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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 §
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PUBLIC UTILITY COMMISSION OF TEXAS

**ORDER NO. 30
DECLINING TO CERTIFY ISSUE TO THE COMMISSION**

This Order addresses the Office of Public Utility Council’s (OPUC) response to Order No. 28 and proposed list of issues filed on June 7, 2023.

I. Background

On May 19, 2023, Commission Staff filed a reply to OPUC’s response to Commission Staff’s final recommendation in which Commission Staff stated that it understood OPUC to be requesting a hearing over the phased-in rates issue on which the administrative law judge previously ruled in Order No. 14 filed on December 20, 2022. Commission Staff opined that certifying the phased-in rates issue to the Commissioners would be the most efficient way to resolve the issue and requested that the ALJ deny OPUC’s request for a hearing and certify the phased-in rates issue to the Commission under 16 Texas Administrative Code § 22.127(b)(1). On May 20, 2023, Undine Texas, LLC and Undine Texas Environmental, LLC joined in Commission Staff’s reply.

In Order No. 28 filed on May 25, 2023, the ALJ required OPUC to respond to Commission Staff’s May 19, 2023 filing and clarify whether it sought to have a hearing on the phased-in rates issue or have the issue certified to the Commission, and whether it sought to withdraw its hearing request.

On June 7, 2023, OPUC filed a response to Order No. 28 and clarified that it seeks a hearing on several issues related to Texas Water Code § 13.3011 and that it is unopposed to having a list of issues regarding phased-in rates certified to the Commission.

II. Declining to Certify Issue to the Commission

As discussed by Commission Staff, the issue of phased-in rates has already been addressed in this docket. In Order No. 14 filed on December 20, 2022, the ALJ determined that the rates in force at the time the application was filed were the phase three rates and that Undine Texas and Undine Texas Environmental could only be authorized to charge the phase three rates to the customers in the newly acquired systems.

At the time Order No. 14 was filed, OPUC was a party to this proceeding as its motion to intervene was granted in Order No. 7 filed on April 13, 2022. If OPUC, Commission Staff, or Undine Texas or Undine Texas Environmental believed Order No. 14 was incorrect, the appropriate mechanism would have been to file an appeal of the Order under 16 TAC § 22.123. Under 16 TAC § 22.132(a)(2), the deadline to file an appeal of an interim order is within ten days of the issuance of the order. No party filed an appeal of Order No. 14 under 16 TAC § 22.123.

Therefore, the administrative law judge denies OPUC's certified issue request.

Signed at Austin, Texas the 6th day of July 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



KATIE MOORE MARX
ADMINISTRATIVE LAW JUDGE