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DOCKET NO. 52502

APPLICATION OF TEXAS WATER	§	PUBLIC UTILITY COMMISSION
SYSTEMS, INC. AND UNDINE TEXAS,	§	
LLC FOR SALE, TRANSFER, OR	§	OF TEXAS
MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN GREGG,	§	
HENDERSON, SMITH, AND UPSHUR	§	
COUNTIES	§	

COMMISSION STAFF'S REVISED RESPONSE TO ORDER NO. 24

I. INTRODUCTION

On September 2, 2021, Texas Water Systems, Inc. and Undine Development, LLC filed an application for approval of the sale, transfer, or merger of facilities and certificate of convenience and necessity rights and dual certification with Pritchett Water Supply Corporation in Gregg, Henderson, Smith, and Upshur Counties. On August 26, 2022, the application was amended to replace Undine Development, LLC with Undine Texas, LLC (Undine) as the applicant.

On May 30, 2023, the administrative law judge filed Order No. 24, requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file recommendations on whether the applicants' capital improvement plans satisfy the requirements of the Commission, on the loan documentation or request for a good cause exception, and on the applicants' supplemental notice by June 30, 2023. Therefore, this pleading is timely filed.

II. RECOMMENDATION ON CAPITAL IMPROVEMENT PLAN

Staff has reviewed the application and supplemental information and, as supported by the attached memorandum of Patricia Garcia of the Infrastructure Division, recommends that Undine has satisfied the requirements of Texas Water Code § 13.244(d)(3) and 16 Texas Administrative Code (TAC) § 24.233(a)(6).

III. RECOMMENDATION ON LOAN DOCUMENTATION

Staff has reviewed the application and supplemental information and, as supported by the attached memorandum of Fred Bednarski of the Rate Regulation Division, recommends that

Undine has satisfied the requirements of 16 TAC § 24.11(e)(5). In the alternative, Staff recommends that a good cause exception should be granted for 16 TAC § 24.11(e)(5).

IV. RECOMMENDATION ON SUPPLEMENTAL NOTICE

Staff has reviewed the supplemental proof of notice and, as supported by the attached memorandum of Ms. Garcia, recommends that notice be found sufficient. As stated in Ms. Garcia's memorandum, Undine provided an affidavit attesting that there are no individual landowners with tracts of land of at least 25 acres that are wholly or partially included in the area proposed to be certificated. Accordingly, Staff recommends that Undine's notice is sufficient.

V. CONCLUSION

Staff respectfully recommends that the capital improvement plant, loan documentation, and supplemental notice provided by Undine be deemed sufficient for further processing of this matter.

Dated: June 30, 2023

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Marisa Lopez Wagley
Division Director

John Harrison
Senior Managing Attorney

/s/ Ian Groetsch
Ian Groetsch
State Bar No. 24078599
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7465
(512) 936-7268 (facsimile)
Ian.Groetsch@puc.texas.gov

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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 June 30, 2023, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Ian Groetsch
Ian Groetsch

Public Utility Commission of Texas

Memorandum

TO: Ian Groetsch, Attorney
Legal Division

FROM: Patricia Garcia, Infrastructure Analysis Section Director
Infrastructure Division

DATE: June 30, 2023

RE: Docket No. 52502 - *Application of Texas Water Systems, Inc. and Undine Texas, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Gregg, Henderson, Smith, and Upshur Counties*

1. Introduction

On September 2, 2021, Undine Texas, LLC (Undine Texas) and Texas Water Systems, Inc. (TWS) filed an application for the sale of facilities and certificate rights and dual certification with Pritchett Water Supply Corporation (Pritchett WSC) and Crystal Systems Texas, Inc. (Crystal Systems) in Gregg, Henderson, Smith, and Upshur Counties, Texas. The application is subject to Texas Water Code (TWC) §§ 13.242 through 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237 and § 24.239. The application was amended to substitute Undine Texas, LLC (Undine Texas) as the applicant. As a result, my evaluation assumes that Undine Texas will be the acquiring entity. Collectively, I refer to Undine Texas and TWS as the Applicants.

Undine Texas, certificate of convenience and necessity (CCN) No. 13260, seeks approval to acquire facilities and transfer portions of water service areas from TWS under water CCN No. 12473. Additionally, Undine Texas requests to amend the CCN to add uncertificated areas and for dual certification with Pritchett WSC, CCN No. 10478, and Crystal Systems, CCN No. 10804.

Based on the mapping review by Tracy Montes, Infrastructure Division, the digital mapping data submitted on September 2, 2021 (Item 1) and December 23, 2021 (Item 18), in addition to the revised maps submitted on September 23, 2022 (Item 70) are sufficient. In addition, the approximate total acreage for the requested area includes 10,619 acres (sum of 10,631 acres minus 12 acres to be decertified) with approximately 1,116 total customer connections to Undine Texas, CCN No. 13260, as follows:

- Transfer portions from TWS (CCN 12473) that includes 5,669 acres and approximately 930 customers;
- Decertify portions from TWS (CCN 12473) that include 12 acres with no customers;

- Add uncertificated areas that include 4,921 acres and approximately 186 customers;
- Obtain dual certification with portions of Pritchett WSC (CCN 10478) that include 8 acres and 2 customers; and
- Obtain dual certification with portions of Crystal Systems (CCN 10804) that include 21 acres and 6 customers.

2. Notice

Undine Texas provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was March 28, 2022; there were no motions to intervene, protests, or opt-out requests received.

On December 28, 2022, Order No. 16, the ALJ withdrew the finding that notice was sufficient when the amended application was submitted and required revised notice to be sent to customers. Undine Texas provided revised notice on February 15, 2023. The intervention deadline date was March 27, 2023; there were no motions to intervene, protests, or opt-out requests received.

On June 15, 2023, in response to Order No. 24, Undine Texas submitted an affidavit attesting that there are no individual landowners in the requested area owning 25 acres or more wholly or partly inside the requested area.

3. Capital Improvements Plan

An application for a certificate of public convenience and necessity or for an amendment to a certificate must contain: a capital improvements plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area (TWC § 13.244(d)(3)).

Undine Texas is proposing to make improvements to the TWS water systems. The proposed capital improvements are expected to exceed \$100,000, therefore the need for firm capital commitment under 16 TAC § 24.11(e)(5) is required. In an engineering report submitted to the commission dated August 26, 2022, Undine Texas provided a list of future planned capital improvements for the listed water systems. The timeline of improvements will start within the first year after closing.

A keyed map showing where facilities will be located was provided. The facilities will be in addition to the facilities already providing service to the water systems listed below.

The Rate Regulation Division will be addressing the need for firm capital commitment criterion in a separate memo.

Table 1- List of PWS & Subdivisions Proposed for Transfer

PWS ID	Name of PWS	Subdivisions Served
2300015	Brookshires Camp Joy Water System	Camp Joy
1070176	Cape Tranquility System	Cape Tranquility

PWS ID	Name of PWS	Subdivisions Served
2300021	Country Club Estates	Country Club Estates
2300020	Friendship Water System	Friendship
0920031	Garden Acres System	Garden Acres
2120081	Garden Valley Resort	Garden Valley Resort
2120034	Mount Sylvan Water System	Mount Sylvan
2300026	Rosewood Water System	Rosewood/Harmony
2120104	Stallion Lake Ranch	Stallion Lake Ranch

4. Recommendation

Based on the above analysis and once the application is amended to substitute Undine Texas as the acquiring entity, I recommend that the Commission find that the transaction will serve the public interest and that the applicants be allowed to proceed with the proposed transaction. There are deposits held by TWS for some of the customers that will be transferred to Undine Texas. I further recommend that a public hearing on the application is not necessary.

Public Utility Commission of Texas

Memorandum

TO: Ian Groetsch
Legal Division

FROM: Fred Bednarski III
Rate Regulation Division

DATE: June 30, 2023

RE: Docket No. 52502 *Application of Texas Water Systems, Inc. and Undine Texas, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Gregg, Henderson, Smith, and Upshur Counties*

On September 2, 2021, Undine Development, LLC, and Texas Water System (TWS) filed an application for the sale of facilities and certificate rights and dual certification with Pritchett Water Supply Corporation and Crystal Systems Texas, Inc. in Gregg, Henderson, Smith, and Upshur Counties under the provisions of Texas Water Code (TWC) §§ 13.242 through 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237 and § 24.239. On August 26, 2022, the application was supplemented to replace Undine Development, LLC with Undine Texas, LLC, (Undine) CCN No. 13260.

On May 30, 2023, the administrative law judge issued Order No. 24 requiring staff to file a recommendation on the loan documentation or good cause exception provided by Undine.

Undine provided capital equity funding agreements demonstrating access to adequate funding for the purchase price and capital improvements as indicated in confidential attachment FB-1. Undine's parent, Undine Group, LLC has committed capital to pay for the capital improvements and purchase price of TWS and is capable, available, and willing to cover any temporary cash shortages and operating expense shortfalls.¹ Therefore, I recommend a finding that Undine provided access to adequate cash funding, a firm capital commitment, and that, if necessary, a good cause exception should be granted for 16 TAC § 24.11(e)(5)(A).

¹ Confidential – Exhibit A – Financial Information at pdf 38 thru 41 (Apr. 29, 2022).