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DOCKET NO. 53828

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

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

I. INTRODUCTION

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 Harris County. Applicants filed supplemental information on July 25, September 15 and 22, October 6, November 9 and 10, 2022.

On November 9, 2022, the administrative law judge (ALJ) filed Order No. 4, 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 November 21, 2022. 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:

Event	Date
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	January 5, 2023
Deadline for Staff to file a recommendation on sufficiency of notice	January 16, 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: November 21, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

John Harrison
Managing Attorney

/s/ Ian Groetsch
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DOCKET NO. 53828

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 via electronic mail on November 21, 2022 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Ian Groetsch
Ian Groetsch

Public Utility Commission of Texas

Memorandum

TO: Ian Groetsch, Attorney
Legal Division

FROM: Patricia Garcia, Infrastructure Analysis Section Director
Infrastructure Division

DATE: November 21, 2022

RE: Docket No. 53828 – *Application of Undine Texas Environmental, LLC and Nitsch and Son Utility Company, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris County*

Undine Texas Environmental, 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. 20816, seeks approval to acquire facilities and to transfer all of the sewer service area from Nitsch & Son under sewer CCN No. 20446 and to amend uncertificated area to CCN No. 20816.

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 605 customer connections and approximately 278 acres, comprised of:
83 acres of uncertificated area;
195 acres of transferred area from Nitsch & Son (CCN No. 20446) to Undine (CCN No. 20816).
- The application proposes the subtraction of approximately 195 acres from CCN No. 20446 and the addition of approximately 278 acres to CCN No. 20816.

Based on my technical and managerial review of the additional information filed on July 25, 2022, 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. 21065)*
 - *Blue Bell Manor Utility Co. Inc. (CCN No. 20722)*
 - *Central Harris County Regional Water Authority*
 - *City of Houston*
 - *Coastal Water Authority*
 - *East Aldine Management District*
 - *Fallbrook Utility District*
 - *Galco Utilities (CCN No. 20546)*
 - *Greater Northside Management District*
 - *Gulf Coast Authority*
 - *Harris County Flood Control District (FCD)*
 - *Hooks Mobile Home Park LTD (CCN No. 20932)*
 - *Monarch Utilities I LP (CCN No. 20899)*
 - *North Freeway Center (CCN No. 20556)*
 - *North Houston District*
 - *Port of Houston Authority*
 - *Roving Meadows Utilities (CCN No. 20851)*
 - *Southern Water Corp. (CCN No. 20500)*
 - *Sunbelt Fresh Water Supply District (FWSD) (CCN No. 20347)*
 - *West Road Water Supply Corporation (WSC) (CCN No. 20701)*
 - *Westfield Mobile Home Park (CCN No. 20596)*
- 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*
- 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 form(s).
- 4) Provide a copy of the map(s) 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 map(s) 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

Memorandum

TO: Ian Groetsch
Legal Division

FROM: Ethan Blanchard
Kathryn Eiland
Rate Regulation Division

DATE: November 21, 2022

RE: Docket No. 53828 – *Application of Undine Texas Environmental, LLC and Nitsch and Son Utility Company, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris County*

On July 14, 2022, Undine Texas Environmental, LLC (Undine), CCN No. 20446, 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 ENVIRONMENTAL, LLC, CERTIFICATE OF CONVENIENCE AND
NECESSITY (CCN) NO. 20816, NOTICE OF INTENT TO AMEND UNCERTIFICATED
AREA TO CCN NO. 20816 AND PURCHASE SEWER FACILITIES AND TO TRANSFER
SEWER SERVICE AREA UNDER CCN NO. 20446 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)

Undine Texas Environmental, LLC 17681 Telge Road Cypress, TX 77429
(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. 20816 and to purchase all of the sewer facilities and to transfer
sewer certificated service area under CCN No. 20446, in Harris County, TX from:

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

The requested area overlaps the district boundaries of:

- *Airline Improvement District*
- *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 Environmental, LLC 's request to provide retail sewer 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:

The requested area includes 605 customer connections, is located approximately 8 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 278 acres, comprised of:

83 acres of uncertificated area;

195 acres of transferred area from Nitsch & Son Utility (CCN No. 20446) to Undine
Texas Environmental, LLC (CCN No. 20816).

The application proposes the subtraction of approximately 195 acres from CCN No. 20446 and the addition of approximately 278 acres to CCN No. 20816.

See enclosed map showing the requested area.

The proposed transaction will change the current customers' rates and services to the current approved rates and services of Undine Texas Environmental, LLC, which are higher than the current rate for all meter sizes for Nitsch & Son Utility Company, Inc. To view a copy of the current approved tariff, go to: <https://www.undinellc.com/wp-content/uploads/Undine-Texas-Environmental-LLC-Sewer-Tariff.pdf> or email info@undinellc.com or call 713-574-5953 to request a copy.

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 ENVIRONMENTAL, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 20816, NOTICE OF INTENT TO AMEND UNCERTIFICATED AREA TO CCN NO. 20816 AND PURCHASE SEWER FACILITIES AND TO TRANSFER SEWER SERVICE AREA UNDER CCN NO. 20446 FROM NITSCH & SON UTILITY COMPANY, INC. IN HARRIS COUNTY, TEXAS

<u>Undine Texas Environmental, 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. 20816 and to purchase all of the sewer facilities and to transfer sewer certificated service area under CCN No. 20446, in Harris County, TX from:

<u>Nitsch & 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*
- *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 Environmental, LLC 's request to provide retail sewer 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:

The requested area includes 605 customer connections, is located approximately 8 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 278 acres, comprised of:

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The application proposes the subtraction of approximately 195 acres from CCN No. 20446 and the addition of approximately 278 acres to CCN No. 20816.

A copy of the map showing the requested area is available at: 17681 Telge Road, Cypress, TX 77429

The proposed transaction may change the current customers' rates and services to the current approved rates and services of Undine Texas Environmental, LLC, which are higher than the current rate for all meter sizes for Nitsch & Son Utility Company, Inc. To view a copy of the current approved tariff, go to: <https://www.undinellc.com/wp-content/uploads/Undine-Texas-Environmental-LLC-Sewer-Tariff.pdf> or email info@undinellc.com or call 713-574-5953 to request a copy.

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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. 53828

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. 53828

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 _____