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PUC DOCKET NO. 57273
SOAH DOCKET NO. 473-25-20786.WS

APPLICATION OF FARMER’S	§	PUBLIC UTILITY COMMISSION
TRANSPORT, INC. AND UNDINE	§	
TEXAS ENVIRONMENTAL, LLC FOR	§	OF TEXAS
SALE, TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN CALHOUN COUNTY	§	

PRELIMINARY ORDER

Undine Texas Environmental, LLC and Farmer’s Transport, Inc. filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Calhoun County. This preliminary order identifies the issues that must be addressed in this proceeding.

Undine is a class B sewer utility that provides retail sewer service under certificate of convenience and necessity (CCN) number 20816. Undine seeks approval to acquire facilities and transfer certificated service area from Farmer’s Transport in Calhoun County under sewer CCN number 20739 to Undine’s CCN number 20816. The requested area includes 78 customer connections. The applicants seek to transfer all 71.6 acres of Farmer’s Transport’s CCN to Undine’s sewer CCN and to cancel Farmer’s Transport’s CCN number 20739. Additionally, Undine seeks to add an additional 48.5-acre tract of uncertificated land to its sewer CCN number 20816. Upon approval of the application for sale and transfer, Undine seeks to charge its tariffed and current rates to the customers to be acquired from Farmer’s Transport under TWC § 13.3011.

I. Procedural History

The applicants filed the application on November 7, 2024, and filed supplements to the application on February 14 and 18, and March 12, 2025. On December 11, 2024, the Commission administrative law judge (ALJ) found the application administratively complete. On January 31, 2025, the Commission ALJ found Undine’s notice sufficient. On April 30, 2025, Commission Staff filed a request for a hearing.

The applicants were directed, and Commission Staff and other interested persons were allowed, to file a list of issues to be addressed in the docket and also identify any issues not to be

addressed and any threshold legal or policy issues that should be addressed by May 21, 2025. Commission Staff and Undine timely filed lists of issues.

II. Issues to be Addressed

The Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to the State Office of Administrative Hearings (SOAH).¹ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

Application

1. Did Undine give proper notice to the public?²
2. Did Undine comply with the notice requirements of Texas Water Code (TWC) § 13.246 and 16 Texas Administrative Code (TAC) § 24.235, including mailing notice 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 recent current tax appraisal rolls of the applicable central appraisal district at the time the Commission received the application for the CCN?³
3. What is the effective date of the proposed transaction?
4. Was the application filed at least 120 days before the effective date of the transaction?⁴
5. Did Farmer's Transport notify Undine of the requirements of TWC § 13.301 and provide a copy of 16 TAC § 24.239 before signing an agreement to sell, assign, lease, or rent its facilities?⁵
6. Was Farmer's Transport required to provide Undine with a written disclosure relating to contributions in aid of construction?⁶
 - a. If so, was the disclosure provided before the date of the sale or transfer?

¹ Tex. Gov't Code § 2003.049(e).

² Tex. Water Code (TWC) § 13.301(a)(2); 16 Tex. Admin. Code (TAC) §§ 24.235(c) and 24.239(b), (e).

³ TWC § 13.246(a-1); 16 TAC § 24.235(b)(2), (c).

⁴ TWC § 13.301(a); 16 TAC § 24.239(b).

⁵ TWC § 13.301(k); 16 TAC § 24.239(r).

⁶ TWC § 13.301(j); 16 TAC § 24.239(q).

- b. If a disclosure was provided, did it meet the requirements of TWC § 13.301(j) and 16 TAC § 24.239(q)?

Public Interest

7. Will approving the proposed transaction serve the public interest?⁷

- a. Has Undine demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and to any areas currently certificated to Undine?⁸
- i. Is adequate service currently being provided to the requested area?⁹
- ii. Is there a need for additional service in the requested area?¹⁰
- iii. What is the effect of approving the transaction on Farmer's Transport, Undine, landowners in the area, and any retail public utility of the same kind already serving the area within two miles of the boundary of the requested area?¹¹
- iv. What is the ability of Undine to provide adequate service?¹²
- v. What is the feasibility of obtaining service from an adjacent retail public utility?¹³
- vi. Does Undine have the financial ability to provide the necessary capital investment to ensure the provision of continuous and adequate service to every customer within the requested area?¹⁴
- vii. What is the effect on the financial stability of Undine, including, if applicable, the adequacy of Undine's debt-equity ratio, if the transaction is approved?¹⁵

⁷ TWC § 13.301(d), (e), (g); 16 TAC § 24.239(g)–(h).

⁸ TWC § 13.301(b), (c), (e); TWC § 13.246(c); 16 TAC § 24.239(f), (h), (j).

⁹ TWC § 13.246(c)(1); 16 TAC § 24.239(h)(5)(A).

¹⁰ TWC § 13.246(c)(2); 16 TAC § 24.239(h)(5)(B).

¹¹ TWC § 13.246(c)(3); 16 TAC § 24.239(h)(5)(C).

¹² TWC § 13.246(c)(4); 16 TAC § 24.239(h)(5)(D).

¹³ TWC § 13.246(c)(5); 16 TAC § 24.239(h)(5)(E).

¹⁴ TWC § 13.246(c)(6); TWC § 13.251; 16 TAC § 24.239(h)(4).

¹⁵ 16 TAC § 24.239(h)(5)(F).

- viii. If Undine has not demonstrated adequate financial capability, should the Commission require Undine to provide financial assurance?¹⁶
 - ix. If the Commission requires Undine to provide financial assurance, what form and amount of financial assurance should the Commission require?¹⁷
 - x. What impact does this transaction have on the environmental integrity of the requested area?¹⁸
 - xi. Is there a probable improvement of service or lowering of cost to consumers in the requested area resulting from approving the transaction?¹⁹
 - xii. What is the effect, if any, on the land to be included in the certificated area?²⁰
 - b. Does Undine have a history of noncompliance with the requirements of the Commission, the Texas Commission on Environmental Quality (TCEQ), or the Department of State Health Services?²¹
 - c. Has Farmer's Transport or Undine failed to comply with any Commission or TCEQ order?²² Have the conditions of any judicial decree, compliance agreement, or other enforcement order not been substantially met?
 - d. Does Undine have a history of continuing mismanagement or misuse of revenues as a utility service provider?²³
 - e. What is the experience of Undine as a utility service provider?²⁴
8. Is Farmer's Transport an affiliate of Undine? If so, will the acquisition of Farmer's Transport's system by Undine, including the charging of initial rates, serve the public interest?

¹⁶ TWC § 13.246(d); 16 TAC § 24.239(f).

¹⁷ TWC § 13.246(d); 16 TAC §§ 24.11 and 24.239(f).

¹⁸ TWC § 13.246(c)(7); 16 TAC § 24.239(h)(5)(G).

¹⁹ TWC § 13.246(c)(8); 16 TAC § 24.239(h)(5)(H).

²⁰ TWC § 13.246(c)(9).

²¹ TWC § 13.301(e)(3)(A); 16 TAC § 24.239(h)(3)(A).

²² 16 TAC § 24.239(h)(5)(I).

²³ TWC § 13.301(e)(3)(B); 16 TAC § 24.239(h)(3)(B).

²⁴ TWC § 13.301(b); 16 TAC § 24.239(h)(2).

9. Does the sewer system being purchased from Farmer's Transport have any deficiencies or problems that need correction to be in compliance with the rules of the Commission or TCEQ? If so, identify each deficiency or problem and address the following subissues.
 - a. If so, what are those deficiencies or problems?
 - b. What is the estimated cost of addressing each deficiency or problem?
 - c. How and when will each deficiency or problem be corrected?
 - d. Does Undine have access to adequate financial resources to timely correct the deficiencies and problems?
10. Has Undine demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service in the requested area and any areas currently certificated to Undine?²⁵
11. Should the Commission approve the sale of Farmer's Transport's facilities to Undine and the transfer of Farmer's Transport's certificated service area under CCN number 20739 to Undine?

Cancellation of Transferor's Certificate of Convenience and Necessity

12. Should the Commission cancel Farmer's Transport's CCN number 20739?²⁶

Amendment of Transferee's Certificates of Convenience and Necessity

13. Does the requested area require construction of a physically separate sewer system? If so, has Undine demonstrated that regionalization or consolidation with another retail public utility is not economically feasible?²⁷
14. Is amending Undine's sewer CCN number 20816 necessary for the service, accommodation, convenience, or safety of the public?²⁸
15. If applicable, what are Undine's efforts to extend retail utility service to any economically distressed areas located within Undine's certificated service area?²⁹

²⁵ TWC §§ 13.241(a) and 13.301(b).

²⁶ TWC § 13.254(a).

²⁷ TWC § 13.241(d); 16 TAC § 24.227(b).

²⁸ TWC §§ 13.246(b) and 13.301(d); 16 TAC § 24.227(d).

²⁹ 16 TAC § 24.227(g).

16. Should the Commission amend Undine's CCN include the uncertificated area described by the application and the area encompassed by sewer CCN number 20739?

Post-Transaction Requirements

17. Does Farmer's Transport currently retain any customer deposits including any membership fees or other types of retained funds from its members?³⁰

a. If so, what is the total amount of those retained funds?³¹

b. If so, does Farmer's Transport have the proper records to allow retained funds and any unpaid interest to be returned?³²

c. If so, will retained funds be returned to customers or transferred to Undine?³³

Initial Rates

18. What are the initial rates Undine is requesting to charge the customers acquired from Farmer's Transport?

19. Are the initial rates requested by Undine shown in Undine's tariff rates that were filed with the Commission for another sewer system owned by Undine?³⁴

20. Are the initial rates Undine seeks to implement rates that were in force for a different Undine sewer system on November 7, 2024?³⁵

21. Are the initial rates Undine seeks to implement rates that were in force for a different Undine sewer system on December 11, 2024?³⁶

22. Are the initial rates Undine is requesting to charge the customers acquired from Farmer's Transport in compliance with all Commission rule requirements?³⁷

³⁰ 16 TAC § 24.239(k)-(l).

³¹ 16 TAC § 24.239(k)(3).

³² 16 TAC § 24.239(k)(4).

³³ 16 TAC § 24.239(l).

³⁴ TWC § 13.3011(a)(1).

³⁵ TWC § 13.3011(a)(2).

³⁶ TWC § 13.3011(a)(2).

³⁷ 16 TAC § 24.240(c).

23. Should the Commission approve the initial rates requested by Undine? If not, what rates should the Commission approve?

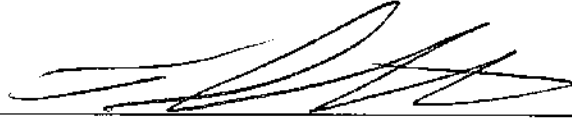
This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ, or by the Commission in future orders issued in this docket. The Commission may identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code § 2003.049(e).

III. Effect of Preliminary Order

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

Signed at Austin, Texas the 5th day of June 2025.

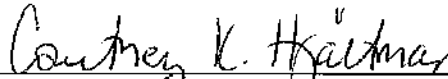
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