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DOCKET NO. 53630

APPLICATION OF ORBIT SYSTEMS, INC. AND UNDINE TEXAS ENVIRONMENTAL, LLC FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN BRAZORIA COUNTY	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**JOINT MOTION TO ADMIT EVIDENCE AND
PROPOSED ORDER APPROVING THE SALE AND TRANSFER TO PROCEED**

COME NOW Orbit Systems, Inc., and Undine Texas Environmental, LLC (collectively, the Applicants), together with the staff of the Public Utility Commission of Texas (Staff) (collectively, the Parties), and file this Joint Motion to Admit Evidence and Proposed Order Approving the Sale and Transfer to Proceed. In support thereof, the Parties show the following:

I.

BACKGROUND

On May 23, 2022, Orbit Systems, Inc. (Orbit) and Undine Texas, LLC (Undine Texas) filed an application with the Public Utility Commission of Texas (Commission) for approval of the sale, transfer, or merger of facilities and certificate rights in Brazoria County. On June 21, 2022, Applicants requested a change in the style of the matter to replace Undine Texas with Undine Texas Environmental, LLC (Undine Texas Environmental or Undine) as the applicant. Supplemental information was filed on May 25, June 21, September 21 and 22, and October 6 and 14, 2022, and February 15, 17, and 22, March 7, May 24, 2023, and June 16, 2023.

Applicants seek approval to acquire facilities and to transfer all of Orbit's sewer service area under sewer CCN No. 20682 to Undine Texas Environmental. The application reflects a requested area of approximately 152 acres and 195 customer connections.

On July 20, 2022, Staff filed recommendations that Applicants' application was administratively complete, consistent with the applicable Commission rules.

On July 21, 2022, the administrative law judge (ALJ) filed Order No. 3, finding the application and amended application, as supplemented, administratively complete.

On December 14, 2022, the ALJ filed Order No. 10, admitting certain evidence into the record of this proceeding.

On June 16 2023, the ALJ filed Order No. 20, finding notice sufficient.

On May 19, 2023, the ALJ filed Order No. 19, establishing a deadline of June 21, 2023, for the Parties to file a joint motion to admit evidence and proposed order approving the sale and allowing the transaction to proceed. Therefore, this pleading is timely filed.

II.

JOINT MOTION TO ADMIT EVIDENCE

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

- a. Undine's sixth supplement to application, filed on February 15 and 16, 2023 (AIS Item Nos. 50-51);
- b. Staff's clarification, filed on February 17, 2023 (AIS Item No. 52);
- c. Undine's clarification, filed on February 17 and 21, 2023 (AIS Item Nos. 53-54);
- d. Undine's response to Order No. 15, filed on February 22, 2023 (AIS Item Nos. 55 and 56);
- e. Undine's supplemental response to Order No. 15, filed on March 7, 2023 (AIS Item No. 61);
- f. Staff's supplemental recommendation on revised notice, filed on March 10, 2023 (AIS Item No. 62);
- g. Staff's recommendation on the transaction, including the attached tariff, and confidential attachments, filed on April 21, 2023 (AIS Item Nos. 66-68);
- h. Undine's response to Staff's recommendation on the transaction, filed on April 24, 2023 (AIS Item No. 69);
- i. Undine's response to Order 18 requiring clarification on notice, filed on May 24, 2023 (AIS Item No. 73);
- j. Staff's recommendation on sufficiency of supplemental notice and financial assurance, filed on June 14, 2023 (AIS Item No. 74); and
- k. Undine's supplemental information, including confidential attachments, filed on June 16, 2023 (AIS Item Nos. 76 and 77).

III.

JOINT PROPOSED ORDER APPROVING THE SALE AND TRANSFER TO PROCEED

The parties move for the adoption of the attached Proposed Order Approving the Sale and Transfer to Proceed. The undersigned counsel for Undine Texas Environmental represents that Orbit has authorized them to file this Joint Motion to Admit Evidence on Orbit's behalf.

IV. CONCLUSION

The Parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Proposed Order Approving the Sale and Transfer to Proceed.

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

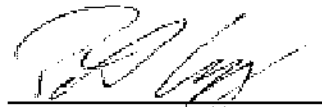
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CERTIFICATE OF SERVICE

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 June 20, 2023 in accordance with the Order Suspending Rules, issued in Project No. 50664.

DOCKET NO. 53630

APPLICATION OF ORBIT SYSTEMS, INC. AND UNDINE TEXAS ENVIRONMENTAL, LLC FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN BRAZORIA COUNTY	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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JOINT PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the application of Orbit Systems, Inc. (Orbit) and Undine Texas Environmental, LLC (Undine or Undine Texas Environmental) (collectively, the Applicants), for the sale, transfer, or merger of facilities and certificate rights in Brazoria County. Applicants seek approval to acquire facilities and to transfer all of Orbit's sewer service area under its certificate of convenience and necessity (CCN) No. 20682 to Undine. 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. Orbit is a for-profit corporation registered with the Texas secretary of state under file number 72981900.
2. Undine is a for-profit corporation registered with the Texas secretary of state under file number 801768069.
3. Undine operates, maintains, and controls facilities for providing sewer service under CCN No. 20816 in Brazoria County.

Application

4. On May 23, 2022, Orbit and Undine Texas, LLC (Undine Texas), filed an application for the approval of the sale, transfer or merger of facilities and certificate rights in Brazoria County. On June 22, 2022, the application was restyled to replace Undine Texas with Undine Texas Environmental as the applicant.
5. The sale and transfer affect approximately 152 acres and 195 total customer connections in Brazoria County, Texas.

6. The area subject to this transaction is located within approximately 2 miles north of downtown Bonney, Texas, and is generally bounded on the north by FM Highway 1462; on the east by County Road 7977; on the south by County Road 841; and on the west by FM Highway 521 in Brazoria County.
7. Applicants agreed to the sale and transfer of all of Orbit's sewer service area (146 acres) under sewer CCN No. 20682. Undine will amend the sewer CCN number 20816 to incorporate the 146 acres of sewer service area previously under sewer CCN number 20682 and an additional 6 acres of uncertificated area.
8. In Order No. 3 issued on July 21, 2022, the administrative law judge (ALJ) found the application and amended application, as supplemented, administratively complete.

Notice

9. On August 16, 2022, Carey A. Thomas, Senior Vice President, filed an affidavit on behalf of Undine attesting that notice was provided to all current customers, neighboring systems, and cities on July 28, 2022.
10. On May 24, 2023, Carey A. Thomas filed an affidavit clarifying that there are no owners in the proposed area of a tract of land of at least 25 acres.
11. In Order No. 20, filed on June 16, 2023, the ALJ found the notice of the application sufficient.

Evidentiary Record

12. On June 20, 2023, the parties filed a joint motion to admit evidence.
13. In Order No. __, issued on _____, 2023 the ALJ admitted the following evidence into the record:
 - a. Undine's sixth supplement to application, filed on February 15 and 16, 2023;
 - b. Staff's clarification, filed on February 17, 2023;
 - c. Undine's clarification, filed on February 17 and 21, 2023;
 - d. Undine's response to Order No. 15, filed on February 22, 2023;
 - e. Undine's response to Order No. 15, filed on March 7, 2023;
 - f. Staff's supplemental recommendation on revised notice, filed on March 10, 2023;
 - g. Staff's recommendation on the transaction, including the attached tariff, and confidential attachments, filed on April 21, 2023;

- h. Undine's response to Staff's recommendation on the transaction, filed on April 24, 2023;
- i. Undine's response to Order 18 requiring clarification on notice, filed on May 24, 2023;
- j. Staff's recommendation on sufficiency of supplemental notice and financial assurance, filed on June 14, 2023; and
- k. Undine's supplemental information, including confidential attachments, filed on June 16, 2023.

Adequacy of Existing Service and System Compliance

- 14. Orbit holds Texas Commission on Environmental Quality (TCEQ) approved Wastewater Discharge Permit No. WQ 0012672001 and registered as Grasslands WWTP.
- 15. No additional construction is necessary for Undine to serve the requested area.
- 16. The last TCEQ compliance investigation of the Grasslands WWTP was on January 31, 2022. Orbit does not have any violations listed in the TCEQ database for the Grasslands WWTP.
- 17. The Commission's complaint records, which date back to 2017, show no complaints against Orbit.
- 18. The Commission's complaint records, which date back to 2017, show complaints against Undine, all of which have been closed
- 19. Undine demonstrated a compliance history that is adequate for approval of the sale to proceed.

Need for Service

- 20. There is no need for additional service, as the existing customers are currently receiving sewer service from the Orbit sewer system.
- 21. The Orbit sewer system is currently in operation.

Effect of Approving the Transaction and Granting the Amendment

- 22. There will be no effect on any other retail public utility servicing the proximate area as there are no other sewer providers in the area.

Ability to Serve: Managerial and Technical

23. Undine has a sufficient number of licensed operators and the managerial and technical capability to provide adequate and continuous service to the requested service area.
24. Undine has sufficient capability to serve the customers and no additional construction is necessary.

Ability to Serve: Financial Ability and Stability

25. Undine demonstrated that an affiliated interest is capable, available, and willing to cover temporary cash shortages.
26. Undine has sufficient cash available to cover all projected operations and maintenance shortages in the first five years of operations.
27. Undine demonstrated adequate financial and managerial capability to provide continuous and adequate service to the requested area.

Financial Assurance

28. 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

29. The feasibility of obtaining service from an adjacent retail public utility was not considered because Orbit was adequately serving the existing customers and its facilities offer sufficient capacity.
30. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation

31. The construction of a physically separate sewer 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

32. Granting the transaction will not adversely impact the integrity of the land because the requested area is already being served.

Improvement of Service or Lowering Cost to Consumers

33. Undine, using the sewer system already in place, will continue to provide sewer service to the existing customers in the area.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Public notice of the application was provided as required by Texas Water Code (TWC) §§ 13.246 and 13.301(a)(2) and 16 TAC § 24.239 (c).
2. After consideration of the factors in TWC § 13.246(c), Undine has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC §§ 13.301(b) and 16 TAC § 24.239(e).
3. It is not necessary for Undine to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
4. The applicants have demonstrated that the sale and transfer of Orbit's certificated service area and existing facilities under CCN number 20682 to Undine will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public. TWC §§ 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 sale and transfer of all of Orbit's sewer facilities and service area held under sewer CCN number 20682 to Undine Texas Environmental, and the amendment of Undine Texas Environmental's sewer CCN number 20816 to include the area previously included in Orbit's sewer CCN number 20682 and remove the area from CCN number 20682.
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 consummated and customer deposits, if any, have been addressed.
3. The applicants have 180 days to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not consummated within this 180-day period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
5. The applicants are advised that the requested area and associated facilities will remain under CCN number 20682 and will be held by Orbit 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 consummated.
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 schedule for continued processing of this docket.

Signed at Austin, Texas the _____ day of _____ 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE