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DOCKET NO. 52502

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

**COMMISSION STAFF’S SUPPLEMENTAL RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS AND NOTICE AND PROPOSED
PROCEDURAL SCHEDULE**

On September 2, 2021, Texas Water Systems, Inc. (TWS) and Undine Development, LLC (Undine) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Gregg, Henderson, Smith, and Upshur counties. Specifically, Undine, water Certificate of Convenience and Necessity (CCN) No. 12407, seeks approval to acquire facilities and to transfer a portion of the water service area from TWS under water CCN No. 12473. Additionally, Undine is requesting to decertify portions of the water service area from TWS under CCN No. 12473 and to amend its CCN to add uncertificated service area. Finally, Undine seeks dual certification with portions of Pritchett Water Supply Corporation, CCN No. 10478, and Crystal Systems Texas, Inc., CCN No. 10804. The Applicants filed supplemental information on September 14, 2021, September 27, 2021, November 4, 2021, November 5, 2021, December 7, 2021, December 23, 2021, January 24, 2022, and February 1, 2022.

On February 1, 2022, the administrative law judge (ALJ) filed Order No. 5, establishing a deadline of February 7, 2022 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file supplemental comments on the administrative completeness of the application and proposed notice and to propose a procedural schedule for the further processing of this docket. Therefore, this pleading is timely filed.

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the application and supplemental information and, as detailed in the attached memorandum from Patricia Garcia of the Commission’s Infrastructure Division,

recommends that the application is administratively complete. Staff's recommendation on administrative completeness is not a comment on the merits of the application.

II. NOTICE

At this time, Staff recommends that the Applicants proceed with providing public notice to all current customers, neighboring utilities, political subdivisions, and other persons listed in the attached memorandum using the notice form provided by Ms. Garcia. Along with each individual notice, Staff recommends that the Applicants provide an accurate map delineating the requested service area.

Once notice has been provided, Staff recommends that the Applicants file proof of notice as described in the attached memorandum, including an affidavit specifying the name and address of every person and entity to whom notice was provided, the date that the notice was provided, and a copy of the map provided with the notice. Finally, Staff recommends that the Applicants use the attached notice and affidavit to meet these requirements.

III. PROCEDURAL SCHEDULE

Staff recommends that the application be found administratively complete. Therefore, Staff proposes the following procedural schedule:

Event	Date
Deadline for the Applicants to file with the Commission signed affidavits that the notice was given along with a copy of the notice and map sent to the affected parties	March 10, 2022
Deadline for Staff to file a recommendation on sufficiency of notice	March 23, 2022
Deadline to intervene	30 days after notice is issued

IV. CONCLUSION

For the reasons detailed above, Staff recommends that the application be found administratively complete, that the Applicants be directed to provide notice as described in the attached memorandum, and that the proposed procedural schedule be adopted. Staff respectfully

requests the entry of an order consistent with these recommendations.

Dated: February 7, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Marisa Lopez Wagley
Managing Attorney

/s/ Jenna Keller
Jenna Keller
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(512) 936-7285
(512) 936-7268 (facsimile)
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DOCKET NO. 52502

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 February 7, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Jenna Keller
Jenna Keller

Public Utility Commission of Texas

Memorandum

TO: Jenna Keller, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: February 7, 2022

RE: Docket No. 52502 - *Application of Texas Water Systems, Inc. and Undine Development, 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 (Undine) and Texas Water Systems, Inc. (TWS) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights and for dual certification with Pritchett Water Supply Corporation (Pritchett WSC) and Crystal Systems Texas, Inc. (Crystal Systems) in Gregg, Henderson, Smith, and Upshur Counties, Texas, pursuant 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.

Specifically, Undine, certificate of convenience and necessity (CCN) No. 12407, seeks approval to acquire facilities and to transfer a portion of the water service area from TWS under water CCN No. 12473. Additionally, Undine is requesting to decertify portions of the water service area from TWS under water CCN No. 12473 and to amend its CCN to add uncertificated service area. Finally, Undine seeks dual certification with portions of Pritchett WSC, CCN No. 10478, and Crystal Systems, CCN No. 10804.

The approximate total acreage for the requested area includes 10,619 acres [10,631 acres minus 12 acres to be decertified] with 1,116 total customer connections, comprised of:

- Transfer portions from TWS (CCN 12473) includes 5,669 acres;
- Decertify portions from TWS (CCN 12473) includes 12 acres;
- Uncertificated (add) Areas includes 4,921 acres;
- Obtain Dual Certification with portions of Pritchett WSC (CCN 10478) includes 8 acres; and
- Obtain Dual Certification with portions of Crystal Systems (CCN 10804) includes 21 acres.

Based on the mapping review by Tracy Montes, Infrastructure Division, the digital data filed on September 2, 2021 (Item 1), and December 23, 2021 (Item 18), in addition to the revised maps submitted on January 24, 2022 (Item 24), are sufficient. Based on my technical and managerial review of the additional information filed on December 7, 2021, I recommend that the application be deemed administratively complete. I further recommend that 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:

- *Aqua Texas Inc. (CCN No. 13201)*
- *Ben Wheeler Water Supply Corporation (WSC) (CCN No. 10749)*
- *Bi County WSC (CCN No. 10490)*
- *Carroll WSC (CCN No. 10765)*
- *City of Gilmer (CCN No. 11264)*
- *City of Hideaway*
- *City of Hughes Springs (CCN No. 10531)*
- *City of Lindale (CCN No. 12795)*
- *City of Longview (CCN No. 10361)*
- *City of Ore City (CCN No. 10424)*
- *City of Tyler (CCN No. 10772)*
- *City of Van (CCN No. 10768)*
- *City of White Oak (CCN No. 10422)*
- *Crystal Systems Texas, Inc. (CCN No. 10804)*
- *Diana Special Utility District (CCN No. 10425)*
- *Liberty City WSC (CCN No. 10408)*
- *Lindale Rural WSC (CCN No. 10758)*
- *Mims WSC (CCN No. 11650)*
- *Monarch Utilities I LP (CCN No. 12983)*
- *Pritchett WSC (CCN No. 10478)*
- *RPM WSC (CCN No. 10787)*
- *Sharon WSC (CCN No. 10476)*
- *Southern Utilities Company (CCN No. 10762)*
- *Town of Coffee City*
- *Angelina & Neches River Authority*
- *Cypress Valley Navigation District*
- *Northeast Texas Municipal Water District*
- *Sabine River Authority*
- *Upper Sabine Valley SWMD*

b. The county judge of each county that is wholly or partially included in the requested area:

- *Gregg County Judge*
- *Henderson County Judge*

- *Smith County Judge*
 - *Upshur County Judge*
- c. Each groundwater conservation district that is wholly or partially included in the requested area:
- *Neches & Trinity Valleys 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. Any affected customers, and other affected parties in the requested area.

Addresses can be obtained from the Water Utility Database at <http://www.puc.texas.gov/watersearch>. District information and addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) web site located at <https://www14.tceq.texas.gov/iwud/index.cfm>.

- 2) Publish notice in a newspaper having general circulation in each 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, Undine 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 using the attached notice form(s).
- 4) Provide a copy of the map(s) deemed sufficient during administrative review delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers.
- 5) File in the docket copy of notice and the map(s) deemed sufficient during administrative review along with the signed affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit and tear sheets for proof of newspaper publication.

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 Undine and TWS. Undine and TWS will have 20 days from the receipt of the RFI to respond.

Notice to Current Customers, Landowners, Neighboring Systems, and Cities
UNDINE DEVELOPMENT, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 12407, NOTICE OF INTENT TO AMEND ITS CCN, TO PURCHASE WATER FACILITIES AND TO TRANSFER WATER SERVICE AREA UNDER CCN NO. 12473 FROM TEXAS WATER SYSTEMS, INC., AND FOR DUAL CERTIFICATION WITH PORTIONS OF BOTH PRITCHETT WATER SUPPLY CORPORATION, CCN NO. 10478, AND CRYSTAL SYSTEMS TEXAS, INC., CCN NO. 10804, IN GREGG, HENDERSON, SMITH, AND UPSHUR COUNTIES, TEXAS

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

(Address)

(City State Zip)

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

has submitted an application with the Public Utility Commission of Texas (Commission) to amend uncertificated service area to CCN No. 12407, for dual certification with portions of both Pritchett Water Supply Corporation, CCN No. 10478, and Crystal Systems Texas, Inc., CCN No. 10804, and to purchase all of the water facilities and to transfer water certificated service area under CCN No. 12473, in Gregg, Henderson, Smith, and Upshur Counties, TX from:

Texas Water Systems, Inc. 7891 Highway 271 Tyler, TX 75708
(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 subdivisions:

Camp Joy

The requested area subject to this transaction is located within approximately 2 miles north-northeast of downtown Ore City, Texas, and is generally bounded on the north by a line approx. half mile south of Upshur County Landing Road; on the east by Lake O' the Pines; on the south by Upshur/Marion County Line; and on the west by North Front Street in Upshur County. The requested area includes approximately 406 acres and serves 119 customer connections.

Cape Tranquility

The requested area subject to this transaction is located within approximately 2 miles north of downtown Coffee City, Texas, and is generally bounded on the north by Jamison Drive; on the east and south by Lake Palestine; and on the west by approximately 200 feet west of County Road 4202 in Henderson County. The requested area includes approximately 81 acres and serves 70 customer connections.

Country Club Estates

The requested area subject to this transaction is located within approximately 2 miles south-southwest of downtown Gilmer, Texas, and is generally bounded on the north by State Highway 155; on the east by U.S. Highway 271 South; on the south by Sugar Creek; and on the west by

Farm to Market 2685 in Upshur County. The requested area includes approximately 23 acres and serves 34 customer connections.

Friendship

The requested area subject to this transaction is located within approximately 1.3 miles west of downtown Gilmer, Texas, and is generally bounded on the north by Lake Gilmer and Kelsey Creek; on the east by Brooks Creek and North Bradford Street; on the south by State Highway 154; and on the west by Farm to Market 852 and Kelsey Creek in Upshur County. The requested area includes approximately 1,091 acres and serves 92 customer connections.

Garden Acres

The requested area subject to this transaction is located within approximately 4.5 miles west of downtown Longview, Texas, and is generally bounded on the north by Mistletoe Street; on the east by Swinging Bridge Road; on the south by Sabine River; and on the west by Hawkins Creek in Gregg County. The requested area includes approximately 256 acres and serves 79 customer connections.

Harmony and Rosewood

The requested area subject to this transaction is located within approximately 6.2 miles west of downtown Gilmer, Texas, and is generally bounded on the north by Farm to Market 852; on the east by Farm to Market 1795 and State Highway 154; on the south by Cedar Road; and on the west by Raintree Lakes and Kelsey Creek in Upshur County. The requested area includes approximately 1,807 acres and serves 199 customer connections.

Mount Sylvan

The requested area subject to this transaction is located within approximately 4.6 miles southwest of downtown Lindale, Texas, and is generally bounded on the north by Interstate Highway 20; on the east by the intersection of State Highway 110 and County Road 412; on the south by Neches River & County Road 49; and on the west by Mill Break Creek & Neches River in Smith County. The requested area includes approximately 4,880 acres (includes 12 acres to be decertified) and serves 312 customer connections.

Stallion Lake and Garden Valley Resort

The requested area subject to this transaction is located within approximately 3.5 miles east-southeast of downtown Van, Texas, and is generally bounded on the north by the intersection of County Road 424 and State Highway 110; and east by State Highway 110; on the south by Neches River and Mill Break Creek; and on the west by County Road 426 in Smith County. The requested area includes approximately 2,087 acres and serves 211 customer connections.

Approximate total acreage for the requested area includes 10,619 acres [10,631 acres minus 12 acres to be decertified] with 1,116 total customer connections, comprised of:

- Transfer Areas from Texas Water Systems (CCN 12473) includes 5,669 acres;
- Decertify Areas from Texas Water Systems (CCN 12473) includes 12 acres;
- Uncertificated (add) Areas includes 4,921 acres;
- Dual Areas with Pritchett WSC (CCN 10478) includes 8 acres; and
- Dual Areas with Crystal Systems (CCN 10804) includes 21 acres.

The requested area overlaps the district boundaries of the Upper Sabine Valley SWMD. If the Upper Sabine Valley SWMD does not request a public hearing, the Commission shall determine that the district is consenting to the Undine Development, LLC's request to provide retail water utility service in the requested area.

See enclosed map showing the requested areas.

The proposed transaction may change the current customers' rates and services to the current approved rates and services of Undine Development, LLC, which are higher than the current rate for a 5/8" meter plus gallonage for Texas Water Systems, Inc. To view a copy of the current approved tariff, go to:

<https://undinellc.com/Tariff/Undine%20Development%20Water%20Tariff.pdf>

Or email info@undinellc.com or call (713) 574-5953 to request a copy.

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

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The requested area overlaps the district boundaries of the Upper Sabine Valley SWMD. If the Upper Sabine Valley SWMD does not request a public hearing, the Commission shall determine that the district is consenting to the Undine Development, LLC's request to provide retail water utility service in the requested area.

See enclosed map showing the requested areas.

The proposed transaction may change the current customers' rates and services to the current approved rates and services of Undine Development, LLC, which are higher than the current rate for a 5/8" meter plus gallonage for Texas Water Systems, Inc. To view a copy of the current approved tariff, go to:

<https://undinellc.com/Tariff/Undine%20Development%20Water%20Tariff.pdf>

Or email info@undinellc.com or call (713) 574-5953 to request a copy.

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 a 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 uncertificated 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.

PUBLIC UTILITY COMMISSION OF TEXAS



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING
UTILITIES, AND AFFECTED PARTIES
DOCKET NO. 52502

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 _____

Notice Form Updated: October 22, 2021

PUBLIC UTILITY COMMISSION OF TEXAS



PUBLISHER'S AFFIDAVIT DOCKET NO. 52502

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