



## **Filing Receipt**

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**Item Number - 419**

**DOCKET NO. 53765**

<b>APPLICATION OF CRYSTAL</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>SYSTEMS TEXAS, LLC AND UNDINE</b>	<b>§</b>	
<b>TEXAS, LLC FOR SALE, TRANSFER,</b>	<b>§</b>	<b>OF TEXAS</b>
<b>OR MERGER OF FACILITIES AND</b>	<b>§</b>	
<b>CERTIFICATE RIGHTS IN SMITH</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**COMMISSION STAFF’S RESPONSE TO ORDER NO. 14**

**I. INTRODUCTION**

On July 6, 2022, Crystal Systems Texas, LLC (Crystal Systems) and Undine Texas, LLC (Undine) (jointly, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in Smith County. Applicants seek approval to sell and transfer Crystal System’s facilities and all of Crystal System’s certificated area under CCN No. 10804 to Undine.

On June 12, 2023, the administrative law judge (ALJ) filed Order No. 14, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file recommendations on the sufficiency of Undine’s capital commitment and capital improvement plan and on the Applicants’ supplemental notice on Applicants’ supplemental notice by July 25, 2023. Therefore, this pleading is timely filed.

**II. RECOMMENDATION ON CAPITAL COMMITMENT**

Staff has reviewed the application and supplemental materials filed by Undine and, as supported by the attached memorandum of Fred Bednarski of the Rate Regulation Division, recommends that the Undine has demonstrated access to adequate cash funding and a sufficient firm capital commitment to meet the requirements of 16 Texas Administrative Code (TAC) § 24.11(e)(5). In the alternative, should the ALJ find that Undine does not have sufficient firm capital commitment, Staff recommends that a good cause exception under 16 TAC § 22.5(b) be granted.

**III. RECOMMENDATION ON CAPITAL IMPROVEMENT PLAN**

Staff has reviewed the application and supplemental materials filed by Undine and, as supported by the attached memorandum of Jolie Mathis of the Infrastructure Division,

recommends that it be found sufficient. Specifically, Undine provided a budget, an estimated timeline for construction, and a keyed map showing where facilities will be located.

#### **IV. RECOMMENDATION ON SUPPLEMENTAL NOTICE**

Staff has reviewed the proof of notice documents provided by Undine and, as supported by the attached memorandum of Ms. Mathis, recommends that Applicants' supplemental notice be found sufficient. Specifically, Undine filed an affidavit affirming that notice was provided to the 108 landowners identified by Undine in the requested area and a map showing the location of each landowner. Accordingly, Staff respectfully recommends that Applicants' notice be deemed sufficient.

#### **V. CONCLUSION**

For the reasons detailed above, Staff respectfully requests the entry of an order finding that Applicants have addressed the issues raised in Order No. 14 and permitting Applicants to proceed with the transaction.

Dated: July 25, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Marisa Lopez Wagley  
Division Director

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/s/ Ian Groetsch  
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**DOCKET NO. 53765**

**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 July 25, 2023 in accordance with the Order Suspending Rules, filed in Project No. 50664.

/s/ Ian Groetsch  
Ian Groetsch

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Ian Groetsch  
Legal Division

**FROM:** Fred Bednarski III  
Rate Regulation Division

**DATE:** July 25, 2023

**RE:** Docket No. 53765 – *Application of Crystal Systems Texas, Inc. and Undine Texas, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Smith County*

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On July 1, 2022, Undine Texas, LLC (Undine), CCN No. 13260, and Crystal Systems Texas, Inc. (Crystal Systems) filed an application for the sale and transfer of facilities and certificate rights in Smith County under the provisions of Texas Water Code § 13.301 and 16 Texas Administrative Code § 24.239.

On June 12, 2023, the administrative law judge issued Order No. 14 requiring staff to file a recommendation regarding the sufficiency of the applicant's capital commitment.

Undine provided capital equity funding agreements demonstrating access to adequate funding for the purchase price and 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 purchase price of Crystal Systems and is capable, available, and willing to cover any temporary cash shortages and operating expense shortfalls.<sup>1</sup> Therefore, I recommend a finding that Undine provided access to adequate cash funding, a firm capital commitment, and that, if necessary, a good cause exception should be granted for 16 TAC § 24.11(e)(5)(A).

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<sup>1</sup> Application, Confidential Exhibit A, item no. 19, at bates 37 (Sep. 12, 2022).

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Ian Groetsch, Attorney  
Legal Division

**FROM:** Jolie Mathis, Utility Engineering Specialist  
Infrastructure Division

**DATE:** July 25, 2023

**RE:** Docket No. 53765 – *Application of Crystal Systems Texas, LLC and Undine Texas, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Smith County*

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### **1. Application**

Undine Texas, LLC (Undine Texas) and Crystal Systems Texas, Inc. (Crystal Systems) (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Smith County, Texas, under Texas Water Code (TWC) §§ 13.242 through 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237 and § 24.239.

Specifically, Undine Texas, Certificate of Convenience and Necessity (CCN) No. 13260, seeks approval to acquire facilities and to transfer all of the water service area from Crystal Systems under water CCN No. 10804.

Based on the mapping review by Tracy Montes, Infrastructure Division:

- The requested area includes 2,234 customer connections and approximately 10,528 acres, comprised of:
  - 288 acres of uncertificated area;
  - 10,240 acres of transferred area from CCN No. 10804.
- The application proposes the subtraction of approximately 10,240 acres from CCN No. 10804 and the addition of approximately 10,528 acres to CCN No. 13260.

### **2. Notice**

An affidavit was provided affirming that notice was submitted to 108 landowners in the requested area on June 16, 2023. A map indicating the location of each landowner 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 Texas is building a new water treatment plant to provide service to the requested area. Construction began in July 1, 2022. 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, Texas provided a budget, an estimated timeline for construction, 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**

The Applicants meet all of the applicable statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules. Approving this application is in the public interest and necessary for the service, accommodation, convenience and safety of the public.