



## **Filing Receipt**

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**Item Number - 39**

**DOCKET NO. 53827**

<b>APPLICATION OF UNDINE TEXAS,</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>LLC AND NITSCH AND SON UTILITY</b>	<b>§</b>	
<b>COMPANY, INC FOR SALE,</b>	<b>§</b>	<b>OF TEXAS</b>
<b>TRANSFER, OR MERGER OF</b>	<b>§</b>	
<b>FACILITIES AND CERTIFICATE</b>	<b>§</b>	
<b>RIGHTS IN HARRIS COUNTY</b>	<b>§</b>	

**COMMISSION STAFF’S RECOMMENDATION ON ADMINISTRATIVE  
COMPLETENESS AND NOTICE AND PROPOSED PROCEDURAL SCHEDULE**

**I. BACKGROUND**

On July 14, 2022, Undine Texas LLC and Nitsch and Son Utility Company, Inc. (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Rockwall County. Specifically, Applicants seeks approval to acquire facilities and to transfer water service area held under Certificate of Convenience and Necessity No. 13260.

On April 24, 2023, the administrative law judge filed Order No. 10, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file supplemental comments on the administrative completeness of the application and proposed notice and propose a procedural schedule by May 8, 2023. Therefore, this pleading is timely filed.

**II. ADMINISTRATIVE COMPLETENESS**

Staff has reviewed the application and supplemental information and, as detailed in the attached memorandum from Patricia Garcia of the Infrastructure Division and Ethan Blanchard of the Rate Regulation Division, recommends that the application is administratively complete. Staff’s recommendation on administrative completeness is not a comment on the merits of the application.

**III. NOTICE**

At this time, Staff recommends that the Applicants proceed with providing public notice to all current customers, neighboring utilities, political subdivisions, and other persons listed in the attached memorandum using the notice form provided by Ms. Garcia. Along with each individual notice, Staff recommends that the Applicants provide an accurate map delineating the requested service area.

Once notice has been provided, Staff recommends that the Applicants file proof of notice as described in the attached memorandum, including an affidavit specifying the name and address of every person and entity to whom notice was provided, the date that the notice was provided, and a copy of the map provided with the notice. Finally, Staff recommends that the Applicants use the attached notice and affidavit to meet these requirements.

#### **IV. PROCEDURAL SCHEDULE**

Staff recommends that the application be found administratively complete. Therefore, Staff proposes the following procedural schedule:

<b>Event</b>	<b>Date</b>
Deadline for the Applicants to file with the Commission signed affidavits that the notice was given along with a copy of the notice and map sent to the affected parties	June 22, 2023
Deadline for Staff to file a recommendation on sufficiency of notice	July 5, 2023
Deadline to intervene	30 days after notice is issued

#### **V. CONCLUSION**

For the reasons detailed above, Staff recommends that the application be found administratively complete, that the Applicants be directed to provide notice as described in the attached memorandum, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: May 8, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Marisa Lopez Wagley  
Interim Division Director

John Harrison  
Managing Attorney

/s/ Ian Groetsch  
Ian Groetsch  
State Bar No. 24078599  
Forrest Smith  
State Bar No. 24093643  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7265  
(512) 936-7268 (facsimile)  
Ian.Groetsch@puc.texas.gov

**DOCKET NO. 53827**

**CERTIFICATE OF SERVICE**

I certify that unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on May 8, 2023, in accordance with the Second 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, Attorney  
Legal Division

**FROM:** Patricia Garcia, Infrastructure Analysis Section Director  
Infrastructure Division

**DATE:** May 8, 2023

**RE:** Docket No. 53827 – *Application of Undine Texas, LLC and Nitsch and Son Utility Company, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris County*

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On July 14, 2022, Undine Texas, LLC (Undine) and Nitsch & Son Utility Company, Inc. (Nitsch & Son) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Harris County, Texas, under Texas Water Code (TWC) §§ 13.242 through 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237 and § 24.239.

Specifically, Undine, Certificate of Convenience and Necessity (CCN) No. 13260, seeks approval to acquire facilities and to transfer all of the water service area from Nitsch & Son under water CCN No. 11124 and to amend uncertificated area to CCN No. 13260.

Based on the mapping review by Hank Journeay, Infrastructure Division, the maps submitted with Item 9 on July 25, 2022 are sufficient.

- The requested area includes 710 customer connections and approximately 322 acres, comprised of:  
47 acres of uncertificated area;  
275 acres of transferred area from Nitsch & Son (CCN No. 11124) to Undine (CCN No. 13260).
- The application proposes the subtraction of approximately 275 acres from CCN No. 11124 and the addition of approximately 322 acres to CCN No. 13260.

A portion of the requested area is inside the City of Houston city limits. Under 16 TAC § 24.233(a)(4), if a requested CCN amendment is inside the corporate boundaries of a municipality the applicant must provide evidence that approvals have been obtained from the necessary parties. Undine has contacted the City of Houston to receive their consent. Under

16 TAC § 24.233(c)(4), if a municipality with a population of 500,000 or more has not consented to a formal request for service from a landowner or retail public utility within 180 days of receiving the request the Commission may grant the CCN under the following conditions:

- A. The Commission finds the municipality does not have the ability to provide service or has failed to make a good faith effort to provide service,
- B. The municipality has not entered into an agreement with the landowner or retail public utility before the 180<sup>th</sup> day after the formal request was made, and
- C. The landowner or retail public utility have not unreasonably refused to comply with the municipality's service extension and development process or refused or to enter into a contract with the municipality.

Prior to final approval, Undine must provide a signed letter of consent from the City of Houston or request the Commission approve the application under 16 TAC § 24.233(c)(4).

Based on the mapping review, consideration of the rules listed above and the fact that Undine has been trying to get the consent from the City of Houston, my technical and managerial review of the additional information filed on July 25, 2022, September 15, 2022, September 22, 2022, January 31, 2023, and April 20, 2023, I recommend that the application be deemed administratively complete. I further recommend that the Applicants be ordered to do the following:

- 1) Provide notice of the application by first-class mail to the following:
  - a. Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area:
    - *Airline Improvement District*
    - *Aqua Texas Inc. (CCN No. 13203)*
    - *Blue Bell Manor Utility Co. Inc. (CCN No. 10963)*
    - *Central Harris County Regional Water Authority*
    - *City of Houston*
    - *Coastal Water Authority*
    - *Country Living Apt Water Well (CCN No. 12590)*
    - *East Aldine Management District*
    - *Fallbrook Utility District*
    - *Greater Northside Management District*
    - *Gulf Coast Authority*
    - *Harris County Flood Control District (HCFD)*
    - *Hooks Mobile Home Park LTD (CCN No. 13027)*
    - *Midway Water Utilities Inc. (CCN No. 12087)*
    - *Monarch Utilities I LP (CCN No. 12983)*
    - *North Freeway Center (CCN No. 11582)*
    - *North Houston District*
    - *Port of Houston Authority*
    - *Southern Water Corp. (CCN No. 11389)*
    - *Sunbelt Fresh Water Supply District (FWSD) (CCN No. 10833)*

- *Westfield Mobile Home Park (CCN No. 11782)*
- b. The county judge of each county that is wholly or partially included in the requested area:
  - *Harris County Judge*
- c. Each groundwater conservation district that is wholly or partially included in the requested area:
  - *Harris-Galveston Coastal Subsidence District List*
- d. Each owner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area. Notice must be mailed to the owner of the tract of land according to the most current tax appraisal rolls of the applicable central appraisal district at the time the application was filed.
- e. Any affected customers, and other affected parties in the requested area.

Addresses can be obtained from the Water Utility Database at <http://www.puc.texas.gov/watersearch>. District information and addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) web site located at <https://www14.tceq.texas.gov/iwud/index.cfm>.

- 2) Publish notice once each week for two consecutive weeks in a newspaper having general circulation in the county where the requested area is located. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, Undine must file an affidavit specifying the notice that was provided to every person and entity to whom notice was provided and the date the notice was mailed.
- 3) Provide notice using the attached notice forms.
- 4) Provide a copy of the maps deemed sufficient during administrative review delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers.
- 5) File in the docket copy of notice and the maps deemed sufficient during administrative review along with the signed affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit and tear sheets for proof of newspaper publication.

Staff may determine that additional information is needed to make a final recommendation in this docket. If additional information is needed, Staff may send requests for information (RFI) to Undine and Nitsch & Son. Undine and Nitsch & Son will have 20 days from the receipt of the RFI to respond.

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Ian Groetsch  
Legal Division

**FROM:** Ethan Blanchard  
Kathryn Eiland  
Rate Regulation Division

**DATE:** May 8, 2023

**RE:** Docket No. 53827 – *Application of Undine Texas, LLC and Nitsch and Son Utility Company, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris County*

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On July 14, 2022, Undine Texas, LLC (Undine), CCN No. 13260, and Nitsch and Son Utility Company, Inc. filed an application for the sale and transfer of facilities and certificate rights in Harris County under the provisions of Texas Water Code § 13.301 and 16 Texas Administrative Code § 24.239.

We reviewed the answers provided to questions 4, 10, 11, 12, and 14 of the application. We did not identify any deficiencies in those answers for purposes of determining whether the application is administratively complete. Therefore, we recommend that the Commission deem the application administratively complete from a financial perspective.



***Notice to Current Customers, Landowners, Neighboring Systems, and Cities***  
UNDINE TEXAS, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 13260, NOTICE OF INTENT TO AMEND UNCERTIFICATED AREA TO CCN NO. 13260 AND PURCHASE WATER FACILITIES AND TO TRANSFER WATER SERVICE AREA UNDER CCN NO. 11124 FROM NITSCH & SON UTILITY COMPANY, INC. IN HARRIS COUNTY, TEXAS

To: \_\_\_\_\_ Date Notice Mailed: \_\_\_\_\_, 20\_\_\_\_  
(Name of Customer, Neighboring System, or City)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City State Zip)

<u>Undine Texas, LLC</u>	<u>17681 Telge Road</u>	<u>Cypress, TX</u>	<u>77429</u>
(Purchaser's Name)	(Address)	(City), (State)	(Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to amend uncertificated area to CCN No. 13260 and to purchase all of the water facilities and to transfer water certificated service area under CCN No. 11124, in Harris County, TX from:

<u>Nitsch &amp; Son Utility Company, Inc.</u>	<u>8131 Northline Drive</u>	<u>Houston, TX</u>	<u>77037</u>
(Seller's Name)	(Address)	(City), (State)	(Zip Code)

The requested area overlaps the district boundaries of:

- *Airline Improvement District*
- *Coastal Water Authority*
- *Gulf Coast Authority*
- *Harris County Flood Control District (FCD)*
- *Port of Houston Authority*

If these districts do not request a public hearing, the Commission shall determine that the district is consenting to the Undine Texas, LLC's request to provide retail water utility service in the requested area.

The sale is scheduled to take place if approved by the Commission (Texas Water Code § 13.301), the transaction and the transfer of the CCN includes the following subdivisions:  
Bellmar, Bellmar Estates, Bellmar Terrace, Durkee Manor, Assumption Heights, Airline Village, and Meadowland

The requested area includes 710 customer connections, is located approximately 7.9 mile(s) north of downtown Houston, Texas, and is generally bounded on the north by Gulf Bank Road; on the east by Airline Drive; on the south by Little York Road; and on the west by Berwyn Drive.

The requested area includes approximately 322 acres, comprised of:

- 47 acres of uncertificated area;
- 275 acres of transferred area from Nitsch & Son Utility (CCN No. 11124) to Undine Texas, LLC (CCN No. 13260).

The application proposes the subtraction of approximately 275 acres from CCN No. 11124 and the addition of approximately 322 acres to CCN No. 13260.

**A copy of the maps showing the requested area are available at:** 17681 Telge Road, Cypress, Texas 77429

The proposed transaction may change the current customers' rates and services to the current approved rates and services of Undine Texas, LLC (in tariff as Rate Year 3, effective August 1, 2022), which are higher than the current rate for a 5/8" meter for Nitsch & Son Utility Company, Inc. To view a copy of the current approved tariff, go to: <https://undinellc.com/wp-content/uploads/Undine-Texas-LLC-Water-Tariff.pdf> or email [info@undinellc.com](mailto:info@undinellc.com) or call (713) 574-5953 to request a copy.

**BILLING COMPARISON of an estimated water bill for a 5/8" meter**

Existing	2,000 gallons: \$	<u>26.08</u>	/mo	New Rate	2,000 gallons: \$	<u>55.75</u>	/mo
Existing	5,000 gallons: \$	<u>35.20</u>	/mo	New Rate	5,000 gallons: \$	<u>62.98</u>	/mo
Existing	10,000 gallons: \$	<u>50.40</u>	/mo	New Rate	10,000 gallons: \$	<u>78.71</u>	/mo

*Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.*

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the uncertificated requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner's tract of land, landowner's name, address, email address and fax number, if applicable.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas  
Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

\_\_\_\_\_  
Utility Representative

\_\_\_\_\_  
Utility Name

***Notice for Publication***

UNDINE TEXAS, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 13260, NOTICE OF INTENT TO AMEND UNCERTIFICATED AREA TO CCN NO. 13260 AND PURCHASE WATER FACILITIES AND TO TRANSFER WATER SERVICE AREA UNDER CCN NO. 11124 FROM NITSCH & SON UTILITY COMPANY, INC. IN HARRIS COUNTY, TEXAS

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If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for a final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the uncertificated requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner's tract of land, landowner's name, address, email address and fax number, if applicable.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas  
Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

# PUBLIC UTILITY COMMISSION OF TEXAS



## AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING UTILITIES, AND AFFECTED PARTIES DOCKET NO. 53827

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ has provided individual  
notice to the following entities and customers:

DATE OF NOTICE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### OATH

I, \_\_\_\_\_, being duly sworn, file this form as  
\_\_\_\_\_ (indicate relationship to applicant, that is,  
owner, member of partnership, title of officer of corporation, or other authorized representative of  
applicant); that in such capacity, I am qualified and authorized to file and verify such form, am  
personally familiar with the notices given with this application, and have complied with all notice  
requirements in the application and application acceptance letter; and that all such statements made  
and matters set for therein are true and correct.

\_\_\_\_\_  
Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant,  
or its attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_

# PUBLIC UTILITY COMMISSION OF TEXAS



## PUBLISHER'S AFFIDAVIT DOCKET NO. 53827

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_,  
who being by me duly sworn, deposes and that (s)he is the

\_\_\_\_\_ of the \_\_\_\_\_  
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in \_\_\_\_\_  
(COUNTY/COUNTIES)

and generally circulated in \_\_\_\_\_, Texas;  
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

\_\_\_\_\_  
(DATES)

\_\_\_\_\_  
(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_