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DOCKET NO. 53869

APPLICATION OF UNDINE TEXAS ENVIRONMENTAL, LLC TO AMEND ITS SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY IN FORT BEND COUNTY §
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PUBLIC UTILITY COMMISSION OF TEXAS

**ORDER NO. 11
LIFTING ABATEMENT, REQUIRING CLARIFICATION, AND ADOPTING
PROCEDURAL SCHEDULE**

This Order addresses Commission Staff and Undine Texas Environmental, LLC’s January 4, 2024 joint proposed procedural schedule for continued processing of this application.

In Order No. 10 filed on November 10, 2023, the administrative law judge (ALJ) abated this proceeding until January 18, 2024 to allow time for Undine to receive documentation from the Texas Commission on Environmental Quality (TCEQ). On December 29, 2023, Undine filed TCEQ documentation.

The ALJ lifts the abatement. Upon review of the docket, the ALJ has identified the following issues that must be addressed and requires the following clarification or supplemental information.

I. Capital Improvement Plan

Under Texas Water Code (TWC) § 13.244(d)(3) and 16 Texas Administrative Code (TAC) § 24.233(a)(6), an applicant for a certificate of convenience and necessity (CCN) or amendment to a CCN must provide a capital improvement plan, which must include a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area and must be keyed to a map showing where the facilities will be located to provide service.¹ A pro forma budget is not a capital improvement plan under the TWC or the Commission’s rules.²

By February 5, 2024, Undine must identify the documents that have been filed in this docket which constitute its capital improvement plan.

¹ *Application of Liberty County Utilities, LLC for Water and Sewer Certificates of Convenience and Necessity in Liberty County*, Docket No. 52391, Order Remanding Proceeding to Docket Management at 2 (Oct. 20, 2023).

² *Id.*

II. Loan Approval or Firm Capital Commitment

The requirements of 16 TAC § 24.11(e)(5) apply either when an applicant is proposing service to a new CCN area or a substantial addition to its current CCN area requiring capital improvements in excess of \$100,000. Under 16 TAC § 24.11(e)(5)(B), the owner must submit loan approval documents or firm capital commitments affirming funds are available to install the plant or equipment necessary to serve projected customers in the first two years of projections or a new water system or substantial addition to an existing water system if the applicant is proposing service to a new CCN area or new subdivision.

By February 5, 2024, Undine must identify the location in the record of its loan approval documents or firm capital commitment. While Undine appears to have filed documentation relating to loan approvals or firm capital commitment, this case has been abated since April 17, 2023 at the parties' request and the latest information the ALJ could locate relating to loan approvals or firm capital commitments was from filings in late 2022.

III. Notice of CCN Amendment

In proceedings involving an amendment to a CCN, notice must be mailed by first-class mail to each owner of a tract of land that is at least 25 acres and is wholly or partially included in the requested area according to the most current tax appraisal rolls of the applicable central appraisal district at the time the Commission received the application for the CCN amendment. Proof of notice that includes the names and mailing address, but does not identify which tracts of land in the requested area are at least 25 acres and who owns those tracts of land is not sufficient evidence of notice, as required under TWC § 13.246(a-1) and 16 TAC § 24.235(b)(2).³

By February 5, 2024, Undine must file an affidavit confirming that notice was mailed by first-class mail to each owner of a tract of land that is at least 25 acres and is wholly or partially included in the requested area according to the most current tax appraisal rolls of the applicable central appraisal district at the time the Commission received the application for the CCN amendment.

³ See *Application of Waters of Vista Ranch Water Supply Corporation and Aqua Water Supply Corporation for Sale, Transfer, or Merger of Facilities and Certificate Rights in Fayette County*, Docket No. 51646, Order Remanding Proceeding to Docket Management (May 11, 2023).

The ALJ adopts the following procedural schedule:

Event	Date
Deadline for Undine to file the requested clarification or supplemental information	February 5, 2024
Deadline for Commission Staff to provide final maps, certificates, and tariffs (if applicable), to applicant for review and consent	February 20, 2024 ⁴
Deadline for application to file signed consent forms with the Commission	March 4, 2024
If no hearing is requested, deadline for Commission Staff to file a final recommendation on the application	March 11, 2024
If no hearing is requested, deadline for parties to file joint proposed findings of fact and conclusions of law	March 18, 2024

Signed at Austin, Texas the 4th day of January 2024.

PUBLIC UTILITY COMMISSION OF TEXAS



CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE

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⁴ The parties requested a deadline of Monday, February 19, 2024, for Commission Staff to provide final maps, certificates, and tariffs (if applicable), to applicant for review and consent; however, the agency is closed on that date. The deadline moves to the next day the Commission is open for business, Tuesday, February 20, 2024, under 16 Texas Administrative Code § 22.4(a).