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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 SUPPLEMENTAL RECOMMENDATIONS ON
UNDINE’S CLARIFICATION AND REVISED NOTICE**

I. INTRODUCTION

On September 2, 2021, Texas Water Systems, Inc. (TWS) and Undine Development, LLC filed an application for approval of the sale, transfer, or merger (STM) of facilities and certificate of convenience and necessity (CCN) rights 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 March 20, 2023, the administrative law judge filed Order No. 20, directing Staff (Staff) of the Public Utility Commission of Texas (Commission) to file supplemental recommendations regarding Undine’s clarification and revised notice by April 4, 2023. Therefore, this pleading is timely filed.

II. RECOMMENDATION ON UNDINE’S CLARIFICATION

On February 21, 2023, Undine filed a clarification where it described every compliance issue Undine has at the Texas Commission on Environmental Quality (TCEQ) and at the Commission. In its filing, Undine indicated that there are a number of open violations in the TCEQ database that mostly stem from inspections performed after the purchase of under-capitalized systems. Undine further states that many of these violations, which may have existed for a long period before Undine submitted the application for transfer to the Commission, are not made official by the TCEQ until after the system is acquired by Undine. Undine states they are actively working on resolving the violations that have been identified by the TCEQ at each of their water and wastewater system. Undine also has one open violation at the Commission for a violation related to compliance with its rate tariff. The investigation is currently on hold as a formal complaint was filed over the same issue. In sum, Staff has reviewed Undine’s clarification

describing every compliance issue it has at the TCEQ and the Commission and can confirm that Undine is addressing these violations. Accordingly, Staff maintains that Undine has the managerial and technical ability to provide adequate service in the requested areas.

III. SUPPLEMENTAL RECOMMENDATION ON NOTICE

Staff has reviewed the proof of notice provided by Undine and recommends that Undine's revised notice is sufficient. Specifically, Undine provided an affidavit of notice dated February 16, 2023, and signed by Carey Thomas, Senior Vice President of Undine, showing that Undine's revised notice explicitly referencing Rate Year 3 of the phase-in rates was provided on February 15, 2023, to its current customers, landowners, neighboring utilities, and affected parties, as well as the maps that were attached to the provided notice. Undine also provided copies of its publication and publisher's affidavit, showing that notice was published in the *Longview News-Journal*, a newspaper of general circulation in Gregg County, on February 10 and 17, 2023. Therefore, Staff recommends that the revised notice provide by Undine be deemed sufficient for further processing of this matter.

IV. CONCLUSION

Staff respectfully recommends that Undine has the managerial and technical ability provide adequate service in the requested area and that the revised notice provided by Undine be deemed sufficient for further processing of this matter. Staff respectfully requests an order reflecting the foregoing recommendations.

Dated: April 4, 2023

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 April 4, 2023, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Ian Groetsch
Ian Groetsch