



Control Number: 50962



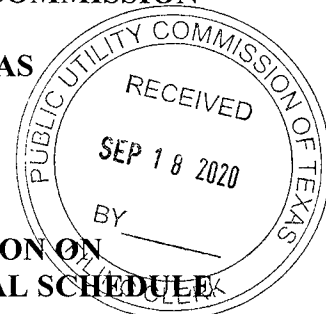
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DOCKET NO. 50962

**APPLICATION OF NERRO SUPPLY §
INVESTORS, LLC AND UNDINE §
TEXAS, LLC FOR SALE, TRANSFER §
OR MERGER OF FACILITIES AND §
CERTIFICATE RIGHTS IN §
MONTGOMERY COUNTY §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**



COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS AND PROPOSED PROCEDURAL SCHEDULE

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 2, files this Supplemental Recommendation on Administrative Completeness and Proposed Procedural Schedule. Staff recommends that the application be found administratively complete at this time. In support thereof, Staff shows the following:

I. BACKGROUND

On June 19, 2020, Nerro Supply Investors, LLC (Nerro) and Undine Texas, LLC (Undine) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Montgomery County. Nerro and Undine seek to sell and transfer all of Nerro's water service area and assets under Certificate of Convenience and Necessity (CCN) No. 10336 to Undine. The requested area includes approximately 282 acres and 240 connections. In addition, Undine seeks to amend its service area under CCN No. 13260 with 9 acres of uncertificated area. The Applicants filed supplements to their application on July 1, 2020, July 7, 2020, August 19, 2020, and August 20, 2020.

On July 21, 2020, the administrative law judge (ALJ) issued Order No. 2, establishing a deadline of September 18, 2020 for Staff to file its supplemental recommendation regarding the administrative completeness of the application and a proposed procedural schedule. Therefore, this pleading is timely filed.

II. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the application as supplemented, and as detailed in the attached memorandum from Alicia Maloy, Infrastructure Division, Staff recommends that it be found administratively complete and accepted for filing. Staff's recommendation on administrative

completeness is not a comment on the merits of the application, but only that it is complete for further processing.

III. NOTICE

At this time, Staff recommends that the Applicants proceed with providing public notice to all current customers, landowners, persons, political subdivisions, and other entities listed in the attached memorandum using the notice provided by Ms. Maloy. Along with each individual notice, Staff recommends that the Applicants provide an accurate map delineating the requested service area. In addition, Staff recommends that the Applicants publish notice in a newspaper of general circulation in Montgomery County for two consecutive weeks.

Staff recommends that the Applicants file proof of individual notice as described in the attached memorandum and proof of newspaper publication, including tear sheets. Finally, Staff recommends that the Applicants use the attached notices and affidavits to meet these requirements.

IV. PROCEDURAL SCHEDULE

Staff recommends the application be found administratively complete; therefore, Staff proposes the following procedural schedule:

Event	Date
Deadline for Applicants to file proof of notice, including, signed affidavits that the notice was given along with a copy of the notice and map sent to the affected parties and published in a newspaper of general circulation	November 2, 2020
Deadline for Staff to file a recommendation on sufficiency of notice	November 13, 2020
Deadline to intervene	30 days after notice is issued

V. CONCLUSION

For the reasons stated above, Staff respectfully recommends that the application, as supplemented, be found administratively complete, that the Applicants be directed to provide

notice as detailed above and in the attached memorandum, and that the proposed procedural schedule be adopted.

Dated: September 22, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Eleanor D'Ambrosio
Managing Attorney

/s/ Daniel Moore
Daniel Moore
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P.O. Box 13326
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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on September 22, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore
Daniel Moore

Public Utility Commission of Texas

Memorandum

To: Daniel Moore, Attorney
Legal Division

From: Alicia Maloy, Senior Infrastructure Analyst
Infrastructure Division

Date: September 18, 2020

Subject: **Docket No. 50962**, *Application of Nerro Supply Investors, LLC and Undine Texas, LLC for Sale, Transfer or Merger of Facilities and Certificate Rights in Montgomery County*

On June 19, 2020, Undine Texas, LLC (Undine) and Nerro Supply Investors, LLC (Nerro) (collectively, Applicants) filed an application for Sale, Transfer, or Merger (STM) of facilities and certificate rights in Montgomery County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239. Undine is also requesting a CCN amendment for uncertificated area under TWC §§ 13.242 to 13.250 and 16 TAC §§ 24.225 to 24.237.

Specifically, Undine seeks approval to acquire facilities and to transfer all of Nerro's water service area under Certificate of Convenience and Necessity (CCN) No. 10336. Undine will cancel Nerros' water CCN and merge it with Undine's pre-existing water CCN No. 13260. The requested area includes approximately 282 acres and 240 connections. In addition, Undine seeks to amend its water CCN with 9 acres of uncertificated service area.

Staff from the Rate Regulation Division and Infrastructure Division have reviewed the additional information filed by the Applicants on July 7 and August 19 and 20, 2020 and recommends that the application be deemed administratively complete. Staff further recommends the Applicants be ordered to do the following:

- 1) Provide notice of the application by first-class mail to the following:
 - a. Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area:
 - *Crystal Springs Water Co., Inc. (CCN No. 11373);*
 - *East Montgomery County Improvement District;*
 - *Montgomery County MUD 30;*
 - *Montgomery County MUD 164;*
 - *Quadvest, LP (CCN No. 11612); and*
 - *San Jacinto River Authority*
 - b. The county judge of each county that is wholly or partially included in the requested area:
 - *Montgomery County Judge*
 - c. Each groundwater conservation district that is wholly or partially included in the requested area:
 - *Lone Star Groundwater Conservation District*

- d. Each owner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area. Notice must be mailed to the owner of the tract of land according to the most current tax appraisal rolls of the applicable central appraisal district at the time the application was filed.
- e. Each customer within the requested service area.

Addresses can be obtained by the Applicants from the Water Utility Database, <http://www.puc.texas.gov/watersearch>. Information related to districts including addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) website, <http://www14.tceq.texas.gov/iwud/>.

- 2) Publish notice in a newspaper having general circulation in the county where the requested area is located, once each week for two consecutive weeks. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, the Applicants must file an affidavit specifying the notice that was provided to every person and entity to whom notice was provided and the date the notice was mailed.
- 3) Provide notice and proof of notice using the attached notice and affidavit forms.
- 4) Provide a copy of map delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners, and customers.

Staff may determine that additional information is needed to make a final recommendation in this docket. If additional information is needed, Staff may send requests for information (RFI) to the Applicants. The Applicants will have 20 days from the receipt of the RFI to respond.

Notice to Current Customers, Neighboring Systems, and Cities

UNDINE TEXAS, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 13260, NOTICE OF INTENT TO PURCHASE WATER FACILITIES AND TO TRANSFER WATER SERVICE AREA UNDER CCN NO. 10336 FROM NERRO SUPPLY INVESTORS, LLC IN MONTGOMERY COUNTY, TEXAS

To: _____ Date Notice Mailed: _____, 20____
(Name of Customer, Neighboring System, or City)

(Address)

(City State Zip)

Undine Texas, LLC 17681 Telge Road Cypress, Texas 77429
(Purchaser's Name) (Address) (City), (State) (Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to purchase all of Nerro Supply Investors, LLC water facilities and to transfer water certificated service area under CCN No. 10336 in Montgomery County, TX from:

Nerro Supply Investors, LLC PO Box 691008 Houston, Texas 77269
(Seller's Name) (Address) (City), (State) (Zip Code)

The sale is scheduled to take place if approved by the Commission (Texas Water Code § 13.301). The transaction and the transfer of the CCN includes the following subdivision:
White Oak Valley.

The requested area is located approximately 6.5 mile(s) south-southeast of downtown Cut and Shoot, Texas, and is generally bounded on the north by FM 2090; on the east by FM 1485; on the south by FM 3083; and on the west by FM 3083. The total requested area includes approximately 291 acres and 240 current customers.

The area to be transferred from Nerro Supply Investors, LLC is approximately 282 acres. The area to be amended/added is approximately 9 acres. **See enclosed map showing the requested area.**

This transaction will not have an effect on the current customer's rates and services.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area (“opt out”) within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner’s tract of land, landowner’s name, address, email address and fax number, if applicable.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

Utility Representative

Utility Name

Notice for Publication

UNDINE TEXAS, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO.13260, NOTICE OF INTENT TO PURCHASE A PORTION OF THE WATER FACILITIES AND TO TRANSFER WATER SERVICE AREA UNDER CCN NO. 10336 FROM NERRO SUPPLY INVESTORS, LLC IN MONTGOMERY COUNTY, TEXAS

<u>Undine Texas, LLC</u>	<u>17681 Telge Road</u>	<u>Cypress, Texas</u>	<u>77429</u>
(Purchaser's Name)	(Address)	(City), (State)	(Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to purchase all of Nerro Supply Investors, LLC water facilities and to transfer water certificated service area under CCN No. 10336 in Montgomery County, TX from:

<u>Nerro Supply Investors, LLC</u>	<u>PO Box 691008</u>	<u>Houston, Texas</u>	<u>77269</u>
(Seller's Name)	(Address)	(City), (State)	(Zip Code)

The sale is scheduled to take place if approved by the Commission (Texas Water Code § 13.301). The transaction and the transfer of the CCN includes the following subdivision:
White Oak Valley.

The requested area is located approximately 6.5 mile(s) south-southeast of downtown Cut and Shoot, Texas, and is generally bounded on the north by FM 2090; on the east by FM 1485; on the south by FM 3083; and on the west by FM 3083. The total requested area includes approximately 291 acres and 240 current customers.

The area to be transferred from Nerro Supply Investors, LLC is approximately 282 acres. The area to be amended/added is approximately 9 acres. A copy of the map showing the requested area is available at: 17681 Telge Road, Cypress, Texas 77429.

This transaction will not have an effect on the current customer's rates and services.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.

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Si desea información en español, puede llamar al 1-888-782-8477.

PUBLIC UTILITY COMMISSION OF TEXAS



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, NEIGHBORING UTILITIES, AND
AFFECTED PARTIES
DOCKET NO. 50962

STATE OF TEXAS
COUNTY OF _____

_____ has provided individual
notice to the following entities and customers:

DATE OF NOTICE

OATH

I, _____, being duly sworn, file this form as
_____ (indicate relationship to applicant, that is,
owner, member of partnership, title of officer of corporation, or other authorized representative of
applicant); that in such capacity, I am qualified and authorized to file and verify such form, am
personally familiar with the notices given with this application, and have complied with all notice
requirements in the application and application acceptance letter; and that all such statements made
and matters set for therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant,
or its' attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this _____ day of _____, 20____,
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____

PUBLIC UTILITY COMMISSION OF TEXAS



PUBLISHER'S AFFIDAVIT
DOCKET NO. 50962

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____,
who being by me duly sworn, deposes and that (s)he is the

_____ of the _____
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in _____
(COUNTY/COUNTIES)

and generally circulated in _____, Texas;
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

(DATES)

(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this _____ day of _____, 20____,
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____