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Filing Date - 2024-04-09 04:28:38 PM

Control Number - 52797

Item Number - 295

**SOAH DOCKET NO. 473-23-23621.WS
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	§ § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**SECOND JOINT MOTION TO ADMIT SUPPLEMENTAL 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 (Staff) of the Public Utility Commission of Texas (Commission) (collectively, the Parties), and file this Second Joint Motion to Admit Supplemental 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 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; and February 21 and 22, March 3, April 12, and June 8, 13, 15, and 21, 2023.

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 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 July 18, 2023, the ALJ referred this docket to the State Office of Administrative Hearings (SOAH).

On February 12, 2020, SOAH referred this case for mediation. On March 7, 2024, the Mediators filed the Mediation Report stating that a resolution was reached.

II. SECOND JOINT MOTION TO ADMIT SUPPLEMENTAL EVIDENCE

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

- A. Joint request for certification, filed on September 18, 2023 (AIS Item No. 279);
- B. Joint request for referral to mediation, filed on January 25, 2024 (AIS Item No. 289); and
- C. SOAH mediation report, filed on March 7, 2024 (AIS Item No. 292);

III. PROPOSED ORDER APPROVING THE SALE AND TRANSFER TO PROCEED

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

IV. CONCLUSION

The parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the attached Proposed Order Approving the Sale and Transfer to Proceed be adopted.

Dated: April 9, 2024.

Respectfully submitted,

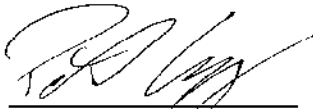
**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Wagley Lopez
Division Director

/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 April 9, 2024 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 OF TEXAS
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PROPOSED ORDER APPROVING THE 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 approval of the following: (1) the sale and transfer of Conroe Resort’s water facilities and service area held under its certificate of convenience and necessity (CCN) number 11942 to Undine Texas, LLC (Undine Texas), (2) the amendment of Undine Texas’s CCN number 13260 to include the facilities and certificated area from Conroe Resort’s water CCN number 11942; (3) the sale and transfer of Conroe Resort’s sewer facilities and service area under its CCN number 20638 to Undine Texas Environmental, LLC (Undine Texas Environmental); (4) the amendment of Undine Texas Environmental’s CCN number 20816 to include the facilities and certificated area from Conroe Resort’s sewer CCN number 20638; and (5) the cancellation of Conroe Resort’s water CCN No. 11942 and sewer CCN No. 20638 . 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. Conroe Resort provides water service in Montgomery County under CCN No. 11942 and sewer service in Montgomery County under CCN No. 20638.
3. Conroe Resort operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under public water system number 1700416 and a public sewer system registered with TCEQ under registration number WQ0012439001.

4. Undine Texas is a for-profit corporation registered with the Texas secretary of state under file number 802339329.
5. Undine Texas Environmental is a for-profit corporation registered with the Texas secretary of state under file number 801768069.
6. Undine Texas operates, maintains, and controls facilities for providing water service under CCN No. 13260 in several counties, including Montgomery County.
7. Undine Texas Environmental operates, maintains, and controls facilities for providing sewer service under CCN No. 20816 in several counties, including Montgomery County.

Application

8. 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.
9. On August 25, 2022, the application was amended to replace Undine Development with Undine Texas and Undine Texas Environmental (jointly, Undine) as the applicants.
10. The applicants filed supplemental information on August 26 and 30, and October 19, 2022; and February 21 and 22, March 3, April 12, and June 8, 13, 15, and 21, 2023.
11. In the application Applicants seek approval of the following: (a) the sale and transfer of facilities and service area held under Conroe Resort's water CCN No. 11942 to Undine Texas; (b) the amendment of Undine Texas's CCN No. 13260 to include facilities and certificated area from Conroe Resort's CCN No. 11942; (c) the sale and transfer of facilities and service area held under Conroe Resort's sewer CCN No. 20638 to Undine Texas Environmental; (d) the amendment of Undine Texas Environmental's CCN No. 20816 to include facilities and certificated area from Conroe Resort's CCN No. 20638; and (e) the cancellation of Conroe Resort's water CCN No. 11942 and sewer CCN No. 20638.
12. The total requested area includes 282 acres and 294 current water customers and 289 current sewer customers in Montgomery County, Texas.
13. 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.

14. 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

15. 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.
16. In Order No. 3, issued on February 23, 2022, the ALJ found the notice of the application sufficient.
17. 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.
18. On April 12, 2023, Undine filed the affidavit of Carey A. Thomas, attesting that notice was provided to all current customers, landowners, neighboring utilities, and affected parties on April 6, 2023.
19. In Order No. 22, issued on April 20, 2024, the ALJ found the revised notice of the application sufficient.

Interventions

20. On April 1, 2022, the Office of Public Utility Counsel (OPUC) moved to intervene in this proceeding.
21. In Order No. 7, filed on April 13, 2022, the ALJ granted OPUC's motion to intervene. In Order No. 22, filed on April 20, 2023, the ALJ granted Richard Poole's motion to intervene. In Order No. 26, filed on May 11, 2023, the ALJ granted the motions to intervene of Eugene Barrington, Jean Niland-McGrath, J.K. Harvill, Kyle Pryor, and Deborah Grazian.

Evidentiary Record

22. On December 1, 2022, the ALJ issued Order No. 13 admitting the following evidence into the record: (a) the application and all attachments filed on November 8, 2021; (b) confidential attachments to the application filed on November 9, 2021; (c) Commission Staff's recommendation on administrative completeness and notice and proposed procedural schedule filed on December 8, 2021; (d) Affidavits regarding notice filed on

February 1, 2022; (e) Commission Staff's recommendation on sufficiency of notice filed on February 18, 2022; (f) Undine Development's response to Commission Staff's first requests for information filed on March 11, 12, and 14, 2022; (g) Undine Development's response to the Office of Public Utility Counsel's first request for information, filed on June 28 and 29, 2022; (h) Applicants' supplement to the application filed on July 22, 2022; (i) Applicants' supplemental mapping filed on August 11, 2022; (j) Applicants' supplemental mapping filed on August 15, 2022; (k) Undine Development's confirmation of notice filed on August 16, 2022; (l) Applicants' amendment to the application, and all attachments, filed on August 25, 2022; (m) Applicants' mapping correction filed on August 26, 2022; (n) Applicants' correction to application amendment, and all attachments, filed on August 30, 2022; (o) Undine Texas' confirmation of supplemental notice, and attachment, filed on September 14, 2022; (p) Commission Staff's recommendation on administrative completeness and notice, and motion for a determination of applicable rates filed on September 20, 2022; (q) Undine Texas' brief regarding Texas Water Code § 13.3011 filed on October 7, 2022; (r) Office of Public Utility Counsel's brief in response to Order No. 11 filed on October 14, 2022; (s) Applicants' supplement to application filed on October 19, 2022; and (t) Commission Staff's final recommendation filed on October 21, 2022.

23. On July 19, 2023, the ALJ issued Order No. 32 admitting the following additional evidence: (a) Undine's supplemental information, filed June 8, 13, 15, and 21, 2023; and (b) Commission Staff's response to Order No. 27 including confidential attachments filed on June 28, 2023.
24. On April 9, 2024, the parties filed a second joint motion to admit supplemental evidence.
25. In Order No. __, issued on _____, 2024 the ALJ admitted the following supplemental evidence into the record:
 - a. Joint request for certification, filed on September 18, 2023;
 - b. Joint request for referral to mediation, filed on January 25, 2024; and
 - c. SOAH mediation report, filed on March 7, 2024.

Purchaser's Compliance History

26. The Commission's complaint records, which date back five years, show 133 informal complaints against Undine. The Commission's Customer Protection Division has

evaluated and closed 130 complaints at this time. The three open complaints were received in April 2023.

27. Undine has been subject to enforcement actions by the Commission and the TCEQ for non-compliance with rules, orders, or statutes.
28. Undine is actively working on resolving the violations that have been identified by the TCEQ at each of their water and sewer systems.
29. Undine does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.
30. Undine has demonstrated a compliance status that is adequate for approval of the transaction to proceed.

Adequacy of Existing Service

31. Conroe Resort holds Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) ID No. 1700416.
32. Conroe Resort holds TCEQ approved Wastewater Discharge Permit No. WQ 0012493-001.
33. The Commission's complaint records, which date back to 2017, show no complaints against Conroe Resort.
34. Conroe Resort has no existing violations listed in the TCEQ database.
35. There is no evidence in the record that Conroe Resort has failed to comply with any Commission or TCEQ order.
36. Additional construction is necessary for Undine to serve the requested water and sewer service areas.

Need for Service

37. There are approximately 294 water customer connections and approximately 289 sewer customer connections in the requested areas that are receiving service from Conroe Resorts and have an ongoing need for service.
38. 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.
39. The Conroe Resort Utilities water and wastewater systems are currently in operation.

40. There is no evidence in the record indicating a need for additional service in the requested area.

Effect of Approving the Transaction and Granting the Amendment

41. Approving the sale and transfer to proceed and granting the CCN amendments will obligate Undine to provide continuous and adequate water service to current and future customers in the requested area.
42. 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.
43. All retail public utilities in the proximate area were provided notice of the transaction proposed in this application, and no protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility.
44. The quality of service is expected to improve, because Undine has experience as a retail public utility and because Undine will be able to make various upgrades and improvements to the water systems, as needed.

Ability to Serve: Managerial and Technical

45. Undine owns and operates numerous TCEQ-approved public water systems in Texas.
46. Undine employs a sufficient number of TCEQ-licensed operators who will be responsible for operating the public water system being transferred.
47. Undine has the managerial and technical capability to provide adequate and continuous service to the requested service area.

Ability to Serve: Financial Ability and Stability

48. Undine Group, LLC, an affiliate of Undine, is capable, available, and willing to cover temporary cash shortages and has a debt-to-equity ratio that is less than one. Therefore, Undine has satisfied the leverage test.
49. Undine Group provided a written guarantee of coverage of temporary cash shortages and has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after completion of the transaction. Therefore, Undine has satisfied the operations test.
50. Undine is proposing to make capital improvements in excess of \$100,000 to Conroe's water and wastewater systems.

51. Undine submitted documents indicating funds are available for the purchase of the public water systems plus planned capital improvements.
52. Undine has demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

53. 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

54. 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.
55. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities would need to be constructed; at a minimum, an interconnect would need to be installed to connect to a neighboring retail public utility
56. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation

57. 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

58. The effects on environmental integrity and the land will be temporary as capital improvements are made for Undine to continue providing service to the requested area.

Improvement of Service or Lowering Cost to Consumers

59. Service is expected to improve and costs to customers will be lower as a result of the proposed transaction.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance with Texas Water Code (TWC) §§ 13.246(a), 13.301(a)(2), and 16 Texas Administrative Code (TAC) § 24.239(c).¹
2. After consideration of the factors in TWC § 13.246(c), Undine demonstrated it is capable of rendering continuous and adequate service to every customer within the requested area, as required by TWC § 13.251.
3. Undine demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested area as required by TWC §§ 13.241(a) and 13.301(b).
4. The Applicants demonstrated that the sale and the transfer of Conroe Resort's facilities and service area to Undine will serve the public interest and is necessary for the continued service, accommodation, convenience, or safety of the public as required by TWC §§ 13.246(b) and 13.301(d) and (e).

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 transaction between Conroe Resorts and Undine in this proceeding and authorizes it to be completed as proposed.
2. 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 completed and customer deposits, if any, have been addressed.
3. The applicants have 180 days from the date of this Order to complete the transaction.
4. Under 16 TAC § 24.239(in), if the transaction is not completed within this 180-day period and no extension is granted, this approval is void and the applicants must reapply for approval.

¹ After this application was filed, 16 TAC § 24.239 was amended, effective March 29, 2023. Accordingly, all references and citations to 16 TAC § 24.239 in this Order are made to the version in effect at the time the application was filed.

5. CCN numbers 11942 and 20638, and associated facilities, will continue to be held by Conroe Resorts until the final order or notice of approval is issued in this matter, in accordance with Commission rules.
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 completed.
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 procedural schedule for continued processing of this docket.

Signed at Austin, Texas the _____ day of _____ 2024.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE