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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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APPLICANT’S MOTION FOR RECONSIDERATION

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COME NOW, Applicants Undine Texas Environmental, LLC and Orbit Systems, Inc. (collectively, “Applicant”), and file this its Motion for Reconsideration of Order No. 26 pursuant to 16 Tex. Admin. Code § 22.123.

I. Summary

On May 23, 2022, Applicant filed with the Public Utility Commission of Texas (the “Commission”) an application for the sale, transfer, or merger of facilities and certificate rights in Brazoria County. On July 21, 2023, the Administrative Law Judge (“ALJ”) issued Order No. 25 approving the sale and transfer to proceed. On January 30, 2024, the ALJ issued Order No. 26 voiding approval of the transaction. For the reasons set forth below Applicant urges this motion for reconsideration of Order No. 26.

II. Argument and Authorities

As set forth in 16 Tex. Admin. Code § 22.123(b), motions for reconsideration are available for any interim order that immediately prejudices a substantial or material right of a party. 16 Tex. Admin. Code § 22.123(b)(1). The motion shall specify the reasons why the interim order is unjustified or improper. *Id.* at § 22.123(b)(3). Order No. 26 immediately prejudices a substantial and material right of Applicant in requiring that the applicant “restart the application process” by filing an amended application. Order No. 26, pg. 1. The Order adds substantial delay to a

transaction that has already been before the Commission for twenty-one months. Further delay creates significant financial burden on the parties to the transaction and also creates risk and uncertainty around the viability of the transaction itself.

As Applicant presented to the ALJ in its September 27, 2023 status report, this application was filed concurrently with the application for sale, transfer or merger of facilities and certificate rights under PUC Docket No. 53629. Docket Id. No. 53630-89. That docket addresses the sale of the water utility assets relating to the subject docket's sewer utility assets. As Applicant noted in its status report, the parties to the transaction could not bifurcate the transaction to close on the sewer assets (the subject of the instant docket) without contemporaneously closing on the water assets (the subject of Docket No. 53629). It did not appear to be a reasonable possibility that the processing of the application in Docket No. 53629, filed at the same time as the subject application, would fall six months behind the approval of the subject application. However, that is in fact what occurred.

On February 6, 2024 (today), the ALJ in Docket No. 53629 approved the sale and transfer to proceed in that docket. Docket Id. No. 53629-105. In the absence of the issuance of Order No. 26 in the subject docket, Applicant would, finally, be in a position to close on the transaction and proceed with the transfer of both the water and sewer assets. Instead, Applicant is again placed in a position of uncertainty as to when they will be able to complete the transaction they entered into over two years ago.

Applicant asserts the order is unjustified and improper. Recognizing its failure to comply with the terms of the Order relating to the status reports and the closing deadline, Applicant asserts that such a harsh consequence imposed by the Order is unnecessary and extremely harmful to Applicant. Applicant believes it is particularly so recognizing: (1) the delay was beyond

Applicant's control (representing that it was operating with all diligence in prosecuting the application in Docket No. 53629); (2) the Applicant is now, as of February 6th, able and prepared to close the transaction; (3) the closing of the transaction can occur not more than a month later than the 180 day deadline set out in the order; (4) based on consultation with Commission Staff, it is Applicant's understanding Commission Staff is willing to extend the deadline to close to allow the parties a reasonable amount of additional time to complete the transaction; and (5) the Applicant represents there have not been any material changes in its financial, managerial, and technical capability to provide continuous and adequate service to the requested area and the Applicant's service area.

The undersigned represents that he has consulted with Commission Staff and that they have stated they are unopposed to the relief requested in this motion.

III. Conclusion and Prayer

Undine prays that the ALJ grant this motion for reconsideration, allow the Applicant a short period of time from the date of this motion to complete the transaction, and for such further release as may be appropriate.

Respectfully submitted,

Gregg Law PC



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LLC**

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CERTIFICATE OF SERVICE

I certify by my signature above that unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record on February 6, 2024 in accordance with the Order Suspending Rules filed in Project No. 50664.