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DOCKET NO. 53765

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

ORDER NO. 23
APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the application of Crystal Systems Texas, Inc. and Undine Texas, LLC for approval of the sale, transfer, or merger of facilities and certificate rights in Smith County. The applicants seek approval of (a) the sale and transfer of the facilities and service area held under Crystal Systems' certificate of convenience and necessity (CCN) number 10804 to Undine; (b) the cancellation of Crystal Systems' CCN number 10804; and (c) the amendment of Undine's CCN number 13260 to include the facilities and service area previously included in Crystal Systems' CCN number 10804. The administrative law judge (ALJ) approves the transaction between Crystal Systems and Undine and the transaction may be completed.

I. Finding of Fact

The Commission makes the following findings of fact.

Applicants

1. Crystal Systems is a Texas corporation registered with the Texas secretary of state under filing number 0051759500.
2. Crystal operates, maintains, and controls facilities for providing retail water service in Smith County under CCN number 10804.
3. Crystal owns a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 2120015.
4. Undine is a Delaware corporation registered with the Texas secretary of state under filing number 802339329.

5. Undine operates, maintains, and controls facilities for providing retail water service in Brazos, Brazoria, Burleson, Chambers, Fort Bend, Harris, Johnson, Liberty, Matagorda, Montgomery, Polk, Robertson, San Jacinto, Tarrant, and Tyler counties under CCN number 13260.
6. Undine owns multiple public water systems registered with the TCEQ.

Application

7. On July 1, 2022, Crystal Systems and Undine, filed an application for the approval of the sale, transfer or merger of facilities and certificate rights in Smith County.
8. The applicants filed supplemental information on September 12, 14, 16, 21, and 22, October 6 and 31, November 9, and December 5, 2022; and January 23, March 23 and 24, April 26, and June 16 and 26, 2023.
9. In the application, as supplemented, the applicants seek approval of the following transaction:
 - a. the sale and transfer to Undine of the facilities and certificated service area under Crystal System's CCN number 10804;
 - b. the cancellation of Crystal Systems' CCN number 10804; and
 - c. the amendment of Undine's CCN number 13260 to include the facilities and area previously included in Crystal Systems' CCN number 10804.
10. The requested area includes approximately 10,528 acres and 2,234 current customers.
11. The requested area is located within and surrounding the City of Hideaway, Texas, and is generally bounded on the north by County Road 477 (John R. Bowdoin Road); on the east by County Road 411; on the south by County Road 46 (Old New Harmony Road); and on the west by County Road 411.
12. A portion of the service area of the CCN subject to this transaction falls within the initial rate jurisdiction of a municipality, Hideaway.
13. The Commission has initial rate jurisdiction in the service areas outside of Hideaway's municipal boundary, which includes approximately 2,000 connections.

14. In Order No. 7, filed on November 17, 2022, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

15. On December 5, 2022, Undine filed the affidavit of Carey A. Thomas, senior vice president of Undine, attesting that notice was provided to all current customers, landowners, neighboring systems, and affected parties on December 2, 2022.
16. On January 23, 2023, the applicants filed a publisher's affidavit attesting to the publication of notice in the *Tyler Morning Telegraph*, a newspaper of general circulation in Smith County, on November 23 and 30, 2022.
17. In Order No. 9 filed on February 15, 2023, the ALJ found notice sufficient.

Evidentiary Record

18. In Order No. 17 filed on September 8, 2023, the ALJ admitted the following evidence into the record of this proceeding:
 - a. The application and all attachments filed on July 1, 2022;
 - b. Undine's supplement to the application filed on September 12, 2022;
 - c. Undine's supplement to the application filed on September 14, 2022;
 - d. Undine's supplement to the application filed on September 16, 2022;
 - e. Undine's supplement to the application filed on September 21, 2022;
 - f. Undine's supplement to the application filed on September 22, 2022;
 - g. Undine's supplement to the application filed on October 6, 2022;
 - h. Undine's supplement to the application filed on October 31, 2022;
 - i. Undine's supplement to the application filed on November 9, 2022;
 - j. Staff's supplemental recommendation on administrative completeness and notice and proposed procedural schedule filed on November 16, 2022;
 - k. Undine's response to Order No. 7 filed on December 5, 2022;
 - l. Undine's supplemental response to Order No. 7 filed on January 23, 2023;

- m. Commission Staff's recommendation on notice filed on February 13, 2023;
 - n. Commission Staff's recommendation on the transaction filed on March 8, 2023;
 - o. Undine's supplement to the application filed on March 23, 2023;
 - p. Undine's supplement to the application filed on March 24, 2023;
 - q. Undine's supplement to the application filed on April 26, 2023;
 - r. Undine's supplement to the application filed on June 16, 2023;
 - s. Applicants' response to Order No. 14 filed on June 26, 2023; and
 - t. Commission Staff's response to Order No. 14 filed on July 25, 2023.
19. In Order No. 21 filed on December 21, 2023, the ALJ admitted the following evidence into the record of this proceeding:
- a. The applicants' response to Order No. 18 filed on September 25, 2023;
 - b. Commission Staff's response to Order No. 18 filed on October 17, 2023;
 - c. Commission Staff's response to Order No. 20 filed on November 29, 2023; and
 - d. Undine's response to Commission Staff's recommendation filed on November 30, 2023.

Intervenors

18. In Order No. 2 filed on August 1, 2022, the ALJ granted the Office of Public Utility Counsel (OPUC)'s motion to intervene.

Purchaser's Compliance History

19. Undine has been under an enforcement action by the Commission, Texas Commission on Environmental Quality (TCEQ), Texas Health and Human Services, the Office of the Attorney General, or the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.
20. On September 9, 2023, Undine confidentially filed updated information on its compliance history.

21. On November 29, 2023, Commission Staff recommended that Undine's updated compliance history did not change Commission Staff's recommendation on the purchase of Crystal Systems.
22. The Commission's complaint records, which go back to 2017, show 133 complaints against Undine. Three complaints have not been closed by the Commission's Customer Protection Division.
23. Undine does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.
24. Undine has demonstrated a compliance status that is adequate for approval of the transaction.

Adequacy of Existing Service

25. There are currently 2,234 connections in the 10,528-acre requested area that are being served by Crystal Systems through public water system number 2120015, and such service has been continuous and adequate.
26. The Commission's complaint records, which go back to 2017, show one complaint against Crystal Systems. The complaint has been closed by the Commission's Customer Protection Division.
27. Crystal Systems has no unresolved violations listed in the TCEQ database.
28. Capital improvements are not necessary for Undine to continue providing continuous and adequate service to the requested area.
29. There is no evidence in the record that Crystal Systems has failed to comply with any Commission or TCEQ order.

Need for Additional Service

30. There are 2,234 existing customer connections in the requested area that are receiving service from Crystal Systems and have an ongoing need for service.
31. This is an application to transfer only existing facilities, customer, and service area. There have been no specific requests for additional service within the requested area.

Effect of Approving the Transaction and Granting the Amendment

32. Undine will be the sole certificated water utility for the requested area.
33. Undine will be required to provide continuous and adequate water service to current and future customers in the requested area.
34. There will be no adverse effect on landowners in the requested area because the area is currently certificated and served by Crystal Systems.
35. Because this application is to transfer only existing facilities, customers, and service area, there will be no effect on any other retail public utility servicing the proximate area.

Ability to Serve: Managerial and Technical

36. Undine owns and operates numerous TCEQ-registered public water systems in Texas.
37. Undine employs or contracts with TCEQ-licensed operators who will operate the public water system being transferred.
38. Undine has the technical and managerial capability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

39. Crystal Systems is currently serving customers and has sufficient capacity.
40. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities would need to be constructed; at a minimum, an interconnection would need to be installed in order to connect to an adjacent public utility.
41. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation

42. It will not be necessary for Undine to construct a physically separate public water system to serve the requested area.
43. Because the requested area will not require construction of a physically separate public water system, evaluation of regionalization or consolidation with another retail public utility is not required.

Ability to Serve: Financial Ability

44. Undine's affiliate, Undine Group, LLC, is capable, available and willing to cover temporary cash shortages, and has a debt-to-equity ratio of less than one, satisfying the leverage test.
45. Undine has sufficient cash available to cover all projected operations and maintenance shortages in the first five years of operations.
46. No capital improvements are necessary for Undine to continue providing continuous and adequate service to the requested area following the transaction.
47. Undine demonstrated the financial capability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

Financial Assurance

48. There is no need to require Undine to provide a bond or other financial assurance to ensure continuous and adequate service.

Environmental Integrity and Effect on the Land

49. There will be no effect on environmental integrity or the land as a result of the transaction as the requested area will continue to be served by existing facilities.

Improvement of Service or Lowering Cost to Consumers

50. Undine will continue to provide water service to Crystal Systems' existing customers in the requested area.
51. Reliability and quality of water service is expected to improve under Undine's management.
52. Undine requested authorization to charge the customers served by the public water system being acquired its rates that are currently in force, which were approved in Docket No. 50017.¹

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 Part of Pure Utilities, LC's Certificated Area and to Amend Uncertificated Water Service Area in Liberty and Polk Counties, Docket No. 50017, Order (March 4, 2021).*

53. If authorization is granted, rates for customers in the requested area will be higher than the rates currently charged by Crystal Systems because Undine will charge its water utility tariffs rate that are currently in force.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance with Texas Water Code (TWC) §§ 13.246 and 13.301(a)(2) and 16 Texas Administrative Code (TAC) § 24.239(c).²
2. After evaluation of the factors in TWC § 13.246(c), Undine demonstrated that it is capable of rendering continuous and adequate service to every customer within the requested area, as required by TWC § 13.251.
3. Undine demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service in the requested area as required by TWC §§ 13.241(a) and 13.301(b).
4. The applicants demonstrated that the sale and transfer of all of Crystal Systems' facilities and service area to Undine will serve the public interest and is necessary for the continued service, accommodation, convenience, or safety of the public, as required by TWC §§ 13.246(b) and 13.301(d).
5. The Commission has initial rate jurisdiction over the CCN service area that is outside Hideaway's municipal boundary, under TWC §13.3011.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The transaction between Crystal Systems and Undine in this proceeding is approved and may be completed.

² After this application was filed, 16 TAC § 24.239 was amended, effective March 29, 2023. Accordingly, all references and citations to 16 TAC § 24.239 in this Order are made to the version in effect at the time the application was filed.

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 completed and customer deposits, if any, have been addressed.
3. The applicants have 180 days from the date of this Order to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not completed within this 180-day period and no extension has been granted, this approval is void and the applicants must reapply for approval.
5. CCN number 10804, and the associated facilities and service area, will continue to be held by Crystal Systems until the final order or notice of approval is issued in this matter, in accordance with the Commission's rules.
6. Undine is authorized to charge the customers outside Hideaway's municipal boundary the respective rates in the Tariff in Docket No. 50017. Undine will not charge an additional rate increase for 12 months after the approval of the sales transaction by the Commission or when the sale is consummated, whichever occurs later.
7. 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 completed.
8. Within 15 days following the filing of the applicants' proof that the transaction has been completed 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 on the 21ST day of December 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



SUSAN E. GOODSON

ADMINISTRATIVE LAW JUDGE