



Filing Receipt

Received - 2022-12-20 03:09:44 PM

Control Number - 52797

ItemNumber - 132

DOCKET NO. 52797

APPLICATION OF CONROE RESORT UTILITIES, LLC AND 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

**ORDER NO. 14
ADDRESSING PHASE-IN RATES, WITHDRAWING FINDING OF NOTICE SUFFICIENCY, REQUIRING CLARIFICATION AND REVISED NOTICE, AND ESTABLISHING DEADLINES**

This Order addresses Undine Texas, LLC and Undine Texas Environmental, LLC’s request for phase-in rates and the need for clarification.

I. Phased Rates

In the amended application at issue in this proceeding, Undine Texas and Undine Texas Environmental seek approval of rates which were previously approved in Docket Nos. 50018 and 50200 under Texas Water Code (TWC) § 13.3011, which states:

INITIAL RATES FOR CERTAIN WATER OR SEWER SYSTEMS AFTER PURCHASE OR ACQUISITION. (a) A person who files an application described by Section 13.301(a) for the purchase or acquisition of a water or sewer system may request that the regulatory authority with original jurisdiction over the rates for water or sewer service provided by the person to the customers of the system authorize the person to charge initial rates for the service that are:

- (1) shown in a tariff filed with a regulatory authority by the person for another water or sewer system; and
- (2) in force for the other water or sewer system on the date the application described by Section 13.301(a) is filed.

(b) The regulatory authority may not require a person who makes a request under Subsection (a) to initiate a new rate proceeding to establish the initial rates for service the person will provide to the customers of the purchased or acquired system.

In Docket Nos. 50018 and 50200, the Commission approved rates that would change over time. Specifically, the Commission approved three phases of rates for Undine Texas and Undine Texas Environmental, with the first phase being effective August 1, 2020 through July 31, 2021;

the second phase being effective August 1, 2021 through July 31, 2022; and the third and final phase being effective on and after August 1, 2022.

The application was filed on September 27, 2022.¹ As such, if the Commission were to approve the rates in force on September 27, 2022, from Docket Nos. 50018 and 50200 for this docket, the phase-in nature of the rates for Docket Nos. 50018 and 50200 means that the phase three rates are in force and Undine can only be authorized to charge the phase three rates from Docket No. 50018 and 50200 to the customers of the newly acquired system.

II. Revised Notice

On August 16, 2022, Undine filed confirmation of notice containing the affidavit of Carey Thomas, senior vice president of Undine Texas, LLC and Undine Texas Environmental, LLC, attesting that notice was sent to current customers, neighboring utilities, and affected parties on August 15, 2022. The notice contains a link to the tariff in Docket Nos. 50018 and 50200 which contains information regarding all three phases of rates. On the dates notice and the application were filed and, phase three was in force in Docket Nos. 50018 and 50200.

Therefore, because a notice referencing all three phases of rates could be confusing and limit meaningful participation, the ALJ withdraws the finding that notice is sufficient and requires Undine Texas and Undine Texas Environmental to issue revised notice by February 3, 2023. By February 17, 2023, Undine Texas and Undine Texas Environmental must file proof of revised notice. By March 3, 2023, Commission Staff must file a recommendation on revised notice.

III. Clarification

By January 6, 2023, the administrative law judge requires clarification regarding the following issues:

1. Whether there are any violations, resolved or unresolved, associated with Undine Texas, LLC or Undine Texas Environmental, LLC in the Commission or the Texas Commission on Environmental Quality's databases; and

¹ Applicants' Application Amendment (Aug. 26, 2022). Under 16 Texas Administrative Code § 24.8(d), "Applications under subchapter H of chapter 24 are not considered filed until the commission makes a determination that the application is administratively complete." In Order No. 11 filed on September 27, 2022, the administrative law judge found the application administratively complete.

2. Whether Undine Texas, LLC and Undine Texas Environmental, LLC are able to satisfy the leverage test while relying on a guaranty agreement between Undine Development, LLC and Undine Group, LLC.

IV. Deadlines

The following deadlines apply:

Event	Deadline
Undine Texas and Undine Environmental must file clarifications	January 6, 2023.
Undine Texas and Undine Environmental issue revised notice	February 3, 2023
Undine Texas and Undine Environmental file proof of revised notice	February 17, 2023
Commission Staff file recommendation on revised notice	March 3, 2023
Deadline for any party to request a hearing	March 3, 2023

Signed at Austin, Texas the 20th day of December 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



**KATIE MOORE MARX
ADMINISTRATIVE LAW JUDGE**