



Filing Receipt

Filed Date - 2025-05-20 09:37:08 AM

Control Number - 56354

Item Number - 3739

**SOAH DOCKET NO. 473-25-14207
PUC DOCKET NO. 56354**

APPLICATION OF UNDINE, LLC FOR AUTHORITY TO CHANGE RATES	§ § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**UNDINE, LLC’S PETITION FOR REVIEW OF
MUNICIPAL DECISIONS AND MOTION TO CONSOLIDATE**

Undine, LLC (Undine or Company) files this Petition for Review (Petition) appealing the rate decisions of cities that failed to take either timely action or any action at all on Undine’s rate request as identified in the Company’s Amended Application and Statement of Intent to Change Rates (Amended Application).¹ Iowa Colony and Beach City failed to take timely action, and the municipalities that did not act are Kenefick, Manvel, and Dennis (collectively, Cities including Iowa Colony and Beach City). The deadline for final action was April 23, 2025. Accordingly, this filing is timely filed within the 30-day deadline prescribed by Texas Water Code (TWC) § 13.043(a) for *de novo* appeals of actions by a municipality related to the proposed rate change of a Class A water utility.² In support of this Petition and motion to consolidate, Undine respectfully shows the following:

I. MUNICIPAL DECISIONS

On December 19, 2024, Undine filed its Amended Application, which requested a rate change for customers that reside within Cities’ municipal boundaries, pursuant to TWC § 13.187. Simultaneously with that filing, Undine filed with the Public Utility Commission of Texas (Commission) its Amended Application within the areas over which the Commission has original jurisdiction based on the same cost of service schedules and supporting pre-filed supplemental direct testimony. That Amended Application can be found in Docket No. 56354. Undine’s proposed effective date was January 23, 2025, or 35 days after the Amended Application’s filing

¹ On August 7, 2024, Undine, LLC (Undine) filed a similar petition for review and motion to consolidate appealing the untimely action or inaction of Iowa Colony, Beach City, Kenefick, Manvel, and Dennis (Cities) on Undine’s rate request as identified in its original Application and Statement of Intent to Change Rates, which was filed on March 28, 2024. On August 15, 2024, the Commission granted this petition in Order No. 6 and consolidated Cities’ rate decisions with the current docket. However, Undine thereafter agreed to amend its application by December 31, 2024, to update the test year through June 30, 2024. Therefore, this current Petition for Review of Municipal Decisions and Motion to Consolidate relates to Cities’ untimely action or inaction on Undine’s proposed rates in its Amended Application.

² Texas Water Code (TWC) § 13.043(a).

date.³ Iowa Colony suspended Undine's proposed rate increase at its City Council meeting on January 13, 2025. Beach City did the same on January 28, 2025, or five days after the proposed effective date. Copies of Iowa Colony's and Beach City's suspension resolutions are attached as **Exhibit A**. Kenefick, Manvel, and Dennis did not take any action with respect to the rate increase proposals.

II. JURISDICTION

The Commission has jurisdiction over this appeal pursuant to TWC §§ 13.041, 13.042, 13.043(a), and 16 Tex. Admin. Code (TAC) § 24.101.

III. MOTION TO REVIEW AND CONSOLIDATE

Undine appeals Cities' rate decisions. While Iowa Colony suspended the proposed effective date in a timely manner, Undine is not aware that Iowa Colony took timely final action by either accepting or denying the Company's proposed rates.⁴ Beach City, on the other hand, did not act in a timely manner considering its City Council passed and approved the suspension resolution five days after the proposed effective date. Still, Beach City failed to take timely final action by April 23, 2025. Since Iowa Colony and Beach City did not make a final determination on Undine's rate request, the proposed rates are considered approved.⁵ Kenefick, Manvel, and Dennis failed to act at all by either suspending the effective date or denying the rate increase. Through their inaction, these cities also effectively approved the requested rate relief. Pursuant to 16 TAC § 24.101(a), Undine may appeal a governing body's ratemaking decision to the Commission.⁶ A decision not to take timely final action or a decision not to act may be appealed to the Commission, and such appeal by Undine is necessary to preserve parties' appellate rights. This appeal is also necessary for purposes of administrative efficiency and to maintain coordinated system-wide rates.

Moreover, this appeal involves issues of law and fact common to those involved in Docket No. 56354, and a separate hearing of this appeal and Docket No. 56354 would result in unwarranted expenses, delay, or substantial injustice. No party will be prejudiced by the consolidation of these issues. Thus, Undine requests that the Commission exercise its appellate

³ TWC § 13.187(a-1).

⁴ Iowa Colony included language in its resolution for both suspending and denying the proposed rates. The resolution as a whole suggests the city only intended to suspend the rate increase.

⁵ See TWC § 13.187(d-1).

⁶ 16 Tex. Admin. Code § 24.101(a).

jurisdiction under TWC § 13.043(a) to consolidate Undine's appeal of Cities' untimely action or inaction with this pending rate proceeding, conduct a *de novo* review of Cities' ratemaking decisions, and fix the rates that Cities should have fixed by approving Undine's Amended Application.

IV. RATE CASE EXPENSES

Undine also requests recovery of all rate case expenses incurred in the preparation of its Amended Application filed with Cities and otherwise related to this appeal, and it requests that all rate case expense issues associated with this appeal be consolidated with the rate case expense issues in Docket No. 56354 so that the Commission may determine what amount is reasonable and necessary under 16 TAC § 24.44 and TWC § 13.043(a). Because rate case expenses incurred in the preparation of the Company's applications with Cities and this Commission involve common questions of fact and law, separate hearings on these rate case expense issues would result in unwarranted expense, delay, or substantial injustice. Moreover, no party will be prejudiced by the consolidation of these issues.

V. NOTICE

Simultaneously with the filing of this Petition, Undine will serve a copy of this Petition on Cities.


VI. CONCLUSION

Undine respectfully requests that the Commission exercise its appellate jurisdiction under TWC § 13.043(a) to consolidate Undine's appeal of Cities' untimely action or inaction with this rate proceeding, conduct a *de novo* review of the Cities' ratemaking decisions, and grant Undine the relief requested in its Amended Application. Undine also requests all other relief to which it has shown itself entitled.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE
& TOWNSEND, P.C.**

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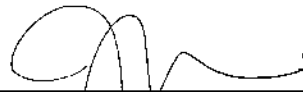
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ATTORNEYS FOR UNDINE, LLC

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 May 20, 2025, in accordance with the Order Suspending Rules, issued in Project No. 50664.



JAMIE L. MAULDIN

RESOLUTION NO. 2025-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS, SUSPENDING THE WATER AND WASTEWATER RATE INCREASES PROPOSED BY UNDINE, LLC FOR THEIR CUSTOMERS IN THE CITY OF IOWA COLONY (MAGNOLIA BEND FORMERLY KUCERA FARMS, SPRING CROSSING, AND 288 BUSINESS PARK); DENYING THE CHANGE IN WATER AND WASTEWATER RATES; AND PROVIDING FOR OTHER RELATED MATTERS THERETO

WHEREAS, Undine, LLC (Undine) is the owner of a water and wastewater system in the City of Iowa Colony, Texas (Magnolia Bend formerly Kucera Farms, Spring Crossing, and 288 Business Park); and

WHEREAS, Undine made an application with the Public Utility Commission to increase the water and wastewater rates for its customers located within its system, with the original application received on or around March 28, 2024; and

WHEREAS, the City received a public comment from a citizen regarding the quality of services provided by Undine; and

WHEREAS, after litigation surrounding the test year Undine used in its original application, Undine and the Staff of the Public Utility Commission (PUC) agreed to abate the proceedings to allow time for Undine to amend the application to use a test year ending June 30, 2024; and

WHEREAS, pursuant to Texas Water Code §13.187 et. seq. the City of Iowa Colony, Texas has municipal authority over this rate filing; and

WHEREAS, the City of Iowa Colony, Texas can suspend these rate increases for a period of up to ninety (90) days; and

WHEREAS, the City received a copy of the amended application by Undine for authority to change water and wastewater rates on December 19, 2024, and the amended application updated the test year, increasing the originally requested revenue;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:

SECTION 1. That the rate increases proposed by Undine for water and wastewater rates within their system are hereby suspended for ninety (90) days, the maximum period allowed by Texas Water Code §13.187(d-1).

SECTION 2. That the City of Iowa Colony denies the change in water and wastewater rates proposed by Undine, LLC.

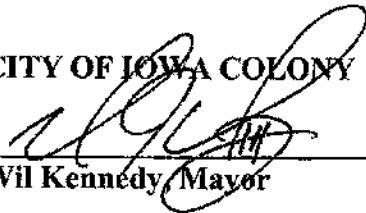
SECTION 3. That a copy of this Resolution shall be provided to Undine.

SECTION 4. That it is hereby officially found and determined that the meeting at which this resolution is passed was open to the public as required and that public notice of

the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED ON THIS 13th DAY OF JANUARY 2025.

CITY OF IOWA COLONY

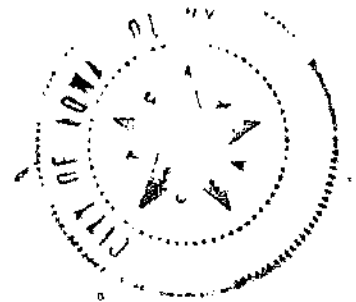


Wil Kennedy, Mayor

ATTEST:



Kayleen Rosser, City Secretary



Ordinance No. 2025-02

AN ORDINANCE RELATING TO THE RETAIL WATER AND WASTEWATER RATES OF UNDINE, LLC WITHIN THE CITY LIMITS OF BEACH CITY, TEXAS; SUSPENDING FOR NINETY DAYS THE EFFECTIVE DATE OF NEW RATES; MAINTAINING THE CURRENT RATES IN EFFECT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, on or about December 20, 2024, UNDINE, LLC filed a Water Rate/Tariff and Application for Authority to Change Rates (“New Rates”) within the city limits of Beach City (“City”) seeking water and sewer rate increases; and

WHEREAS, the local regulatory authority City of Beach City received notice of the Rate Increase on December 26, 2024; and

WHEREAS, the New Rates would affect rates, operations or services of UNDINE, LLC for retail customers within the City; and

WHEREAS, the City, as a local regulatory authority, exercises original jurisdiction over the rates, operations and services of UNDINE, LLC for customers located within the City under the provisions of the Texas Water Code (“CODE”); and

WHEREAS, Texas Water Code, Section 13.082 requires a local regulatory authority to make a reasonable determination of rate base, expenses, investment and rate of return, and to retain the necessary personnel to determine reasonable rates; and

WHEREAS, Texas Water Code, Section 13.187 provides that the New Rates take effect on the 35TH day after the local filing, unless the local regulatory authority suspends the effective date of the New Rates; and

WHEREAS, Texas Water Code, Section 13.187 (d-1) further provides that a local regulatory authority may suspend the operation of the New Rates for ninety days beyond the date the New Rates would otherwise be effective (the “Suspension Period”); and

WHEREAS, Texas Water Code further provides that unless the local regulatory authority establishes interim rates, the rates in effect at the time the New Rates are filed remain in effect during the Suspension Period; and

WHEREAS, the City requires the additional time in order to review, analyze and investigate UNDINE, LLC's rate increase request; and

WHEREAS, during the Suspension Period, the City, either independently or through consultants retained, will perform an analysis of the New Rates, obtain additional information from UNDINE, LLC and prepare a rate recommendation to be considered by City Council; and

WHEREAS, the City will provide an opportunity for public comment on the subject of the New Rates as well as customer service concerns; and

WHEREAS, the rate ordinance recommendation to City Council will incorporate the public comment and concerns received; and

WHEREAS, the rate analysis and public comment period will extend beyond the date the New Rates would otherwise be effective; and

WHEREAS, the City Council has determined that it is in the best interests of the UNDINE, LLC utility ratepayers within the city limits of Beach City, Texas to allow for coordinated rate analysis and public comment by suspending the New Rates for ninety days beyond the date the New Rates would otherwise be effective; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEACH CITY, TEXAS:

Section 1. That the facts contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. To allow for coordinated rate analysis and public comment, the effective date of the New Rates filed with the City by UNDINE, LLC on or about December 20, 2024 is hereby suspended for **ninety days** beyond the date the New Rates would otherwise be effective.

Section 3. The rates in effect as of the filing date shall remain in effect until the earlier of the expiration of the Suspension Period or the adoption of a replacement rate ordinance by this Council.

Section 4. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City of Beach City, Texas for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter


551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 6. There exists a public emergency requiring that the Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

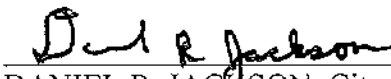
PASSED AND APPROVED this 28th day of January, 2025


KEN PANTIN, Mayor

ATTEST TO:


JACQUELINE JENKINS,
City Secretary

APPROVED AS TO FORM ONLY:


DANIEL R. JACKSON, City Attorney