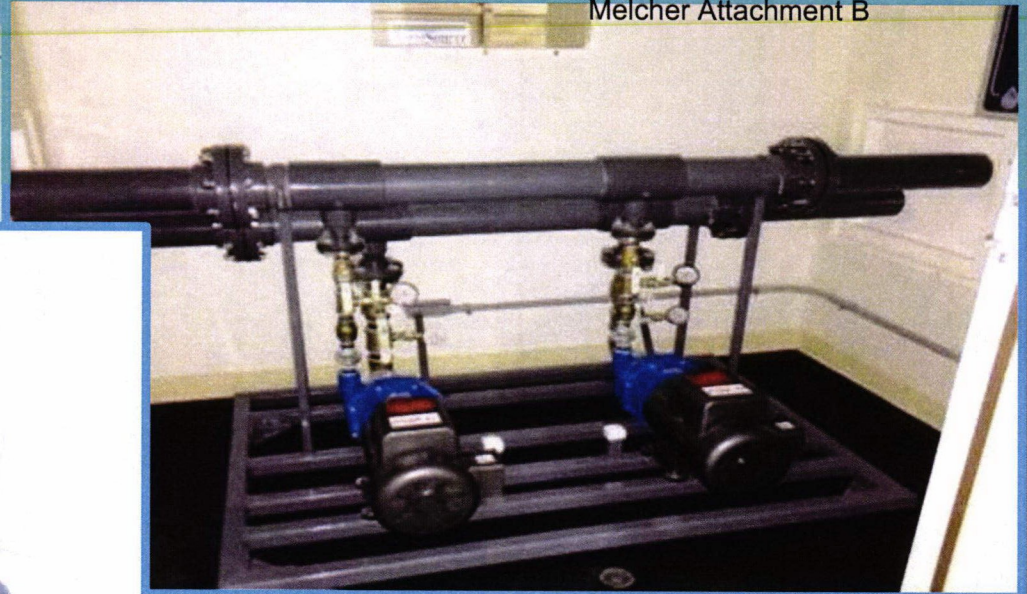


- All new electrical components
- Computerized monitoring
- Security of chemicals
- New gauges and controls
- Protection of all of the above

# Electrical and Monitoring Equipment







# Pumps

# Storage Tanks



# Pressure Tanks



# “Before” and “After”



# **SUBURBAN**

## **Cost of Improvements**

9/30/19

Capital Improvements	1,143,000
Leak Repairs	\$ 126,000
<b>TOTAL</b>	<b>\$ 1,269,000</b>

# WATER QUALITY

# WHAT CAUSES WATER TO BE DISCOLORED?

**DrinkTap.org**

**By American Water Works Association**

Naturally occurring minerals (**primarily iron and manganese**) flowing with the water are typically to blame for water discoloration. These minerals, which are heavier than water can settle in water pipelines (and storage tanks) when water usage is low.

Water utilities frequently attempt to minimize water discoloration by “flushing out” their systems on a regular basis.

# Quality Issues

- **Iron/manganese** – this is a “secondary constituent” /aesthetics parameter. **Although not a health concern this is an issue we take very seriously.**
  
- **Treatment Options:**
  1. **sequestering with poly phosphates** can keep iron from oxidizing, turning water reddish brown
  2. **flushing** – to eliminate iron residue, but can be problematic for systems with low water capacity or pressure issues
  3. **filtration** – very expensive, high water loss
  4. **reverse osmosis** – prohibitive in most non-municipal systems due to cost and water loss





## United States Environmental Protection Agency

### National Secondary Drinking Water Regulations (NSDWRs)

- Guidelines for regulating contaminants that may cause **cosmetic effects, aesthetic, or technical effects that are not health-threatening.**
- If present in your water the contaminants **may cause the water to appear cloudy, colored, or to taste or smell bad.**



# Texas Commission on Environmental Quality

## Water Supply Division

September 2017

### **BOIL WATER NOTICE REQUIREMENTS**

A Boil Water Notice (BWN) is issued as a precaution or notification to protect consumers from drinking water that may have been contaminated with disease causing organisms (also called pathogens). BWNs are typically issued when an unexpected condition has caused a potential for biological contamination of potable drinking water in a public water system.

BWNs are instituted by public water systems (PWSs) as specified by Title 30 Texas Administrative Code (TAC) §290.46(q) in the event of:

- low distribution pressures (below 20 pounds per square inch (psi)),
- water outages,
- microbiological samples found to contain *E. coli*,
- failure to maintain adequate disinfectant residuals,
- elevated finished surface water turbidities,
- or other conditions which indicate that the potability of the drinking water supply has been compromised.

# RATES

# The Rate Process

## WHY Rates Increase?

- Additional investment in the utility system (repairs, replacements, **improvements**)
- Reasonable Increases in **Operations & Maintenance costs**
- Earning a reasonable rate of return ensures continued investment and compliance by private utility owners

## HOW Are Rates Increased?

- Utility files application with the PUC
- Utility must provide notice to customers
- PUC “represents the public interest” and conducts audit of utility records and expenses
- Expenditures must be “Used and Useful”, “Reasonable and Necessary”
- Hearing is held where customers are invited to participate
- PUC determines final rates that are “**just and reasonable**” to all parties