



## **Filing Receipt**

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**DOCKET NO. 55378**

<b>APPLICATION OF GUADALUPE-BLANCO</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RIVER AUTHORITY AND UNDINE TEXAS</b>	<b>§</b>	
<b>ENVIRONMENTAL, LLC FOR SALE,</b>	<b>§</b>	<b>OF TEXAS</b>
<b>TRANSFER, OR MERGER OF FACILITIES</b>	<b>§</b>	
<b>AND CERTIFICATE RIGHTS IN CALHOUN</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**JOINT MOTION TO ADMIT EVIDENCE  
AND PROPOSED ORDER APPROVING THE SALE AND TRANSFER TO PROCEED**

COME NOW Guadalupe-Blanco River Authority (GBRA), Undine Texas Environmental, LLC (Undine), (collectively, the Applicants), and the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, the Parties), and file this Joint Motion to Admit Evidence and Proposed Order Approving the Sale and Transfer to Proceed. In support thereof, the Parties show the following:

**I. BACKGROUND**

On August 16, 2023, GBRA and Undine filed an application for the sale, transfer, or merger of facilities and certificate rights in Calhoun County under the provisions of Texas Water Code § 13.301 and 16 Texas Administrative Code § 24.239. Specifically, Undine, holder of Certificate of Convenience and Necessity (CCN) No. 20816, seeks approval to acquire only facilities and customers from GBRA and to amend uncertificated area to Undine's CCN No. 20816. The application reflects a requested area of approximately 60 acres and 68 customer connections.

Applicants filed supplemental application information on September 28 and December 14 and 28, 2023, and March 6, 2024.

On February 29, 2024, the administrative law judge (ALJ) filed Order No. 6, establishing a deadline of March 27, 2024 for the Parties to file a joint motion to admit evidence and a proposed order approving the sale and allowing the transaction to proceed. Therefore, this pleading is timely filed.

**II. JOINT MOTION TO ADMIT EVIDENCE**

The parties respectfully request that the following documents be admitted into evidence in this proceeding:

- a. The application for sale, transfer or merger of facilities and certificate rights in Calhoun County, filed on August 16, 2023 (AIS Item Nos. 1-9);

- b. Commission Staff's recommendation on administrative completeness and notice, filed on September 18, 2023 (AIS Item No. 12);
- c. Undine's response to Order No. 2, filed on September 28, 2023 (AIS Item Nos. 14-15);
- d. Commission Staff's supplemental recommendation on administrative completeness and notice and proposed procedural schedule, filed on October 18, 2023 (AIS Item No. 16);
- e. Commission Staff's recommendation on notice and proposed procedural schedule, filed on December 1, 2023 (AIS Item No. 18);
- f. Undine's response to Order No. 4, filed on December 14, 2023 (AIS Item Nos. 20-21);
- g. Undine's supplemental response to Order No. 4, filed on December 28, 2023 (AIS Item No. 22);
- h. Commission Staff's supplemental recommendation on notice and proposed procedural schedule, filed on January 18, 2024 (AIS Item No. 23);
- i. Undine's application supplement, filed on March 6, 2024 (AIS Item No. 27);
- j. Commission Staff's recommendation on approval of the sale and CCN amendment in response to Order No. 6, with confidential attachment EB-1, filed on March 6, 2024 (AIS Item Nos. 28-29); and
- k. Undine's response to Staff recommendation, filed on March 13, 2024 (AIS Item No. 31).

### **III. JOINT PROPOSED ORDER APPROVING THE SALE AND TRANSFER TO PROCEED**

The parties move for the adoption of the attached Proposed Order Approving the Sale and Transfer to Proceed. The undersigned counsel for Undine represents that GBRA has authorized them to file this pleading on GBRA's behalf.

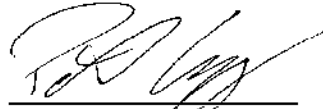
### **IV. CONCLUSION**

The Parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Proposed Order Approving the Sale and Transfer to Proceed.

Dated: March 27, 2024.

Respectfully submitted,

**GREGG LAW PC**



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**CERTIFICATE OF SERVICE**

I, Peter Gregg, certify by my signature above 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 March 27, 2024, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

**DOCKET NO. 55378**

<b>APPLICATION OF GUADALUPE-BLANCO</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RIVER AUTHORITY AND UNDINE TEXAS</b>	<b>§</b>	
<b>ENVIRONMENTAL, LLC FOR SALE,</b>	<b>§</b>	<b>OF TEXAS</b>
<b>TRANSFER, OR MERGER OF FACILITIES</b>	<b>§</b>	
<b>AND CERTIFICATE RIGHTS IN CALHOUN</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**JOINT PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED**

This Order addresses the application of Guadalupe-Blanco River Authority (GBRA), Undine Texas Environmental, LLC (Undine) (collectively, the Applicants), and the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, the Parties), for the sale, transfer, or merger of facilities and certificate rights in Calhoun County. Undine, holder of Certificate of Convenience and Necessity (CCN) No. 20816, seeks approval to acquire only facilities and customers from GBRA and to amend uncertificated area to Undine's CCN No. 20816. The administrative law judge (ALJ) grants that this sale is approved and the transaction between Applicants may proceed and be consummated.

**I. Findings of Fact**

The Commission makes the following findings of fact:

**Applicant**

1. GBRA is a conservation and reclamation district organized under Article 16, Section 59 of the Texas Constitution.
2. Undine is a domestic for-profit corporation registered with the Texas secretary of state under file number 801768069.
3. Undine operates, maintains, and controls facilities for providing sewer service in multiple Texas counties under CCN No. 20816.

**Application**

4. On August 16, 2023, GBRA and Undine filed an application for the approval of the sale, transfer or merger of facilities and certificate rights in Calhoun County.
5. Applicants filed supplemental information on September 28, December 14 and 28, 2023, and March 6, 2024.
6. The application, as supplemented, seeks approval of Undine's acquisition of only facilities and customers from GBRA and to amend uncertificated area to Undine's CCN No. 20816.

7. The sale and amendment affect approximately 60 acres and 68 current sewer customers in Calhoun County, Texas.
8. The area subject to this transaction is located approximately 4 miles west/southwest of downtown Port Lavaca, Texas, and is generally bounded on the north by 367 feet north of Bayou Drive; on the east by FM 2433; on the south by Sweetwater Road; and on the west by Chocolate Bayou.
9. Undine will amend its sewer CCN number 20816 to incorporate GBRA's uncertificated sewer service area.
10. In Order No. 3 filed on October 20, 2023, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

**Notice**

11. On December 14, 2023, Undine filed the affidavit of Chief Financial Officer Vance Tillman, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on December 4, 2023.
12. On December 14, 2023, Undine also filed the affidavit of Chief Financial Officer Vance Tillman, clarifying that there are no owners in the proposed area of a tract of land of at least 25 acres.
13. On December 28, 2023, Undine filed a publisher's affidavit attesting to the publication of notice in the *Port Lavaca Wave*, a newspaper of general circulation in Calhoun County, on December 13 and 20, 2023.
14. In Order No. 5, issued on January 22, 2024, the ALJ found the notice sufficient.

**Evidentiary Record**

15. On March 27, 2024, the Parties filed an agreed motion to admit evidence and proposed order approving the sale and transfer to proceed.
16. In Order No. \_\_\_\_ filed on \_\_\_\_\_, 2024, the ALJ admitted the following evidence into the record for this proceeding:
  - a. The application for sale, transfer or merger of facilities and certificate rights in Calhoun County, filed on August 16, 2023;
  - b. Commission Staff's recommendation on administrative completeness and notice, filed on September 18, 2023;
  - c. Undine's response to Order No. 2, filed on September 28, 2023;

- d. Commission Staff's supplemental recommendation on administrative completeness and notice and proposed procedural schedule, filed on October 18, 2023;
- e. Commission Staff's recommendation on notice and proposed procedural schedule, filed on December 1, 2023;
- f. Undine's response to Order No. 4, filed on December 14, 2023;
- g. Undine's supplemental response to Order No. 4, filed on December 28, 2023;
- h. Commission Staff's supplemental recommendation on notice and proposed procedural schedule, filed on January 18, 2024;
- i. Undine's application supplement, filed on March 6, 2024;
- j. Commission Staff's recommendation on approval of the sale and CCN amendment in response to Order No. 6, with confidential attachment EB-1, filed on March 6, 2024; and
- k. Undine's response to Staff recommendation, filed on March 13, 2024.

#### **Adequacy of Existing Service**

- 18. GBRA has several Texas Commission on Environmental Quality (TCEQ) wastewater treatment plants (WWTP) registered with the TCEQ as Crestview Subdivision, Permit No. WQ0013954001.
- 19. GBRA has two violations listed in the TCEQ database for this system which are being addressed.
- 20. The Commission's complaint records, which date back 5 years, show 4 complaints against GBRA. All the complaints have been reviewed and closed by the Commission's Consumer Protection Division.

#### **Need for Service**

- 21. There are currently 68 existing customers in the requested area, therefore, there is a need for service.
- 22. No additional service is needed at this time.

#### **Effect of Approving the Transaction and Granting the Amendment**

- 23. Undine will be the certificated entity for the requested area and be required to provide continuous and adequate service to the requested area.
- 24. There will be no effect on any retail public utility servicing the proximate area.

25. All retail public utilities in the proximate area were provided notice of the transaction taking place in this application and did not request to intervene.

**Ability to Serve: Managerial and Technical**

26. Undine has a sufficient number of licensed operators and the managerial and technical capability to provide adequate and continuous service to the requested service area.
27. Undine has sufficient capability to serve the customers and no additional construction is necessary.
28. Undine has violations listed in the TCEQ database which are being addressed.
29. The Commission's complaint records, which date back 5 years, show 2 complaints against Undine. All the complaints have been reviewed and closed by the Commission's Consumer Protection Division.

**Ability to Serve: Financial Ability and Stability**

30. Undine demonstrated that an affiliated interest is capable, available, and willing to cover temporary cash shortages.
31. Undine has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations.
32. Undine demonstrated adequate financial and managerial capability to provide continuous and adequate service to the requested area.

**Financial Assurance**

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

**Feasibility of Obtaining Service from Adjacent Retail Public Utility**

34. GBRA is currently serving customers and has sufficient capacity. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities will need to be constructed. Therefore it is not feasible to obtain service from an adjacent retail public utility.

**Regionalization or Consolidation**

35. The construction of a physically separate water system is not necessary for Undine to serve the requested area. Therefore, concerns of regionalization or consolidation do not apply.



**Environmental Integrity and Effect on the Land**

36. The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.

**Improvement of Service or Lowering Cost to Consumers**

37. The customers' rates will not change from the current rates for the Crestview Subdivision.
38. Reliability and quality of water service is expected to improve under Undine's management.

**II. Conclusions of Law**

The Commission makes the following conclusions of law:

1. The Commission has jurisdiction over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, 13.246, 13.251, 13.254, and 13.301.
2. GBRA and Undine are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Public notice of the application was provided as required by TWC § 13.301(a) and 16 TAC § 24.239(a) through (c).
4. The application was processed in accordance with the Administrative Procedure Act,<sup>1</sup> the TWC, and Commission rules.
5. After consideration of the factors in TWC § 13.246(c), Undine has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC § 13.301(b).
6. It is not necessary for Undine to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
7. Undine has demonstrated that the sale of GBRA's facilities and customers to Undine will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC §§ 13.246(b) and 13.301(d) and (e).
8. Undine has demonstrated that the amendment of its certificates of convenience and necessity will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public. TWC §§ 13.301(d), 13.246(b)

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<sup>1</sup> Tex. Gov't Code Ann. §§ 2001.001–903.

9. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

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

1. The sale is approved and the transaction between Undine and GBRA may proceed and be consummated.
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 consummated and customer deposits, if any, have been addressed.
3. Undine and GBRA have 180 days to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not consummated within this 180-day period, or an extension is not granted, this approval is void and Undine and GBRA will have to reapply for approval.
5. Undine and GBRA are advised that the requested areas and associated facilities will be held by GBRA until the sale and transfer transaction is complete, in accordance with Commission rules.
6. In an effort to finalize this case as soon as possible, Undine and GBRA must file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was completed.
7. 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.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted herein.

**Signed at Austin, Texas the \_\_\_\_\_ day of \_\_\_\_\_ 2024.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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ADMINISTRATIVE LAW JUDGE