



Control Number: 52797



Item Number: 281

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 ON CERTIFIED ISSUES

This Order addresses the issue certified to the Commission through the State Office of Administrative Hearings (SOAH) order filed on September 27, 2023.

I. Background

Conroe Resort Utilities, LLC, Undine Texas, LLC and Undine Texas Environmental, LLC filed an application for sale, transfer or merger of water and sewer facilities and certificate rights under Texas Water Code § 13.301. The Texas Water Code authorizes Undine to charge initial rates for the service that are: (1) shown in a tariff filed by Undine with the Commission 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.¹ Undine seeks to charge Conroe Resort Utilities' customers it's filed rates in an existing tariff that are phased-in rates. At the time of the filing of the application, phase three of the phased-in rates were in place.

II. Certified Issue

Based on the foregoing facts, and in response to a joint request for certification from the parties, the SOAH administrative law judge certified the following issue to the Commission:

Whether the Commission, as part of the approval of an [sale, transfer, or merger] STM application submitted pursuant to Texas Water Code § 13.3011, can authorize the implementation of a phase of a tariff that is different than the phase of the tariff in place at the time of the submittal of the application.

¹ TWC § 13.3011.

The Commission determines that, under TWC § 13.3011, it can authorize a person who files an application for sale, transfer, or merger under TWC § 13.301(a) to charge initial rates for service under a phase in an in-force tariff that is different than the phase of the tariff in place on the date the application is filed.

III. Good Cause Under 16 TAC § 22.5(b)

Under 16 Texas Administrative Code (TAC) § 22.127(a), the presiding officer may certify to the Commission “an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the Commission by law.” Issues that are appropriate for certification include “the Commission’s interpretation of its rules and applicable statutes, which rules or statutes are applicable to a proceeding, or whether Commission policy should be established or clarified as to a substantive or procedural issue of significance to the proceeding.”² The Commission is required by rule to issue a written decision on a certified issue within 30 days of the issue’s submission.³ Because it was not practicable to consider the certified issues at an earlier open meeting, the Commission grants a good-cause exception under 16 TAC § 22.5(b) to the requirement in 16 TAC § 22.127(d) that the Commission issue a written decision on a certified issue within 30 days of the issue’s submission.

² 16 TAC § 22.127(b).

³ 16 TAC § 22.127(d).

Signed at Austin, Texas the 3rd day of November 2023.

PUBLIC UTILITY COMMISSION OF TEXAS


KATHLEEN JACKSON, INTERIM CHAIR


WILL MCADAMS, COMMISSIONER


LORI COBOS, COMMISSIONER


JIMMY GLOTFELTY, COMMISSIONER