



Filing Receipt

Filing Date - 2023-09-19 11:41:19 AM

Control Number - 53765

Item Number - 426

DOCKET NO. 53765

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

**ORDER NO. 18
REQUIRING CLARIFICATION AND BRIEFING**

This Order addresses the need for clarification on the July 1, 2022 application of Crystal Systems Texas, LLC and Undine Texas, LLC for sale, transfer, or merger of facilities and certificate rights in Smith County.

The administrative law judge (ALJ) requires clarification on Undine’s compliance history. In the July 1, 2022 application, the applicants indicated that Undine has been under an enforcement action by the Commission, Texas Commission on Environmental Quality, Texas Department of Health, Office of the Attorney General, or the Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes. However, the August 31, 2023 proposed order approving the sale and transfer to proceed states the opposite. By October 3, 2023, the applicants must clarify the discrepancy and provide documentation regarding the enforcement actions, as required by the application, if necessary.

The ALJ also requires clarification on the rates Undine seeks to implement. The application materials and part of the proposed order approving the sale and transfer to proceed indicate that Undine seeks to implement the rates approved in Docket No. 50017.¹ However, ordering paragraph 6 in the proposed order approving the sale and transfer to proceed indicates that it is Docket No. 50200.² By October 3, 2023, the applicants must clarify the applicable docket.

Finally, the ALJ requires clarification on whether Undine seeks to change the rates of all customers to be transferred or only those outside the municipal limits of the City of Hideaway. In

¹ *Application of Pure Utilities, LC and Undine Texas, LLC for Sale, Transfer, or Merger of Water Facilities and Certificate Rights in Liberty, Polk, San Jacinto, and Tyler Counties, and to Decertify a Portion of Pure Utilities, LC’s Certificated Area and to Amend Uncertificated Water Service Area in Liberty and Polk Counties*, Docket No. 50017, Notice of Approval (Mar. 4, 2021).

² *Application of Undine Texas, LLC and Undine Texas Environmental, LLC for Authority to Change Rates*, Docket No. 50200, Order (Nov. 5, 2021).

its March 8, 2023 recommendation on the transaction, Commission Staff states that there is no demonstration that Hideaway ceded its ratemaking authority and that it was of the opinion that the Commission lacks the authority to change the rates of customers within Hideaway's municipal limits under Texas Water Code § 13.3011. In Commission Staff's March 23, 2023 request for extension and good cause exception, it states that the applicants provided evidence that a portion of the requested area is outside of Hideaway's municipal limits and that Commission Staff was working on verifying this and would potentially file a revised recommendation. No party further addresses the issue.

By October 3, 2023, the applicants must clarify whether any part of the requested area overlaps Hideaway's municipal limits and whether the requested area, including the portion within Hideaway's municipal limits served by one public water system. The applicants must also clarify whether Hideaway has ceded ratemaking authority to the Commission. Further, the applicants must provide a map depicting the requested area and Hideaway's municipal limits. Finally, the applicants must also provide a list of customers and subdivisions outside Hideaway's municipal limits who would be subject to a change in rates under TWC § 13.3011.

If Hideaway has not ceded its ratemaking authority to the Commission, the entire requested area is served by one public water system, and any part of the requested area overlaps Hideaway's municipal limits, the ALJ requires briefing on whether and how TWC § 13.3011 applies to this application. Texas Water Code § 13.3011(a) states that "...the regulatory authority with original jurisdiction over the rates for water or sewer service provided by the person to the customers of the system..." The statute does not appear to contemplate a situation in which there are two regulatory authorities with original jurisdiction over the rates for one public water system.

If briefing on the applicability of TWC § 13.3011 is required, the applicants and Commission Staff must file briefing by October 17, 2023.

Signed at Austin, Texas on the 19th day of September 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



for

SUSAN E. GOODSON

ADMINISTRATIVE LAW JUDGE