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DOCKET NO. 52852

APPLICATION OF TERRA	§	PUBLIC UTILITY COMMISSION
SOUTHWEST, INC. AND UNDINE	§	
DEVELOPMENT, LLC FOR SALE,	§	OF TEXAS
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN DENTON COUNTY	§	

ORDER NO. 2
DENYING MOTION TO INTERVENE

This Order addresses the November 23, 2021 motion to intervene filed by Central States Water Resources, Inc. Central States Water Resources asserts that it has entered into a binding agreement to acquire Terra Southwest, Inc. and asserts that its agreement with Terra Southwest is directly impacted by the application at issue in this proceeding and, therefore, Central States Water Resources has a justiciable interest in this proceeding.

On December 3, 2021, Undine Development, LLC and Terra Southwest filed a response to the motion to intervene. In their response, Undine Development and Terra Southwest argue that Central States Water Resources does not have a justiciable interest in the outcome of the proceedings because Central States Water Resources' sole interest in the application relates to a private claim to the assets at issue in the application, which is not an interest that is contemplated or implicated by a proceeding involving the sale, transfer, or merger of facilities and certificate rights.

Under 16 Texas Administrative Code (TAC) § 22.103, a person has standing to intervene if that person: (1) has a right to participate which is expressly conferred by statute, Commission rule or order, or other law; or (2) has or represents persons with a justiciable interest which may be adversely affected by the outcome of the proceeding. In its motion to intervene, Central States Water Resources asserts that it has a justiciable interest in this proceeding. However, the administrative law judge (ALJ) does not believe that Central States Water Resources has presented a justiciable interest that may be adversely affected by the outcome in this proceeding. A justiciable interest is an interest that is within the purview of the Commission given the context of the proceeding. The application at issue in this proceeding concerns whether the transferee is able

to demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the area subject to the application and any area already it already serves.¹ However, Central States Water Resources' interest is limited to the effect the proceeding may have on its agreement to acquire Terra Southwest, which is outside the purview of the Commission in the context of evaluating whether Undine Development is able to demonstrate adequate financial, managerial, and technical capability as set forth above. Accordingly, the ALJ denies Central States Water Resources' motion to intervene.

Signed at Austin, Texas the 7th day of December 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'Isaac TA', is written over a horizontal line.

**ISAAC TA
ADMINISTRATIVE LAW JUDGE**

\\PUC4-AAV-FS\shared\CADM\Docket Management\Water\STM\52XXX\52852-2 deny intervene.docx

¹ See Texas Water Code § 13.301 and 16 TAC § 24. 239 (listing the criteria used to evaluate a transferee's financial, managerial, and technical capability for providing continuous and adequate service).