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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**

COMMISSION STAFF’S REPLY TO OPUC’S RESPONSE TO COMMISSION STAFF’S FINAL RECOMMENDATION AND REQUEST FOR EXTENSION

I. INTRODUCTION

On November 8, 2021, Conroe Resort Utilities, LLC (Conroe) and Undine Development, LLC (Undine) (jointly, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in Montgomery County. On August 25, 2022, the application was amended to replace Undine Development, LLC with Undine Texas, LLC (Undine Texas) and Undine Texas Environmental, LLC (Undine Texas Environmental) as the applicants.

On May 15, 2023, the Office of Public Utility Counsel (OPUC) filed a response to Staff’s final recommendation and requested a hearing. Under 16 Texas Administrative Code (TAC) § 22.78(a), a responsive pleading must be filed within five days after receipt of the pleading to which the response is made. OPUC filed its response to Staff’s final recommendation on May 12, 2023. Five working days from May 12, 2023, is May 19, 2023. Therefore, this pleading is timely filed.

II. COMMISSION STAFF’S REPLY

After speaking with OPUC, it is Staff’s understanding that OPUC is requesting a hearing over the phased-in rates issue the ALJ ruled on in Order No. 14. Essentially, OPUC does not agree with Order No. 14 and believes that for phased-in rates, an applicant should be able to choose the phase of the tariff it has selected to implement for the newly acquired system, regardless of the phase being used by the system under the original tariff. Neither Staff nor Undine disagrees with OPUC.¹ There is thus no issue in dispute that would be appropriate for a hearing at the State Office

¹ See Commission Staff’s Recommendation on Administrative Completeness and Notice and Motion for a Determination of Applicable Rates at 2–5 (Sep. 20, 2022) and Undine’s Brief Regarding TWC 13.3011 (Oct. 7, 2022).

of Administrative Hearings. Instead, Staff believes that certifying the issue to the Commissioners would be the most efficient way to resolve this issue. Accordingly, Staff respectfully requests that OPUC's request for hearing be denied and that the ALJ certify the issue to the Commission under 16 TAC § 22.127(b)(1).

III. REQUEST FOR EXTENSION

Under 16 TAC § 22.4(b), Staff may request that the time allowed for filing any documents be extended for good cause. In light of OPUC's response and potentially referring the phased-in rate issue to the Commission, Staff respectfully requests that the deadline for parties to file a joint motion to admit evidence and proposed order approving sale and allowing transaction to proceed be temporarily suspended pending the resolution of this and OPUC's May 12, 2023 pleading.

IV. CONCLUSION

For the reasons stated above, Staff respectfully requests that OPUC's request for hearing be denied, that the ALJ certify the issue to the Commission under 16 TAC § 22.127(b)(1), and that the deadline for parties to file a joint motion to admit evidence and proposed order approving sale and allowing transaction to proceed be temporarily suspended pending the resolution of this and OPUC's May 12, 2023 pleading.

Dated: May 19, 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 May 19, 2023, in accordance with the Order Suspending Rules, filed in Project No. 50664.

/s/ Ian Groetsch
Ian Groetsch