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| 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 | § | |

NOTICE OF APPROVAL

This Notice of Approval 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 Commission approves the following: (1) the sale and transfer to Undine of all facilities and service area held by Crystal Systems under CCN number 10804; (2) the amendment of Undine’s CCN number 13260 to include all facilities and service area previously held by Crystal Systems under CCN number 10804; (3) the cancellation of Crystal Systems’ CCN number 10804, and (4) the amendment of Undine CCN number 13260 to add 288 acres of uncertificated area, to the extent provided in this Notice of Approval.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Crystal Systems is a Texas corporation registered with the Texas secretary of state under file number 51759500.
2. Crystal Systems holds CCN number 10804 which obligates it to provide retail water service in its certificated service area in Smith County.
3. Crystal Systems 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 Texas holds CCN number 13260 which obligates it to provide retail water service in its certificated service area in several counties, including Smith County.

6. Undine owns multiple public water systems registered with the TCEQ.

Application

7. On July 1, 2022, the applicants filed the application at issue in this proceeding.
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:
- a. the sale and transfer to Undine of all facilities and service area held by Crystal Systems under CCN number 10804;
 - b. the cancellation of Crystal Systems' CCN umber 10804;
 - c. the amendment of Undine's CCN number 13260 to include the facilities and service area previously held by Crystal Systems under CCN number 10804; and
 - d. the addition of 288 acres of uncertificated area to Undine's CCN number 13260.
10. The requested area includes the following:
- a. 2,234 current customers connections;
 - b. 10,240 acres of certificated area under Crystal System's CCN number 10804; and
 - c. 288 acres of uncertificated area consisting of parcels where there are current customers of Crystal Systems receiving service, intermediate parcels, and parcels that are partially inside of Crystal System's existing CCN area.
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. There are approximately 2,000 customer connections located outside of Hideaway's municipal limits.
13. There are approximately 234 customer connections located inside of Hideaway's municipal limits.

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 for Undine, attesting that notice was mailed to all current customers, landowners, neighboring utilities, 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.
18. On June 26, 2023, Undine filed the affidavit of Vance Tillman, chief financial officer of Undine, attesting that notice was sent to landowners owning tracts of land over 25 acres wholly or partly inside the requested CCN area on June 16, 2023.
19. In Order No. 26 filed on April 29, 2024, the ALJ found Undine's notice, as supplemented, sufficient.

Evidentiary Record

20. 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. Commission 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.
21. In Order No. 21, filed on December 21, 2023 the ALJ admitted the following evidence into the record:
- 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.
22. In Order No. 25 filed on April 18, 2024, the ALJ admitted the following evidence into the record:
- a. Undine's notice of close of transaction filed on February 7, 2024;
 - b. Commission Staff's recommendation on sufficiency of closing documents filed on February 22, 2024;
 - c. Crystal Systems' consent form filed on March 25, 2024;

- d. Undine's consent form filed on April 1, 2024; and
- e. The map, certificate, and tariff attached to the joint motion to admit supplemental evidence and proposed notice of approval filed on April 9, 2024.

Intervenors

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

Sale

- 24. In Order No. 23 filed on December 21, 2023, the ALJ approved the sale and transaction to proceed and required the applicants to file proof that the transaction had closed, and customer deposits had been addressed.
- 25. On February 7, 2024, the applicants filed notice that the sale had closed on January 9, 2024, and confirmed that there were no outstanding customer deposits that needed to be addressed.
- 26. In Order No. 24 filed on February 27, 2024, the ALJ found the closing documents sufficient.

Purchaser's Compliance History

- 27. Undine has been under an enforcement action by the TCEQ in the past five years for non-compliance with rules, orders, or state statutes.
- 28. On September 25, 2023, Undine confidentially filed information demonstrating it is working to resolve all outstanding violations.
- 29. The Commission's complaint records, which go back to 2017, show 133 complaints against Undine. Three of these complaints have not been closed by the Commission's Consumer Protection Division.
- 30. Undine does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.
- 31. Undine has demonstrated a compliance status that is adequate for approval of the transaction.

Adequacy of Existing Service

32. There are currently 2,234 water customer connections in the requested area that are being served by Crystal Systems through public water system number 2120015 and such service has been continuous and adequate.
33. The Commission's complaint records, which date back to 2017, show one complaint against Crystal Systems. The complaint has been closed by the Commission's Customer Protection Division.
34. Crystal Systems has no existing violations listed in the TCEQ database.
35. Undine has planned capital improvements for the water system being transferred to ensure continuous and adequate service to the requested area. The capital improvements are estimated to cost in excess of \$100,000.
36. There is no evidence in the record that Crystal Systems has failed to comply with any Commission or TCEQ order.

Need for Additional Service

37. There is a continuing need for service because Crystal Systems is currently serving 2,234 customer connections in the requested area.
38. The requested area includes uncertificated area with existing facilities owned by Crystal Systems and existing customers served by Crystal Systems.

Effect of Approving the Transaction and Granting the Amendment

39. Undine will be the sole certificated water utility for the requested area.
40. Undine will be obligated to provide continuous and adequate water service to current and future customers in the requested areas.
41. All retail public utilities in the proximate area were provided notice of the transaction and none filed a protest, adverse comment, or motion to intervene.
42. There will be no effect on any retail public utility providing service in the proximate area.
43. Landowners in the requested area will be able to obtain water service from Undine.

Initial Rates

44. Undine requested approval to charge acquired customers that do not live within the municipal limits of Hideaway initial rates and service charges that are shown in the water tariff issued to Undine at the time the application was filed.
45. The application was considered filed on November 17, 2022, when it was deemed administratively complete.
46. On November 17, 2022, Undine's tariff in force for its public water systems was approved in Docket No. 50017.¹
47. Undine's water tariff rates, as shown in the tariff filed in Docket No. 50017, are just and reasonable initial rates for Aqua to charge to customers served by Crystal Systems' public water system, identification number 2120015.

Ability to Serve: Managerial and Technical

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

Ability to Serve: Financial Ability and Stability

51. 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.
52. Undine presented financial statements for Undine Group, LLC with an unqualified auditor's opinion stating that the financial statements present fairly, in all material aspects, the financial position of Undine Group, LLC as of December 31, 2021.

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, Notice of Approval (Mar. 4, 2021).*

53. Undine has sufficient cash available to cover all projected operations and maintenance shortages in the first five years of operations.
54. Undine provided a guaranty agreement between itself and its guarantor, Undine Group, LLC, which states that Undine Group, LLC is capable, available, and willing to cover temporary cash shortages.
55. Undine submitted documents demonstrating funds are available for the purchase price of Crystal System's water system and for the construction of capital improvements necessary for Undine to provide continuous and adequate service to existing customers on the system.
56. Undine submitted a capital improvement plan that included a budget and an estimated timeline for construction of all facilities necessary to provide service in the requested area, keyed to a map showing where such facilities will be located.
57. 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

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

Feasibility of Obtaining Service from Adjacent Retail Public Utility

59. Crystal Systems is currently serving customers and has sufficient capacity.
60. 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 interconnect would need to be installed to connect to a neighboring retail public utility.
61. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation

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

Environmental Integrity and Effect on the Land

64. The effect on environmental integrity and the land will be temporary as capital improvements are made to enable Undine to provide continuous and adequate service to the requested area.

Improvement of Service or Lowering Cost to Consumers

65. Water service in the requested area is expected to improve because Undine intends to make upgrades, renovations, and repairs necessary to improve the safety and reliability of service.
66. Undine requested authorization to charge the customers served by the public water system being acquired the rates that are in force for Undine's other water systems.
67. Rates for customers in the requested area that reside outside of the municipal limits of Hideaway will be higher than the rates currently charged by Crystal Systems for those same customers because Undine will charge its current water utility tariff's rates.

Map, Certificate, and Tariff

68. On March 22, 2024, Commission Staff emailed the proposed final map to Crystal Systems and the proposed final map, certificate, and tariff to Undine for consent.
69. On March 25, 2024, Crystal Systems filed its consent form concurring with the proposed final map.
70. On April 1, 2024, Undine filed its consent forms concurring with the proposed final map, certificate, and tariff.
71. On April 9, 2024, the final map, certificate, and tariff were filed as attachments to the joint motion to admit evidence.

Informal Disposition

72. More than 15 days have passed since the completion of notice provided in this docket.
73. No person filed a protest or motion to intervene.
74. Crystal Systems, Undine, OPUC, and Commission Staff are the only parties to this proceeding.
75. No party requested a hearing, and no hearing is needed.

76. Commission Staff recommended approval of the application.
77. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.241, 13.242, 13.244, 13.246, 13.251, and 13.301.
2. Undine and Crystal Systems are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. The Commission processed this application as required by the TWC, the Administrative Procedure Act,² and Commission rules.
4. The application meets the requirements of TWC § 13.244 and 16 TAC § 24.233.
5. Crystal Systems and Undine provided notice of the application that complies with TWC §§ 13.246 and 13.301(a)(2), and 16 TAC §§ 24.235 and 24.239.³
6. Undine and Crystal Systems have complied with the requirements of 16 TAC § 24.239(k) and (l) with respect to customer deposits.
7. Undine and Crystal Systems completed the sale and transfer within the time required by 16 TAC § 24.239(m).
8. After consideration 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.
9. 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).

² Tex. Gov't Code §§ 2001.001–.903.

³ 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 Notice of Approval are made to the version in effect at the time the application was filed.

10. Undine submitted documentation demonstrating that it has funds immediately available for the purchase of the water system being transferred plus the capital improvements necessary to provide continuous and adequate service to existing customers, in compliance with 16 TAC § 24.11(e)(5)(A).
11. It is not necessary for Undine to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
12. Regionalization and consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because construction of a physically separate water system is not required.
13. The extension of Undine's water utility tariff rates to customers served by Crystal Systems' public water system, identification number 2120015, that reside outside the municipal limits of Hideaway, complies with TWC §§ 13.182 and 13.3011.
14. The applicants demonstrated that the sale and transfer of Crystal Systems' facilities and service area to Undine and the amendment of Undine's CCN number 13260 will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public under TWC §§ 13.246(b) and 13.301(d) and (e).
15. Under TWC § 13.257(r) and (s), Undine must record a certified copy of the certificate and the map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Smith County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording.
16. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

I. 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 the transfer of all facilities and service area held by Crystal Systems under CCN number 10804 to Undine, as shown on the attached map.
2. The Commission amends Undine's CCN number 13260 to include all facilities and service area previously included in Crystal Systems' CCN number 10804.

3. The Commission amends Undine's CCN number 13260 to add 288 acres of uncertificated service area.
4. The Commission cancels Crystal Systems' CCN number 10804.
5. The Commission approves the map attached to this Notice of Approval.
6. The Commission approves the tariff attached to this Notice of Approval, effective for usage on and after the date of this Notice of Approval.
7. The Commission issues the certificate attached to this Notice of Approval.
8. Undine must provide service to every customer or qualified applicant for service within the approved area under CCN number 13260 that requests water service and meets the terms of Undine's water service policies, and such service must be continuous and adequate.
9. Undine must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Smith County affected by the application and file in this docket proof of the recording no later than 45 days after receipt of the Notice of Approval.
10. Within ten days of the date of the Notice of Approval, Commission Staff must provide a clean copy of the tariff approved by this Notice of Approval to Central Records to be marked *Approved* and filed in the Commission's tariff books.
11. The Commission denies all other motions and any other requests for general or specific relief that are not expressly granted.

Signed at Austin, Texas on the 2nd day of May 2024.

PUBLIC UTILITY COMMISSION OF TEXAS



SUSAN E. GOODSON
ADMINISTRATIVE LAW JUDGE