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APPLICATION OF UNDINE, LLC.

BEFORE THE STATE OFFICE

FOR AUTHORITY TO CHANGE

RATES

OF ADMINISTRATE HEARINGS

NERRO (except Bayridge and Oaks at Houston Point Subdivision) INTERVENORS'

STATEMENT OF POSITION

Vincent Zinnante, as the designated representative for Nerro Intervenor's' (except Bayridge and Oaks of Houston Point Subdivisions), respectfully submits this statement of position pursuant to 16 Texas Administrative Code ("TAC") 22.124. The application, discovery responses, and testimonies filed by Undine, LLC., have been reviewed and the Nerro Intervenor's' take the following position:

I. NERRO INTERVENORS' POSITION

It is the Nerro Intervenor's' position that UNDINE, LLC. should not be allowed to implement the proposed tariff because combining the rate tariffs in 1) the water and wastewater tariffs consolidated in Docket No. 50200 and 2) the Nerro and Pure water and wastewater tariffs would create a new consolidated tariff that is neither just nor reasonable in accordance with Water Code Section 13.182. That is to say that the new consolidated rate may be unreasonably prejudicial or discriminatory to some classes of customers, in particular the Nerro and Pure customers.

By combining the Nerro and Pure Customers with Undine's existing customers under Docket 50200, Undine is proposing exorbitant rate increases forcing Nerro and Pure customers to subsidize others systems that are deficient and underperforming. In Undine's amended application filed December 19, 2024, they state that over \$45 million has been spent on its systems since the Order was issued on Docket 50200. From their exhibits, it can be determined that 13% of the \$45 million total outlay was spent on Nerro Systems and 8% of the total was spent on Pure Systems, and combined, representing 21% of the total amount expended. Yet, because of Undine's desire to consolidate the tariffs of those in

1) Docket 50200 and 2) the Nerro and Pure systems, the proposed percentage increase in water rates for Nerro and Pure customers will range from 81% to 531% depending on the particular system and the proposed percentage increase in sewer rates for Nerro and Pure customers will range from 78% to 492% depending on the particular system. The increase in revenue from the proposed tariffs will result in the Nerro system alone generating 37% of the increase in revenue for water and the Pure system generating an additional 16% of the increase in revenue for water, totaling 53% of the \$4.7 million of the proposed increase in water revenue. With regard to the increased sewer revenue, Nerro will generate 24% of the increase in revenue for sewer and Pure will accounts for 13% of the increase in revenue for sewer, totaling 37% of \$2 million of the proposed increase in sewer revenue. It should be noted that while Nerro and Pure could potentially generate 53% of increased water revenue and 37% of the increased sewer revenue, they only represent 36% of the total water ERC's and 22% of the total sewer ERC's.

Undine, through the supplemental direct testimony of Edward R. Wallace, Sr., states that "Undine prides itself on acquiring undercapitalized systems that are in need of repair. After we acquire these problem systems, we enter into a fairly rigorous capital improvement program to bring them into compliance". Many of Undines' systems have needed rehabilitation as evidenced by the chart provided in Mr. Wallace's supplemental direct testimony showing 14 wells drilled, 40 wells rehabbed, 4 WWTP expansions, 32 storage tanks, 93 pressure tanks as well as over 7400 leaks repaired. Further, Mr. Wallace states that they want to consolidate rate tariffs to "reduce the volatility of rates when large capital expenditures are required for one small system because the rate impact can be spread across more customers". Yet, the majority of these capital expenditures haven't been undertaken in the Nerro and Pure systems as evidenced by the fact that only 13% of the \$45 million capital expenditures was spent on the Nerro system and only 8% of the total was spent on the Pure system. No future or further costs for capital expenditures are planned or included in the application as has been stated and reaffirmed in discovery. The Nerro and Pure systems have not cost Undine in capital expenditures nearly what the two systems will generate in increased revenue if the proposed rate tariff is approved. The Nerro and Pure

systems are being unfairly burdened with costs that have nothing to do with their systems and as a result, Nerro and Pure customers will see excessive rate increases. Mr. Wallace continues that “customers in the Pure and Nerro systems will experience higher increases because these systems currently have much lower rates than the rates for Undine’s other systems. Some accommodation to mitigate rate shock may be appropriate for those customers”. It is evident by that statement that Undine’s management considers the Pure and Nerro rate tariffs excessive.

Undine, through supplemental direct testimony of Andy Thomas, says that the Nerro and Pure systems are “substantially similar to Undine’s other systems (excluding Greenshores) in terms of facilities, quality of service and cost of service”. Because of that assertion, all intervenors in this Docket were classified by system and reduced to one representative by SOAH 2. One particular system, Bayridge and Oaks at Houston Point Subdivisions under the Nerro system petitioned the ALJ that they needed separate representation due to their system being different and unique and were ultimately granted separate representation. As an example, the needs and requirements of the Wildwood Shores WWTP are in fact, not substantially similar to Undine’s other systems. As a grinder pump, pressurized system, Wildwood Shores’ WWTP may be similar to those customer owned grinder pump treatment facilities in Bayshore, and Sugartree; however, it is not substantially similar to any of the other WWTP plants serving customers in Pure, Gulf Coast, Orbit, or EMCAD. Wildwood Shores has a pressurized WWTP with customer supplied and maintained grinder pumps, supplying liquified sewage to a packaged above ground wastewater treatment plant. That treatment facility has no lift stations, no in ground treatment facilities and does not have to treat water infiltration from rain or runoff. Since the system is pressurized, lines are smaller and do not need to be buried as deep as a gravity flow conventional system. Costs to maintain a pressurized system are not the same as costs to conventional gravity flow WWTP facilities. Each system is unique and cannot be categorized as substantially similar to other Undine Systems.

Since Wildwood Shores WWTP is a grinder pump pressurized system, customers have had to buy, install and maintain their individual grinder pumps. Since Undine purchased

Nerro, they have maintained the position that the customer is responsible for the purchase, installation, maintenance and repair of grinder pumps. It has been asserted in the supplemental direct testimony of Vance Tillman that while Undine maintains the position that repair and maintenance of grinder pumps is the customer's responsibility, they "would like to reserve the right to include grinder pump maintenance in the proposed tariff". In response to WP and WWS POA 1-7 question, Benny Wilkinson states that "Undine's position is that maintenance of grinder pumps is the sole responsibility of the homeowner. It is not equitable to require other Undine Texas, LLC customers to pay for grinder pumps when they do not have similar service to customers in non-grinder pump communities." Using Mr. Wilkinson's argument, it is not equitable for Wildwood Shores grinder pump customers to pay for equipment such as lift stations, scrubbers, or other equipment that is unique to a conventional gravity fed WWTP serving Orbit, EMCAD, or Gulf Coast Wastewater customers since Nerro customers do not have similar service to customers in non-grinder pump, pressurized communities. We again assert that the proposed rate tariffs are not just and reasonable according to the Water Code Section 13.182.

II. CONCLUSION

For the reasons stated above, it is the Nerro Intervenor's position that Undine, LLC should not be granted its request for water and sewer rate tariffs as proposed in the Amended Application filed December 19, 2024. While we do believe that a reasonable rate increase may be justified, the Nerro and Pure customers should not bear the brunt of Undine's aggressive company growth through the purchase of undercapitalized systems in need of repair. Nerro and Pure systems should be reviewed under a rate tariff that would separate the Nerro and Pure customers much like as proposed for the Greenshores customers in this docket and is modified to mitigate the rate shock of these customers. The Nerro Intervenor's further request to be granted any other relief to which they may be entitled.

Date: May 16, 2025

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Vincent Zinnante", written in a cursive style.

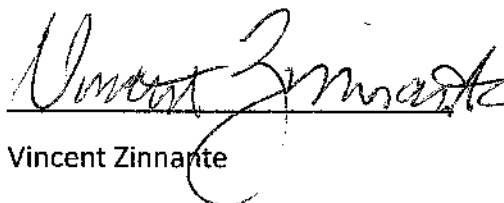
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CERTIFICATE OF SERVICE

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 in accordance with the Orders Suspending Rules filed in Project No. 50664.

A handwritten signature in black ink, appearing to read "Vincent Zinnante", written in a cursive style, positioned above a horizontal line.
Vincent Zinnante