



## **Filing Receipt**

**Filing Date - 2024-06-06 02:52:11 PM**

**Control Number - 52502**

**Item Number - 138**

**DOCKET NO. 52502**

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

**COMMISSION STAFF’S SUPPLEMENTAL RESPONSE TO ORDER NO. 32 AND  
MOTION TO ADMIT EVIDENCE**

On September 2, 2021, Texas Water Systems, Inc. (Texas Water Systems) and Undine Development, LLC (jointly, Applicants) 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 February 7, 2024, the administrative law judge (ALJ) filed Order No. 32, directing the parties to file a response and request that relevant filings be admitted into evidence by February 22, 2024. After conferring with Undine, Staff (Staff) of the Public Utility Commission of Texas (Commission) determined that it needed to provide a supplemental response to Order No. 32, in addition to the response Undine filed on February 22, 2024.<sup>1</sup>

**I. SUPPLEMENTAL RESPONSE**

In Order No. 32, the ALJ directed parties to supplement the record to include information on notice, at the time the application was filed, to each customer and landowner within the 12 acres to be decertified, or a request for a good cause waiver. The ALJ also requested that Staff clarify whether its recommendation under 16 TAC § 24.245(d)(2) grants or denies Applicants’ request for decertification of the 12 acres.

On February 22, 2024, Undine filed a response to Order No. 32, in which it requested a good cause waiver to notifying each customer and landowner within the 12 acres to be decertified and accurately represented that Staff was unopposed.<sup>2</sup> Undine subsequently filed another

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<sup>1</sup> Response to Order No. 32 (Feb. 22, 2024).

<sup>2</sup> *Id.* at 2.

application supplement with additional information regarding the 12 acres to be decertified. Staff has reviewed the record and Undine's latest filing and, as detailed in the attached memorandum from Patricia Garcia of the Infrastructure Division, recommends that the good cause waiver is not necessary and that notice is sufficient. Specifically, Staff reviewed mapping filed by Undine on June 6, 2024, identifying the four landowners within the 12 acres to be decertified, and has found that Undine has noticed all four landowners, either in its original notice sent out on February 18, 2022<sup>3</sup> or more recently on June 5, 2024.<sup>4</sup> Accordingly, Staff recommends that notice under 16 TAC § 24.245(d)(2)(A) is sufficient as it pertains to the four landowners within the 12 acres to be decertified and that a good cause waiver is accordingly unnecessary.

As detailed in the attached memorandum from Ms. Garcia, Staff also recommends that Undine's request to decertify 12 acres be granted. Staff accordingly requests that the ALJ grant Undine's request to decertify 12 acres.

## **II. MOTION TO ADMIT EVIDENCE**

Staff moves to admit the following supplemental evidence into the record of this proceeding:

1. Undine's Response to Order No. 32, filed on February 22, 2024;
2. Undine's Application Supplement, including attachments, filed on June 6, 2024;
3. Commission Staff's Supplemental Response to Order No. 32 and Motion to Admit Evidence, including the attached memorandum, filed on June 6, 2024.

## **III. CONCLUSION**

Staff respectfully requests that the ALJ find that notice to each landowner within the 12 acres to be decertified be deemed sufficient, that Undine's request to decertify 12 acres be granted, and that the ALJ admit the supplemental evidence listed above into the record of this proceeding.

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<sup>3</sup> Undine Response to Order No. 6 Confidential Notice Exhibit at 4, 5, and 7 (Mar. 10, 2022).

<sup>4</sup> Application Supplement at Exhibit A (Jun. 6, 2024).

Dated: June 6, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Marisa Lopez Wagley  
Division Director

/s/ Ian Groetsch  
Ian Groetsch  
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**DOCKET NO. 5**

**CERTIFICATE OF SERVICE**

I certify that unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on June 6, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Ian Groetsch  
Ian Groetsch

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Ian Groetsch, Attorney  
Legal Division

**FROM:** Patricia Garcia, Infrastructure Analysis Section Director  
Infrastructure Division

**DATE:** June 6, 2024

**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*

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### **1. Notice**

The Administrative Law Judge requested proof of notice to all customers and landowners within the 12 acres to be decertified or request a good cause waiver. After reviewing the map filed by Undine Texas on June 6, 2024, I confirmed there are four landowners in the requested area to be decertified. I further confirmed that each of the four landowners were provided notice by Undine Texas, which can be found either in the notice lists provided by Undine Texas on March 10, 2022,<sup>1</sup> or in the proof of notice filed by Undine Texas with the map filed on June 6, 2024.<sup>2</sup>

I recommend a good cause waiver is not necessary, because the four landowners in the requested area to be decertified received notice of the application. Notice is therefore sufficient under 16 TAC 24.245(d)(2)(A).

### **2. Approval of Decertification**

Based on the language in the notice stating that a portion of the requested area, which has four landowners but no customers, is being decertified, I recommend approval of the decertification.

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<sup>1</sup> Undine Response to Order No. 6 Confidential Notice Exhibit at 4, 5, and 7 (Mar. 10, 2022).

<sup>2</sup> Application Supplement at Exhibit A (Jun. 6, 2024).