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APPLICATION OF NERRO SUPPLY,
LLC AND UNDINE TEXAS, LLC FOR
SALE, TRANSFER OR MERGER OF
FACILITIES AND CERTIFICATE
RIGHTS IN CHAMBERS, HARRIS
AND LIBERTY COUNTIES

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PUBLIC UTILITY COMMISSION
OF TEXAS

**JOINT MOTION TO ADMIT EVIDENCE AND
PROPOSED ORDER APPROVING SALE AND ALLOWING TRANSACTION TO
PROCEED**

On June 19, 2020, Nerro and Undine (collectively, Applicants) filed an application for sale, transfer, or merger of facilities and certificate rights in Chambers, Harris and Liberty Counties, Texas under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239. Additionally, Undine is seeking to add additional area and decertify a portion of H C M U D, Inc.'s (H C M U D) water Certificate of Convenience and Necessity (CCN) number 11952 in Chambers, Harris, and Liberty Counties, Texas. Specifically, Undine, CCN number 13260, seeks approval to acquire facilities and to transfer a portion of Nerro's water CCN number 12252. Undine is also requesting adjustments to the CCN area to decertify a portion of the area currently certificated to Nerro's water CCN number 12252 that is served by another entity and adjust borders to properly cover the customers served in those areas.

On March 17, 2021, the administrative law judge (ALJ) filed Order No. 6, requiring the the Staff (Staff) of the Public Utility Commission of Texas (Commission) to submit a Joint Motion to Admit Evidence and Proposed Order Approving Sale and Allowing Transaction to Proceed by March 18, 2021. Therefore, this pleading is timely filed.

I. MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

- A. Applicants' application for STM, filed on June 19, 2020 (Interchange Item Nos. 1-7);
- B. Applicants' First Amendment to Application, filed on July 7, 2020 (Interchange Item No. 10);
- C. Applicants' Response to Order No. 2, filed on August 20 and 21, 2020 (Interchange Item Nos. 13-15);
- D. Applicants' Supplemental Response to Order No. 2, filed on September 15, 2020 (Interchange Item No. 16);
- E. Staff's Supplemental Recommendation on Administrative Completeness and Proposed Procedural Schedule, filed on September 21, 2020 (Interchange Item No. 17);
- F. Nerro's Response to Staff's First Request for Information, filed on October 27, 2020 (Interchange Item Nos. 20 and 21);
- G. Affidavits of public notice, filed on November 18, 2020 (Interchange Item Nos. 24 and 25);
- H. Staff's Recommendation on Sufficiency of Notice, filed on November 30, 2020 (Interchange Item No. 26);
- I. Undine's First Supplemental Response to Staff's First Request for Information, filed on December 7 and 8, 2020 (Interchange Item Nos. 27 and 28); and
- J. Staff's Recommendation on Approval of the Sale, filed on February 5, 2021 (Interchange Item No. 30).

II. PROPOSED ORDER APPROVING SALE AND ALLOWING TRANSACTION TO PROCEED

The Parties respectfully request the approval of the attached Joint Proposed Order Approving Sale and Allowing Transaction to Proceed, which would authorize transfer of Nerro's water facilities and water service area under CCN number 12252 to Undine's water CCN number 12260 and allow for dual certification of the 5 acres of the requested area that overlaps with a portion of H C M U D water CCN number 11952.

III. CONCLUSION

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the Order proposed by the Parties be adopted.

Dated: March 18, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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APPLICATION OF NERRO SUPPLY, LLC AND UNDINE TEXAS, LLC FOR SALE, TRANSFER OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN CHAMBERS, HARRIS AND LIBERTY COUNTIES	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**JOINT PROPOSED ORDER APPROVING SALE AND
ALLOWING TRANSACTION TO PROCEED**

This Order addresses the June 19, 2020 application of Undine Texas, LLC (Undine) and Nerro Supply, LLC (Nerro) for the sale, transfer, or merger of facilities and certificate rights in Chambers, Harris and Liberty Counties, Texas. Additionally, Undine is seeking to add additional area and decertify a portion of H C M U D, Inc's (H C M U D) water Certificate of Convenience and Necessity (CCN) number 11952 in Chambers, Harris, and Liberty Counties, Texas. Specifically, Undine, CCN number 13260, seeks approval to acquire facilities and to transfer a portion of Nerro's water CCN number 12252. Undine is also requesting adjustments to the CCN area to decertify a portion of the area currently certificated to Nerro's water CCN number 12252 that is served by another entity and adjust borders to properly cover the customers served in the areas. The administrative law judge (ALJ) grants that the transaction proposed in this application may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Nerro is a Texas for-profit corporation registered with the Texas secretary of state under file number 801380548.
2. Undine is a Delaware for-profit corporation registered with the Texas secretary of state under file number 802339329.
3. Nerro provides water service in Texas under CCN number 12252 and owns four public water systems registered with the Texas Commission on Environmental Quality (TCEQ) under permit numbers:

System Name	PWSID
Maple Leaf Mobile Home Subdivision	TX1011493
Oakland Village Mobile Home Community	TX1011049
Riverwood Estates	TX1460146
Woodland Acres Subdivision	TX0360027

4. Undine provides water service in Texas under CCN number 13260 and owns 68 public water systems registered with the TCEQ under the following numbers:

Subdivision Name	PWSID
Angle Acres	0200244
Bayou Colony	0200358
Bear Creek	0200359
Beaumont Place	0200360
Beechwood	0200361
Bell Manor	0200362
Bernard Oaks	0200363
Blue Sage Gardens	0200364
Brandi Estates	0200365
Brazos Oaks/Los Robles	0200366
Briar Meadows	0200410
Buffalo Creek	1260084
Castlewood	1010111
College Port	1610132
Colony Cove	0200324
Colony Trails	0200604
Coronado Country	0200275
Country Acres	0200274
Country Meadows	0200273
Crowley II Acres	1260012
Crystal Lake	0790510
Cypress Bend	1010119
Demi John Island	0200234
Demi John Place	0200185
Forest Manor	1010264
Greengate Acres	1010132
Heathergate	1011302
Highland Mobile Home Sub	1010285
Highland Ridge	1010157
Huffman Heights	1010700
John Dame	1260090
Joy Village	1700021
Kucera Farms	0200665

Lakewood Colony	1700029
Larkspur	0200339
Lee Ridge	0200506
Magnolia Bend	0200665
Mark V	0200432
Martin Creek	1260122
Meadowlake Estates	1010287
Mooreland	0200094
Peach Creek Oaks	1700051
Pioneer Trails	1700114
Porter Terrace	1700161
Reservoir Acres	1010197
Quail Valley Ranches Sec. IV	0200592
Riverside Ranch/723 Utility	0790425
Riverside Estates	0200058
Rock Creek Estates	1260082
Rosharon Road	0200346
Ryan Long 1	0200110
Ryan Long 2	0200108
San Bernard	0200460
Sanders View	1260086
Sandy Meadow	0200335
Snug Harbor	0200053
Southwood	0200403
Spanish Bit	1610102
Spring Crossing	0200666
Spring Forest	1700033
Springmont	1010255
Sweetgum Forest	1700113
Tall Cedars	1010219
Tejas Lakes	0790504
Urban Acres	1010252
Village Lakes	0200638
Wilco	0200083
Wolf Glen	0200370

Application

1. On June 19, 2020, the applicants filed an application for approval of the sale of facilities sale, transfer, or merger of facilities and certificate rights in Chambers, Harris, and Liberty Counties, Texas. Additionally, Undine is seeking to add additional area and decertify a

portion of H C M U D water CCN number 11952 in Chambers, Harris, and Liberty Counties, Texas.

2. The applicants filed supplemental information on July 7, 2020, August 20 and 21, 2020, September 15, 2020, October 27 and 28, 2020, November 18, 2020, and December 7 and 8, 2020.
3. The total requested service area, including the uncertificated service area, consists of approximately 680 acres.
4. The requested service area subject to this transaction that includes the Maple Leaf Mobile Home Subdivision and Oakland Village Mobile Home Community located approximately 2 miles northwest of Jersey Village, TX, and is generally bounded on the north by Fox Road and Wind Fern Road; on the east by Wild Fern Road; on the south by West Road; and on the west by Houston Oaks Drive.
5. The requested service area subject to this transaction that includes the Riverwood Estates and Woodland Acres Subdivision located approximately 1 miles north of downtown Old River-Winfree, TX, and is generally bounded on the north by Champion Road and Little Caney Creek; on the east by Farm to Market Road 1409 and Harrison Estates Road; on the south by Old River Road; and on the west by a line 3,000' west of County Road 4021.
6. In Order No. 3 filed on September 24, 2020, the ALJ deemed the application administratively complete.

Notice

7. On November 18, 2020, the applicants filed the affidavit of Carey A. Thomas, Senior Vice President of Undine, attesting that notice was provided to current customers, neighboring utilities, and affected parties on October 12, 2020.
8. On November 18, 2020, the applicants filed the affidavit of Bob Charlet, Publisher of the *Houston Business Journal*, attesting that notice was published on October 16, 2020 and October 23, 2020 in the *Houston Business Journal*, a newspaper of general circulation in Chamber, Harris and Liberty Counties.
9. In Order No. 5 filed on January 21, 2021, the ALJ deemed the notice sufficient.

Evidentiary Record

10. On March 18, 2021, the parties filed an agreed motion to admit evidence.
11. In Order No. 6 filed on _____, 2021, the ALJ admitted the following evidence into the record: (a) the Application, filed on June 19, 2020; (b) the First Amendment to Application, filed on July 7, 2020; (c) Applicants' Response to Order No. 2, filed on August 20 and 21, 2010; (d) Applicants' Supplemental Response to Order No. 2, filed on September 15, 2020; (e) Commission Staff's Supplemental Recommendation on Administrative Completeness and Proposed Procedural Schedule, filed on September 21, 2020; (f) Applicants' Response to Commission Staff's First Request for Information, filed on October 27, 2020; (g) Affidavits of public notice, filed on November 18, 2020; (h) Commission Staff's Recommendation on Sufficiency of Notice, filed on November 30, 2020; (i) Undine's First Supplemental Response to Commission Staff's First Request for Information, filed on December 7, 2020; and (j) Commission Staff's Recommendation on Approval of the Sale, filed on February 5, 2021.

Adequacy of Existing Service—TWC § 13.246(c)(1); 16 TAC §§ 24.227(e)(1), 24.239(h)(5)(A)

12. Nerro has four Texas Commission on Environmental Quality (TCEQ) approved public water systems (PWS) in the requested areas.
13. The four systems are registered as Maple Leaf Mobile Home Subdivision, PWS ID: 1011493, Oakland Village Mobile Home Community, PWS ID: 1011049, Riverwood Estates, PWS ID: 1460146, and Woodland Acres Subdivision, PWS ID: 0360027.
14. The four systems do not have any active TCEQ issued violations listed in the TCEQ database for the requested areas.
15. No additional construction is necessary for Undine to serve the requested area.

Need for Additional Service—TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2), 24.239(h)(5)(B)

16. There are currently 730 existing customer connections in the requested area; therefore, there is a need for service.
17. No additional construction is needed at this time to serve the requested areas.

Effect of Approving the Transaction and Granting the Amendment—TWC § 13.246(c)(3); 16 TAC §§ 24.227(e)(3), 24.239(h)(5)(C)

18. Undine and Nerro are the only entities affected by this transfer.
19. Undine will become the certificated entity for the requested area and will be required to provide adequate and continuous service to the requested area.
20. There will be no effect on landowners as the area is currently certificated.
21. There will be no effect on any retail public utility serving the proximate area.
22. All retail public utilities in the proximate area were provided notice of the transaction taking place in this application and did not request to intervene.

Ability to Serve; Managerial and Technical—TWC §§ 13.241(a), 13.246(c)(4), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (e)(4), and 24.239(e), (h)(5)(D)

23. Undine owns and operates several TCEQ approved public water systems.
24. Undine has minor violations issued by TCEQ for some of the public water systems they operate. Undine has a compliance agreement in place with the TCEQ to allow them time to resolve these violations.
25. No additional construction is necessary for undine to serve the requested areas.
26. Undine has a sufficient number of TCEQ licensed operators and an experienced management team.
27. Undine has the managerial and technical ability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(c)(5), 24.239(h)(5)(D)

28. Nerro is currently serving the existing customers in the requested area with existing facilities and has sufficient capacity.

29. Utilities within a two-mile radius were noticed and no protests or requests to opt out were received regarding the proposed transaction.
30. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities will need to be constructed.
31. An interconnect would need to be installed in order to connect to a neighboring retail public utility.
32. It is not feasible to obtain service from an adjacent retail public utility.

Ability to Serve; Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 13.301(b); 16 TAC §§ 24.11(e), 24.227(a), (e)(6), and 24.239(e), (h)(5)(F)

33. Undine's affiliate has a debt to equity ratio of less than one, meeting the leverage test.
34. Undine submitted projected financial statements with the application and reported sufficient operating income and cash on hand to cover any operations and maintenance shortages in the next five years of operations and to pay for any future improvements needed to provide continuous and adequate service to the requested area. Therefore, Undine meets the operations test.
35. Undine has demonstrated the financial ability and financial stability necessary to provide continuous and adequate service to the requested area.

Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(f), 24.239(f)

36. There is no need to require Undine to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

Environmental Integrity—TWC § 13.246(c)(7); 16 TAC §§ 24.227(e)(7), 24.239(h)(5)(G) and Effect on Land—TWC § 13.246(c)(9); 16 TAC § 24.227(e)(9)

37. The proposed transaction and CCN amendment will not adversely impact the environmental integrity of the land because customers will be served using existing infrastructure.
38. Because the requested areas will be served with existing infrastructure, the proposed transaction and CCN amendment will have minimal effect on the land.

Improvement in Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(h)(5)(H)

39. The proposed transaction will improve service because the customers will benefit from public water systems that are professionally operated and maintained and capable of providing continuous and adequate service.
40. The rates charged to customers in the requested area subject to the transaction will not change as a result of the transaction.

Regionalization or Consolidation—TWC § 13.241(d); 16 TAC § 24.227(b)

41. Concerns of regionalization or consolidation do not apply because construction of a physically separate water system is not needed to serve the requested area.

II. Conclusions of Law

The Commission makes the following conclusions of law:

1. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2), and 16 TAC § 24.239
2. After consideration of the factors in TWC § 13.246(c), Undine has demonstrated adequate financial, managerial, and technical capability to provide adequate and continuous service to the requested area. TWC § 13.301(b).
3. Undine and Nerro have demonstrated that the sale and transfer of the facilities and service area held under water CCN number 12252 from Nerro to Undine under water CCN number 13260 is necessary for the service, accommodation, convenience, and safety of the public. TWC § 13.301(d) and (e).
4. Undine has demonstrated that the transfer of additional area and decertification of a portion of H C M U D water CCN number 19952 is necessary for the service, accommodation, convenience and safety of the public. TWC §§ 13.242 to 13.250 and 16 TAC §§ 24.225 to 24.237.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The sale is approved and the transaction between Undine and Nerro may proceed and be consummated.
2. The additional area and decertification of a portion of H C M U D water CCN may proceed and be consummated.
3. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits, if any, have been addressed.
4. The applicants have 180 days to complete the transaction.
5. Under 16 TAC § 24.239(m), if the transaction is not consummated within this 180-day period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
6. The applicants are advised that the service area under water CCN number 12252, and the corresponding facilities, will be held by Nerro until the sale and transfer transaction is complete in accordance with Commission rules.
7. Undine is advised that the service area under H C M U D water CCN 11952 will be held by H C M U D until the transfer transaction is complete in accordance with Commission rules.
8. In an effort to finalize this case as soon as possible, the applicants must file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
9. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket

SIGNED AT AUSTIN, TEXAS, on the _____ day of _____, 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE