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DOCKET NO. 53445

**APPLICATION OF UNDINE TEXAS LLC § PUBLIC UTILITY COMMISSION
TO AMEND ITS CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN § OF TEXAS
FORT BEND COUNTY §**

**COMMISSION STAFF'S RECOMMENDATION ON CAPITAL
IMPROVEMENT PLAN AND SUFFICIENCY OF SUPPLEMENTAL NOTICE**

I. INTRODUCTION

On April 1, 2022, Undine Texas, LLC (Undine) filed an application to amend its Certificate of Convenience and Necessity (CCN) in Fort Bend County. Undine holds water CCN No. 13260.

On May 18, 2023, the administrative law judge filed Order No. 16, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on Undine's capital improvement plan and the sufficiency of its supplemental notice by July 17, 2023. Therefore, this pleading is timely filed.

II. CAPITAL IMPROVEMENT PLAN

Staff has reviewed the capital improvement plan provided by Undine and, as detailed in the attached memoranda from Fred Bednarski, Rate Regulation Division, and from Patricia Garcia, Infrastructure Division, recommends that it is sufficient. Specifically, Undine has provided a budget, estimated timeline for construction, keyed map showing where facilities will be located, and documentation demonstrating adequate funding of the planned system improvements. Therefore, Staff recommends that Undine satisfies the capital improvement plan requirements under Texas Water Code § 13.244(d)(3) and 16 Texas Administrative Code §§ 24.11(e)(5)(B) and 24.233(a)(6).

III. SUFFICIENCY OF SUPPLEMENTAL NOTICE

Staff has reviewed the sufficiency of supplemental notice. As detailed in the attached memorandum from Ms. Garcia, an affidavit was provided affirming that there are no landowners in the requested area who own 25 acres or more. Therefore, no additional notice was provided, and Staff recommends that supplemental notice should be found to be sufficient.

IV. CONCLUSION

For the reasons detailed above, Staff recommends an order consistent with the above recommendations.

Dated: July 17, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Division Director

John Harrison
Managing Attorney

/s/ Brad Reynolds
Brad Reynolds
State Bar No. 24125839
Ian Groetsch
State Bar No. 24078599
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7307
(512) 936-7268 (facsimile)
Brad.Reynolds@puc.texas.gov

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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 July 17, 2023 in accordance with the Second Order Suspending Rules filed in Project No. 50664.

/s/ Bradley Reynolds
Bradley Reynolds

Public Utility Commission of Texas

Memorandum

TO: Bradley Reynolds
Legal Division

FROM: Fred Bednarski III
Rate Regulation Division

DATE: July 17, 2023

RE: Docket No. 53445 – *Application of Undine Texas, LLC to Amend a Certificate of Convenience and Necessity in Brazoria County*

On April 1, 2022, Undine Texas, LLC (Undine) an application to amend its water Certificate of Convenience and Necessity (CCN), No. 12407, in Fort Bend County under the provisions of Subchapter G of Texas Water Code Chapter 13..

On May 18, 2023, the administrative law judge issued Order No. 16, requiring Commission Staff to file a recommendation on whether the applicant’s capital improvement plan satisfies the requirements of the Commission, TWC § 13.244(d)(3) or 16 TAC § 24.233(a)(6).

Per the Memorandum of Patricia Garcia, Director of Infrastructure Analysis, Undine is building a new water treatment plant to provide service to the requested area. Estimated costs to build a new water system is expected to exceed \$100,000, therefore the need for firm capital commitment under 16 TAC § 24.11(e)(5) is required.

Undine provided funding agreements demonstrating access to adequate funding for the capital improvements, as indicated in confidential attachment FB-1. Undine’s parent, Undine Group, LLC, has committed capital to pay for the capital improvements and is capable, available, and willing to cover any temporary cash shortages and operating expense shortfalls.¹ Therefore, I

¹ Application, Confidential – Exhibit A, item no. 24, at bates 37 (Sep. 14, 2022).

recommend a finding that Undine provided access to adequate cash funding, a firm capital commitment, and satisfies the requirements under 16 TAC § 24.11(e)(5)(B).

Public Utility Commission of Texas

Memorandum

TO: Bradley Reynolds, Attorney
Legal Division

FROM: Patricia Garcia, Infrastructure Analysis Section Director
Infrastructure Division

DATE: July 14, 2023

RE: Docket No. 53445 – *Application of Undine Texas LLC to Amend Its Certificate of Convenience and Necessity in Fort Bend County*

1. Application

On April 1, 2022, Undine Texas, LLC (Undine) filed with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 13260 in Fort Bend County, Texas under Texas Water Code (TWC) §§ 13.242 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237.

Undine is seeking to amend its water CCN for the service area containing 0 customer connections and approximately 96 acres, comprised of uncertificated area.

The application proposes the addition of approximately 96 acres to CCN No. 13260.

2. Notice

The deadline to intervene was June 13, 2022; there were no motions to intervene, protests, or opt-out requests received.

On June 16, 2023, an affidavit was provided affirming that there are no landowners in the requested area who own 25 acres or more. Therefore, no additional notice was provided.

3. Capital Improvement Plan

An application for a certificate of public convenience and necessity or for an amendment to a certificate must contain: a capital improvements plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area (TWC § 13.244(d)(3)).

Undine is building a new water treatment plant to provide service to the requested area. Estimated costs to build a new water system is expected to exceed \$100,000, therefore the need for firm capital commitment under 16 TAC § 24.11(e)(5) is required.

Undine provided a budget, an estimated timeline for construction (year 1), and a keyed map showing where facilities will be located.

The Rate Regulation Division will be addressing the need for firm capital commitment criterion in a separate memo.

4. Recommendation

Based on the mapping review by Dave Babicki, Infrastructure Division, and my technical and managerial review, I recommend that Undine meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, is capable of providing continuous and adequate service. I further recommend that approving this application to amend its water CCN No. 13260 is necessary for the service, accommodation, convenience and safety of the public.

Undine consented to the attached map, tariff, and certificate on July 20, 2022.