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APPLICATION OF CONROE RESORT UTILITIES, LLC, UNDINE TEXAS, LLC, AND UNDINE TEXAS ENVIRONMENTAL, LLC FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN MONTGOMERY COUNTY	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER APPROVING THE SALE AND TRANSFER TO PROCEED

COME NOW Conroe Resort Utilities, LLC (Conroe Resort), Undine Texas, LLC, and Undine Texas Environmental, LLC (collectively, the Applicants), together with the staff of the Public Utility Commission of Texas (Commission Staff) (collectively, the Parties), and file this Joint Motion to Admit Evidence and Proposed Order Approving the Sale and Transfer to Proceed. In support thereof, the Parties show the following:

I.

BACKGROUND

On November 8, 2021, Conroe Resort and Undine Development, LLC (Undine Development) filed an application with the Public Utility Commission of Texas (Commission) for sale, transfer, or merger of facilities and certificate rights in Montgomery County. On August 25, 2022, the application was amended to replace Undine Development with Undine Texas, LLC (Undine Texas) and Undine Texas Environmental, LLC (Undine Texas Environmental) (collectively, Undine) as the applicants. Applicants filed supplemental application information on August 26 and 30, and October 19, 2022.

Applicants seek approval to acquire facilities and to transfer all of Conroe Resort's water service area under water CCN No. 11942 to Undine Texas and all of Conroe Resort's sewer service area under sewer CCN No. 20638 to Undine Texas Environmental. The application reflects a requested area of 282 acres and 294 water customer connections and 289 sewer customer connections.

On April 1, 2022, the Office of Public Utility Counsel (OPUC) moved to intervene in this proceeding.

On September 20, 2022, Staff filed a recommendation that Applicants' application was administratively complete, consistent with the applicable Commission rules.

On September 27, 2022, the administrative law judge (ALJ) filed Order No. 11, finding the application and amended application, as supplemented, administratively complete and notice sufficient.

On October 19, 2022, the ALJ filed Order No. 12, establishing a deadline of October 28, 2022, for the Parties to file joint proposed findings of fact and conclusions of law. Therefore, this pleading is timely filed.

II.

JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

- A. The application for sale, transfer, or merger of facilities and certificate rights, filed on November 8 and 9, 2021 (AIS Item Nos. 1-7);
- B. Commission Staff's Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule, filed on December 8, 2021 (AIS Item No. 9);
- C. Affidavits of public notice, filed on February 1, 2022 (AIS Item Nos. 13-14);
- D. Commission Staff's Recommendation on Sufficiency of Notice, filed on February 18, 2022 (AIS Item No. 43);
- E. Undine Development's response to Staff's first request for information, filed on March 11, 12, and 14, 2022 (AIS Item Nos. 48-51);
- F. Undine Development's response to OPUC's first request for information, filed on June 28 and 29, 2022 (AIS Item Nos. 71-72);
- G. Applicants' supplement to the application, filed on July 22, 2022 (AIS Item Nos. 74-75);
- H. Applicants' supplemental mapping submittal, filed on August 11, 2022 (AIS Item No. 76);
- I. Applicants' supplemental mapping submittal, filed on August 15, 2022 (AIS Item No. 77);
- J. Undine Development's confirmation of notice, filed on August 16, 2022 (AIS Item Nos. 78-79);
- K. Applicants' application amendment, filed on August 25, 2022 (AIS Item Nos. 80-87);
- L. Applicants' mapping correction, filed on August 26, 2022 (AIS Item No. 88);

- M. Applicants' correction to application amendment, filed on August 30, 2022 (AIS Item Nos. 89-103);
- N. Undine's confirmation of supplemental notice, filed on September 14, 2022 (AIS Item Nos. 110-111);
- O. Staff's recommendation on administrative completeness and notice, and motion for a determination of applicable rates, filed on September 20, 2022 (AIS Item No. 117);
- P. Undine's brief regarding Texas Water Code (TWC) § 13.3011, filed on October 7, 2022 (AIS Item No. 119);
- Q. Applicants' Supplement to Application, filed on October 19, 2022 (AIS Item No. 123); and
- R. Staff's Final Recommendation, filed on October 21, 2022 (AIS Item No. 124).

III.

JOINT PROPOSED ORDER APPROVING THE SALE AND TRANSFER TO PROCEED

The parties move for the adoption of the attached Proposed Order Approving the Sale and Transfer to Proceed. The undersigned counsel for Undine represents that Conroe Resort has authorized them to file this Joint Motion to Admit Evidence on Conroe Resort's behalf.

IV.

CONCLUSION

The Parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Proposed Order Approving the Sale and Transfer to Proceed.

[SIGNATURES ON FOLLOWING PAGE]

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

John Harrison
Managing Attorney

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

GREGG LAW PC



Peter T. Gregg
State Bar No. 00784174
910 West Ave., No. 3
Austin, Texas 78701
Phone: 512-522-0702
Fax: 512-727-6070
pgregg@gregglawpc.com

**Attorneys for Undine Texas, LLC and
Undine Texas Environmental, LLC**

CERTIFICATE OF SERVICE

As indicated by my signature above, I, Peter Gregg, 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 October 28, 2022 in accordance with the Order Suspending Rules, issued in Project No. 50664.

DOCKET NO. 52797

APPLICATION OF CONROE RESORT UTILITIES, LLC, UNDINE TEXAS, LLC, AND UNDINE TEXAS ENVIRONMENTAL, LLC FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN MONTGOMERY COUNTY	§	PUBLIC UTILITY COMMISSION
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JOINT PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the application of Conroe Resort Utilities, LLC (Conroe Resort), Undine Texas, LLC, and Undine Texas Environmental, LLC (collectively, the Applicants), for the sale, transfer, or merger of facilities and certificate rights in Montgomery County. Applicants seek the sale of Conroe Resort’s water system and the transfer of its water service area and its certificate of convenience and necessity (CCN) number 11942 to Undine Texas, LLC (Undine Texas). Applicant also seek the sale of Conroe Resort’s sewer system and the transfer of its sewer service area and its CCN number 20638 to Undine Texas Environmental, LLC (Undine Texas Environmental). The administrative law judge (ALJ) grants that this sale is approved and the transaction between Applicants may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Conroe Resort is a for-profit corporation registered with the Texas secretary of state under file number 800827099.
2. Undine Texas is a for-profit corporation registered with the Texas secretary of state under file number 802339329.
3. Undine Texas Environmental is a for-profit corporation registered with the Texas secretary of state under file number 801768069.
4. Undine Texas operates, maintains, and controls facilities for providing water service under CCN No. 13260 in Brazoria County.
5. Undine Texas Environmental operates, maintains, and controls facilities for providing sewer service under CCN No. 20816 in Brazoria, Parker, and Tarrant Counties.

Application

6. On November 8, 2021, Conroe Resort and Undine Development, LLC (Undine Development), filed an application for the approval of the sale, transfer or merger of facilities and certificate rights in Montgomery County. On August 25, 2022, the application was amended to replace Undine Development with Undine Texas and Undine Texas Environmental (jointly, Undine) as the applicants.
7. On April 1, 2022, the Office of Public Utility Counsel (OPUC) moved to intervene in this proceeding.
8. The sale and transfer affect 282 acres and 294 current water customers and 289 current sewer customers in Montgomery County, Texas.
9. The area subject to this transaction is located approximately 2.7 miles northeast of downtown Montgomery, TX, and is generally bounded on the north by Walden Road; on the east by Fountainview Drive; and on the south by Lake Conroe; and on the west by Walden Road and Lake Conroe.
10. Applicants agreed to the sale and transfer of water service area under water CCN 11942. Undine Texas will amend the water CCN number 11942 to incorporate the water service area previously under water CCN number 11942.
11. Applicants agreed to the sale and transfer of sewer service area under sewer CCN 20638. Undine Texas Environmental will amend the sewer CCN number 20816 to incorporate the sewer service area previously under sewer CCN number 20638.
12. In Order No. 11 issued on September 27, 2022, the administrative law judge (ALJ) found the application and amended application, as supplemented, administratively complete.

Notice

13. On January 31, 2022, Carey A. Thomas, Senior Vice President, filed an affidavit on behalf of Undine Development attesting that notice was provided to all current customers, neighboring systems, and cities on January 28, 2022.
14. In Order No. 3, issued on February 23, 2022, the ALJ found the notice of the application sufficient.

15. On August 16, 2022, Carey A. Thomas, Senior Vice President, filed an affidavit on behalf of Undine Texas and Undine Texas Environmental (collectively, Undine), attesting that notice was provided to all current customers, neighboring systems, and cities on August 15, 2022.
16. In Order No. 11, issued on September 27, 2022, the ALJ found the notice of the application sufficient.

Evidentiary Record

17. On _____, 2022, the parties filed a joint motion to admit evidence.
18. In Order No. __, issued on _____, 2022 the ALJ admitted the following evidence into the record: (a) the applicants' application, filed on November 8, 2021; (b) Applicants' first application supplements, filed on November 9, 2021; (c) Staff's recommendation on the application, filed on December 8, 2021; (d) affidavits of public notice, filed on February 1, 2022; (e) Staff's recommendation on notice, filed February 18, 2022; (f) Undine Development's response to Staff's first request for information, filed on March 11, 12 and 14, 2022; (g) Applicants' second application supplements, filed on June 14 2022; (h) Undine Development's response to OPUC's first request for information, filed on June 28 and 29, 2022; (i) Applicants' third supplement to the application, filed on July 22, 2022; (j) Applicants' supplemental mapping submittal, filed on August 11, 2022; (k) Applicants' supplemental mapping submittal, filed on August 15, 2022; (l), Undine Development's confirmation of notice, filed on August 16, 2022; (m) Applicants' application amendment, filed on August 25, 2022; (n) Applicants' mapping correction, filed on August 26, 2022; (o) Applicants' correction to the application amendment, filed on August 30, 2022; (p) Undine's confirmation of supplemental notice, filed on September 14, 2022; (q) Staff's recommendation on administrative completeness and notice, and motion for a determination of applicable rates, filed September 20, 2022; (r) Undine's brief regarding TWC § 13.3011, filed on October 7, 2022; (s) Applicants' fourth supplement to the application, filed on October 19, 2022; and (t) Staff's final recommendation, filed on October 21, 2022.

Adequacy of Existing Service—TWC §13.301(d); 16 Texas Administrative Code (TAC) §24.239(j)(5)(B); TWC §13.246(c)(1), 16 TAC §24.227(d)(1)

19. Conroe Resort holds Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) ID No. 1700416.
20. Conroe Resort holds TCEQ approved Wastewater Discharge Permit No. WQ 0012493-001.
21. Conroe Resort has no existing violations listed in the TCEQ database.
22. Additional construction is necessary for Undine to serve the requested water and sewer service areas.

Need for Service—TWC §13.301(d), 16 TAC §24.239(j)(5)(C); TWC §13.246(c)(2), 16 TAC §24.227(d)(2)

23. There is no need for additional service, as the existing customers are currently receiving water and sewer treatment service from the Conroe Resort Utilities water and wastewater systems.
24. The Conroe Resort Utilities water and wastewater systems are currently in operation.

Effect of Approving the Transaction and Granting the Amendment—TWC §13.301(d), 16 TAC §24.239(j)(5)(D); TWC §13.246(c)(3), 16 TAC §24.227(d)(3)

25. There will be no effect on any other retail public utility servicing the proximate area as there are no other water or sewer providers in the area.

Ability to Serve: Managerial and Technical—TWC §13.301(b), 16 TAC §24.239(g), (j)(5)(E); TWC §§ 13.246(c)(4), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(4)

26. Undine has a sufficient number of licensed operators and the managerial and technical capability to provide adequate and continuous service to the requested service area.
27. Undine has sufficient capability to serve the customers and no additional construction is necessary.

Ability to Serve: Financial Ability and Stability – TWC §13.301(b), 16 TAC §24.239(g), (j)(5)(G); TWC §§ 13.246(c)(6), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(6)

28. Undine demonstrated that an affiliated interest is capable, available, and willing to cover temporary cash shortages.
29. Undine has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations.

30. Undine demonstrated adequate financial and managerial capability to provide continuous and adequate service to the requested area.

Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(e), 24.239(h)

31. There is no need to require Undine to provide a bond or other financial assurance to ensure continuous and adequate service.

Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC §13.301(d), 16 TAC §24.239(j)(5)(F); TWC §13.246(c)(5), 16 TAC §24.227(d)(5)

32. The feasibility of obtaining service from an adjacent retail public utility was not considered because Conroe Resort was adequately serving the existing customers and its facilities offer sufficient capacity.

33. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation—TWC 13.241(d); 16 TAC 24.227(b)

34. The construction of a physically separate water system is not necessary for Undine to serve the requested area. Therefore, concerns of regionalization or consolidation do not apply. _____

Environmental Integrity and Effect on the Land—TWC §13.301(d), 16 TAC §24.239(j)(5)(H); TWC §13.246(c)(7) & (9), 16 TAC §24.227(d)(7) & (9)

35. Granting the transaction will not adversely impact the integrity of the land because the requested area is already being served.

Improvement of Service or Lowering Cost to Consumers—TWC §13.301(d), 16 TAC §24.239(j)(5)(I); TWC §13.246(c)(8), 16 TAC §24.227(d)(8)

36. Undine, using the water and wastewater systems already in place, will continue to provide water and sewer service to the existing customers in the area.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, 13.246, 13.251, 13.254, and 13.301.
2. Undine and Conroe Resort are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Public notice of the application was provided as required by TWC § 13.301(a) and 16 TAC § 24.239(a) through (c).

4. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission Rules.
5. After consideration of the factors in TWC § 13.246(c), Undine has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC §§ 13.301(b).
6. Undine has demonstrated that the sale of Conroe to Undine will serve the public interest and is necessary for ht service, accommodation, convenience, and safety of the public as required by TWC §§ 13.246(b) and 13.301(d) and (e).
7. Undine has demonstrated that the amendment of its certificates of convenience and necessity will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public. TWC §§ 13.301(d), 13.246(b).

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves the sale and transfer of all of Conroe Resort's water facilities and service area held under water CCN number 11942 to Undine Texas, the cancellation of Conroe Resort's water CCN number 11942, and the amendment of Undine Texas' water CCN number 13260 to include the area previously included in Conroe Resort's water CCN number 11942.
2. The Commission approves the sale and transfer of all of Conroe Resort's sewer system and the service area held under sewer CCN number 20638 to Undine Texas Environmental, the cancellation of Conroe Resort's sewer CCN number 20638, and the amendment of Undine Texas' sewer CCN number 21026 to include the area previously included in Conroe Resort's sewer CCN number 21026, the cancellation of Conroe Resort's sewer CCN number 20638, and the amendment of Undine Texas' sewer CCN number 21026 to include the area previously included in Conroe Resort's sewer CCN number 21026.
3. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits, if any, have been addressed.

¹ Tex. Gov't Code ch. 2001.

4. The applicants have 180 days to complete the transaction.
5. Under 16 TAC § 24.239(m), if the transaction is not consummated within this 180-day period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
6. In an effort to finalize this case as soon as possible, the applicants must continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
7. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas the _____ day of _____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE