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DOCKET NO. 53476

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

COMMISSION STAFF’S RECOMMENDATION ON SUFFICIENCY OF NOTICE

On April 8, 2022, Undine Texas LLC (Undine) filed an application to amend its water certificate of convenience and necessity (CCN) No. 13260 in Jackson County. Undine requests the amendment to add a residential community development consisting of 97 lots.

On September 21, 2022, the administrative law judge (ALJ) filed Order No. 5, which directed Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on sufficiency of notice and propose a procedural schedule by September 27, 2022. Therefore, this pleading is timely filed.

I. SUFFICIENCY OF NOTICE

Staff has reviewed the proof filed by Undine and recommends that it be found sufficient under 16 Texas Administrative Code (TAC) § 24.235. Undine filed two publisher’s affidavits—one on August 25, 2022 for the July 27, 2022 publication date, and the other on September 19, 2022 for the July 20, 2022 publication date. Undine’s filed publisher’s affidavits and tear sheets show that notice was published in *The Jackson County Herald-Tribune*, a daily newspaper of general circulation Jackson County, on July 20, 2022 and July 27, 2022. The publisher’s affidavit filed on August 25, 2022 was filed within 30 days of the last publication date, as required by § 24.235(c). However, the second publisher’s affidavit, filed on September 19, 2022, was not filed within 30 days of the last publication date.

Staff requests a good cause exception under § 22.5(b) regarding the publisher’s affidavit filed on September 19, 2022. When completing the first publisher’s affidavit, the editor inadvertently neglected to include that, in addition to the notice published on July 27, 2022, notice was published on July 20, 2022. When filing the first publisher’s affidavit on August 25, 2022, Undine included the tear sheets of notice published on both July 20, 2022 and July 27, 2022,

providing evidence that notice was actually provided on both July 20, 2022 and July 27, 2022. The omission of the date “July 20, 2022” from the first publisher’s affidavit did not cause any harm, as notice was actually provided on July 20, 2022. Therefore, Staff respectfully recommends that Undine be granted a good cause exception regarding the filing of its second publisher’s affidavit.

Undine also filed on August 25, 2022 an affidavit attesting to the provision of notice to current customers, neighboring utilities, and affected parties, along with a list of the entities noticed and a copy of the notice and maps sent.

Staff has reviewed Undine’s proof of notice and recommends that, if the good cause exception is granted, Undine provided notice in accordance with Staff’s Recommendation on Administrative Completeness and Notice filed on July 11, 2022 and 16 TAC § 24.235. If the good cause exception is granted, Staff recommends that Undine’s notice be deemed sufficient.

II. PROPOSED PROCEDURAL SCHEDULE

Based on its recommendation that notice be found sufficient, Staff proposes the following procedural schedule for further processing of the docket:

Event	Date
Notice completed	July 27, 2022
Deadline to intervene	August 26, 2022 ¹
Deadline for Commission Staff to provide final maps, certificates, and tariffs (if applicable) to the applicant for review and consent	October 27, 2022
Deadline for Undine to file signed consent forms with the Commission	November 10, 2022
If no hearing is requested, deadline for Commission Staff to file a final recommendation on the application	November 17, 2022
If no hearing is requested, deadline for the parties to file joint proposed findings of fact and conclusions of law	December 15, 2022

¹ Under 16 TAC § 24.235(a)(3), the intervention period is 30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer. Notice was mailed on July 14, 2022 and published on July 20, 2022 and July 27, 2022. Therefore, 30 days after July 27, 2022 is August 26, 2022.

III. CONCLUSION

For the reasons detailed above, Staff respectfully recommends the issuance of an order finding notice sufficient and adopting the proposed procedural schedule.

Dated: September 27, 2022

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Keith Rogas
Division Director

Marisa Lopez Wagley
Managing Attorney

/s/ Phillip Lehmann
Phillip Lehmann
State Bar No. 24100140
Bradley Reynolds
State Bar No. 24125839
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711
(512) 936-7385
(512) 936-7268 (facsimile)
phillip.lehmann@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 on September 27, 2022 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Phillip Lehmann
Phillip Lehmann