



Control Number: 51632



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DOCKET NO. 51632

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APPLICATION OF TERRA
SOUTHWEST, INC. AND UNDINE
TEXAS, LLC FOR SALE, TRANSFER,
OR MERGER OF FACILITIES AND
CERTIFICATE RIGHTS IN DENTON
COUNTY

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PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

**COMMISSION STAFF'S 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 files this recommendation. Staff recommends that the application be found administratively incomplete. In support thereof, Staff shows the following:

I. BACKGROUND

On December 16, 2020, Terra Southwest, Inc. and Undine Texas, LLC (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Denton County. The requested area includes 1,325 acres and 867 connections. The Applicants filed supplemental information on January 11, 2021.

On December 22, 2020, Order No. 1 was filed, setting a deadline of January 15, 2021 for Staff to file a recommendation on the administrative completeness of the application, along with a proposed procedural schedule. This pleading, therefore, is timely filed.

II. ADMINISTRATIVE COMPLETENESS

After reviewing, and as detailed in the attached memorandum from Alicia Maloy, Infrastructure Division, Staff recommends that the application be found administratively incomplete. Specifically, Staff has identified deficiencies in the application content. Staff requests that the Applicants be ordered to submit the requested content, as further detailed in the attached memorandum.

III. PROCEDURAL SCHEDULE

In accordance with Staff's deficiency recommendation, Staff does not propose a procedural schedule for further processing of the docket at this time. Staff recommends that the Applicants be ordered to cure the deficiencies identified in Ms. Maloy's memorandum by February 15, 2021,

and that Staff be given a deadline of March 15, 2021, to file a supplemental recommendation on the administrative completeness of the application. Staff notes that the Applicants should not issue notice until the application is found administratively complete. Staff intends to propose a procedural schedule alongside a subsequent recommendation for application sufficiency.

IV. CONCLUSION

Staff respectfully requests the issuance of an order consistent with the foregoing recommendation.

Dated: January 15, 2021

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles
Division Director

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/s/ Creighton R. McMurray
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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 on January 15, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Creighton R. McMurray
Creighton R. McMurray

Public Utility Commission of Texas

Memorandum

TO: Creighton McMurray, Attorney
Legal Division

FROM: Alicia Maloy, Senior Infrastructure Analyst
Infrastructure Division

DATE: January 15, 2021

RE: Docket No. 51632 – *Application of Terra Southwest, Inc. and Undine Texas, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Denton County*

Background

Undine Texas, LLC (Undine) and Terra Southwest, Inc. (Terra) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Denton County, Texas, under Texas Water Code (TWC) §§ 13.242 to 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237 and § 24.239.

Specifically, Undine, holder of certificate of convenience and necessity (CCN) No. 13260, seeks approval to acquire facilities and to transfer all water service area under water CCN No. 11608 from Terra. The requested area includes the East Ponder Estates subdivision and the Hilltown Addition subdivision. The East Ponder Estates subdivision includes approximately 451 acres. The Hilltown Addition subdivision includes approximately 874 acres. Together, these subdivisions include a total of 867 current customers.

Mapping Clarification

As can be seen in the “Hilltown Addition Amendment Areas” map, Bates page 103 of the application, the black polygons with diagonal stripes represent Terra’s certificated area under CCN No. 11608. This area represents the area that the Applicants request to transfer from Terra to Undine, which is approximately 866 acres. The beige shaded area represents the Town of Little Elm’s service area under CCN No. 11202. Within this beige shaded area there are several green polygons with diagonal stripes labeled “Amendment Areas Dual W/ CCN 11202.” These polygons represent approximately seven acres of area in addition to the approximately 866 acres in the black polygons. These seven acres do not fall within Terra’s certificated area but within the Town of Little Elm’s certificated area. Finally, there is one green polygon with diagonal lines on the right side of the map near Lewisville Lake labeled “Amendment Area (No Dual)” which is approximately one acre. This acre does not fall within

Terra's nor the Town of Little Elm's certificated area and would be added as newly certificated. Therefore, the Hilltown Addition includes 874 total acres.

On Bates page 106 of the Application there appears to be a mathematical error. The Application notes that the East Ponder Estates subdivision has approximately 451 acres and the Hilltown Addition subdivision has approximately 866 acres, but then does not add these two amounts correctly when determining the transfer area is approximately 1,308 acres. The correct amount should be approximately 1,317 acres. When the additional approximately eight acres is added, there is approximately total 1,325 acres.

Recommendation

Based on the mapping review by Gary Horton, Infrastructure Division, the financial and managerial review by Fred Bednarski, Rate Regulation Division, and my technical and managerial review of the information filed by the Applicants, I recommend that the application be deemed administratively incomplete and not accepted for filing due to the deficiencies detailed below:

Application Content:

As described in the "Mapping Clarification" section above, there are seven acres that overlap with the Town of Little Elm's certificated area. The Applicants did not include a signed agreement for this overlap area with the Town of Little Elm. The Applicants can either provide a signed agreement or other document indicating Little Elm's consent to the overlap area or amend their Application with new maps that do not include these seven acres.

Additionally, the Applicant must also provide the following items during the technical review:

- (1) proof that Terra has paid their 2018 Regulatory Assessment Fees, and
- (2) the 2019 Terra annual report.

Note: Any confidential items should be submitted as confidential filings with the PUC. The instructions for filing confidential documents can be found on our website at: (<http://www.puc.texas.gov/industry/filings/FilingProceed.aspx>).