



Control Number: 46452



Item Number: 57

Addendum StartPage: 0

DeAnn T. Walker
Chairman
Arthur C. D'Andrea
Commissioner
Shelly Botkin
Commissioner
John Paul Urban
Executive Director



Greg Abbott
Governor


2019 FEB 14 PM 3:44

FILED
FILING CLERK

Public Utility Commission of Texas

TO: DeAnn T. Walker, Chairman
Arthur C. D'Andrea, Commissioner
Shelly Botkin, Commissioner

All Parties of Record

FROM: Hunter Burkhalter 
Administrative Law Judge

RE: **Open Meeting of March 13, 2019**
PUC Docket No. 46452
SOAH Docket No. 473-17-2085.WS – *Application of Altoga Water Supply Corporation and North Collin Special Utility District for Sale, Transfer, or Merger of Facilities and Certificate Rights in Collin County*

DATE: February 14, 2019

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Wednesday, March 13, 2019, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Tuesday, March 5, 2019.

On January 11, 2017, this proceeding was referred to the State Office of Administrative Hearings. Subsequently, the docket was returned to the Commission.

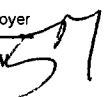
If there are no corrections or exceptions, no response is necessary.

q \cadm\orders\soah settled\46000\46452pomemo.docx



Printed on recycled paper

An Equal Opportunity Employer

1701 N. Congress Avenue PO Box 13326 Austin, TX 78711 512/936-7000 Fax: 512/936-7003 web site: www.puc.texas.gov 

000001

PUC DOCKET NO. 46452
SOAH DOCKET NO. 473-17-2085.WS

| | | |
|-------------------------------------|----------|----------------------------------|
| APPLICATION OF ALTOGA WATER | § | PUBLIC UTILITY COMMISSION |
| SUPPLY CORPORATION AND | § | |
| NORTH COLLIN SPECIAL UTILITY | § | OF TEXAS |
| DISTRICT FOR SALE, TRANSFER, | § | |
| OR MERGER OF FACILITIES AND | § | |
| CERTIFICATE RIGHTS IN COLLIN | § | |
| COUNTY | § | |

PROPOSED ORDER

This Order addresses the application of Altoga Water Supply Corporation and North Collin Special Utility District (collectively, applicants) for the sale, transfer, or merger of facilities and certificate rights in Collin County. The Commission approves the transfer of facilities and certificate rights formerly held by Altoga WSC to North Collin SUD to the extent provided in this Order.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Applicants

1. Altoga WSC is a Texas non-profit corporation registered with the Texas Secretary of State under file number 21199101.
2. Altoga WSC provides water service in Collin County under certificate of convenience and necessity (CCN) number 12580.
3. North Collin SUD is a district that provides water service in Collin County under CCN number 11035.
4. On June 10, 2016, North Collin SUD assumed the responsibility for the operation and maintenance of Altoga WSC's public water system under an operations and maintenance agreement.

Application

5. On October 18, 2016, applicants filed an application to transfer facilities and CCN rights in Collin County from Altoga WSC to North Collin SUD. The applicants also requested cancellation of Altoga WSC's CCN number 12580.
6. North Collin SUD seeks approval to acquire all of the water system assets of Altoga WSC and the area certificated to the Altoga WSC CCN.
7. The total area requested in this application includes approximately 4,160 acres and 338 current customers.
8. The area subject to this transaction is located approximately 4.3 miles east and northeast of downtown of McKinney, is roughly bounded on the north by County Road 471, on the east by Sister Grove Creek, on the south by County Road 408 and County Road 464, and on the west by County Roads 989 and 988.
9. On November 3, 2016, North Collin SUD and Altoga WSC filed a supplement to the application, which provided the latest Texas Commission on Environmental Quality (TCEQ) inspection letter, dated February 24, 2015, together with a TCEQ compliance letter dated December 10, 2015.
10. In Commission Order No. 2 issued on November 22, 2016, the Commission ALJ deemed the application administratively complete.

Notice

11. Notice of the application appeared in the November 4, 2016, issue of the *Texas Register*.
12. On November 21, 2016, North Collin SUD provided notice of the application by first-class mail to neighboring utilities, cities, and affected parties.
13. On December 2, 2016, Altoga WSC provided notice of the application by mail to current customers, neighboring utilities, cities, and affected parties. Altoga WSC also posted the notice at the local post office and on its website.
14. On December 15, 2016, applicants filed the affidavits of Allen Knight, General Manager of Altoga WSC, and John Rapier, attorney for North Collin SUD, affirming proof of notice.

15. In Commission Order No. 3, issued on January 10, 2017, the Commission ALJ deemed the notice provided by applicants sufficient.

Intervention

16. On January 25, 2017, the City of Princeton filed a motion to intervene.
17. In State Office of Administrative Hearings (SOAH) Order No. 3 issued on February 6, 2017, the SOAH ALJ granted the City of Princeton's motion to intervene.

Referral to SOAH for a Hearing

18. On December 15 and 20, 2016, the City of Princeton filed requests for a hearing and opposition to the application because the requested area is within its extraterritorial jurisdiction. The City of Princeton expressed interest in serving the requested area.
19. On January 11, 2017, the Commission referred this application to SOAH for assignment of an ALJ to conduct a hearing and issue a proposal for decision, if necessary.
20. On February 9, 2017, the Commission issued a preliminary order identifying the issues to be addressed in the hearing.
21. Between February and December 2017, the parties requested and received multiple extensions of time to file a procedural schedule.
22. On December 5, 2017, North Collin SUD notified the SOAH administrative law judges (ALJs) that the parties had executed a settlement agreement (the Agreement) resolving all issues in dispute regarding this docket and a related matter, Docket No. 46835.¹ As part of the Agreement, the City of Princeton agreed to withdraw its objections to this docket. Applicants and the City of Princeton did not request that the Agreement be admitted into evidence in this proceeding, but that its contents be addressed as part of Docket No. 46835.

Remand to the Commission

23. On January 18, 2018, North Collin SUD filed a motion to remand this case to the Commission for continued processing in accordance with the terms of the Agreement.

¹ *Application of City of Princeton to Amend its Water and Sewer Certificates of Convenience and Necessity and to Decertify a Portion of Altoga Water Supply Corporation's Water Service Area in Collin County*, Docket No. 46835 (pending).

24. In SOAH Order No. 9, issued on January 26, 2018, the SOAH ALJ remanded the case to the Commission and dismissed the proceeding from the docket of SOAH.

Adequacy of Existing Service

25. North Collin SUD currently holds and will retain its existing water CCN No. 11035. The geographic area certificated under CCN number 11035 will be expanded to include the area formerly certificated to Altoga WSC's CCN number 12580.
26. North Collin SUD currently operates and maintains all of the Altoga WSC water system, by contract, until the acquisition occurs. Upon approval of the acquisition, North Collin SUD will assume direct control over Altoga WSC's water system.
27. North Collin SUD has an approved TCEQ public water system (PWS), number 0430055, with an adequate water supply that it purchases from the North Texas Municipal Water District. The PWS is capable of providing drinking water that meets the requirements of Texas Health and Safety Code, chapter 341, and Texas Commission on Environmental Quality rules, and has access to an adequate supply of water.
28. North Collin SUD purchases treated water, on a regular basis, from the North Texas Municipal Water District.
29. North Collin SUD has professional management and licensed operators to provide adequate water service.
30. North Collin SUD already provides, and will continue to provide, adequate service to the area being transferred.

Need for Service

31. There are 338 current customers in the area to be transferred.

Effect of Granting the Application on Retail Public Utilities and Landowners

32. The applicants and landowners in the area are not adversely affected because North Collin SUD is already using the facilities to serve the requested area.

Financial Ability to Pay For, Operate, and Manage Facilities

33. North Collin SUD has the financial resources to operate and manage Altoga WSC's system and the ability to provide continuous and adequate service to the requested area.
34. North Collin SUD is capable of providing continuous and adequate service to the requested area and the transfer will serve the public interest.
35. North Collin SUD meets the debt-service-coverage ratio requirement of more than 1.25.
36. North Collin SUD has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations.
37. North Collin SUD has demonstrated adequate financial, managerial, and technical capabilities to provide service to the requested area.

Environmental Integrity and Effect on Land

38. Granting this transaction will not adversely impact the environmental integrity of the land because the land included in the area being transferred is already being served.

Feasibility of Obtaining Service from an Adjacent Retail Public Utility

39. It is more feasible for North Collin SUD to provide service in the area than it is for other nearby retail public utilities because it is already doing so.

Improvement of Service or Lowering Costs

40. North Collin SUD's rates are lower than Altoga WSC's rates; therefore, Altoga WSC's customers may experience a decrease in water rates.
41. Granting this transaction will provide Altoga WSC's customers with a better-managed and more financially stable water system.

Following Remand from SOAH

42. In Commission Order No. 5, issued on February 16, 2018, the Commission ALJ approved the transaction to proceed.
43. On March 12, 2018, applicants filed affidavits regarding the closing of the transaction.

44. In Commission Order No. 6, issued on March 26, 2018, the Commission ALJ found the closing documents sufficient and customer deposits properly addressed, and established a procedural schedule for final processing.
45. On April 10, 2018, applicants filed signed consent forms concurring with the final map and certificates as prepared by Commission Staff.

Evidence

46. On April 25, 2018, Commission Staff and applicants filed a joint motion to admit evidence.
47. In Commission Order No. 7, issued on August 13, 2018, the Commission ALJ granted the joint motion to admit evidence and admitted the following evidence into the record: (a) the application and attachments filed on October 18, 2016; (b) *Texas Register* acknowledgement filed on October 25, 2016; (c) supplemental information to the application filed on November 3, 2016; (d) affidavits of notice to customers and to current customers, neighboring utilities, and cities filed on December 15, 2016; (e) Commission Staff's recommendation on the sufficiency of notice filed on January 5, 2017; (f) Commission Staff's recommendation for approval of the sale to proceed filed on February 14, 2017; (g) Commission Staff's memorandum in support of recommendation approving sale to proceed filed on February 14, 2017; (h) applicants' three affidavits regarding closing documentation filed on March 12 and 15, 2015; (i) Commission Staff's recommendation to find closing documentation sufficient filed on March 22, 2018; and (j) signed consent forms from Altoga WSC and North Collin SUD filed on April 10, 2018.

Informal Disposition

48. More than 15 days have passed since the completion of the notice provided in this docket.
49. Altoga WSC, North Collin SUD, the City of Princeton, and Commission Staff are the only parties to this proceeding.
50. No protests, motions to intervene, or requests for hearing were filed that have not been dealt with and Commission Staff waived its request for a hearing.
51. This decision is not adverse to any party.
52. No hearing is necessary.

53. On April 25, 2018, Commission Staff recommended approval of the application.

II. Conclusions of Law

1. The Commission has jurisdiction over this application under TWC §§ 13.041, 13.241, 13.244, 13.246, 13.251, 13.254, and 13.301.
2. Altoga WSC and North Collin SUD are retail public utilities as defined in Texas Water Code (TWC) § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Applicants provided notice of the application as required by TWC § 13.301(a)(2) and 16 TAC § 24.239.
4. The Commission processed the application in accordance with the requirements of TWC, the Administrative Procedure Act,² and Commission rules.
5. Applicants completed the sale within 180 days from the date the Commission approved the sale to proceed as required by 16 TAC § 24.239(o).
6. North Collin SUD has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area as required by TWC §§ 13.301(b) and 13.241.
7. The sale of facilities and the transfer of service area requested in the application is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b).
8. Under TWC § 13.257(r) and (s), North Collin SUD is required to record a certified copy of the approved CCN and map, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
9. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

² Tex. Gov't Code ch. 2001.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. The Commission approves the transfer of facilities and certificate rights formerly held by Altoga WSC to North Collin SUD to the extent provided in this Order.
2. The Commission transfers the facilities and certificate rights formerly held by Altoga WSC under CCN number 12580 to North Collin SUD's CCN number 11035.
3. The Commission cancels Altoga WSC's CCN number 12580.
4. The Commission amends North Collin SUD's CCN number 11035, attached to this Order as Attachment 1, to include the area transferred from Altoga WSC.
5. The Commission's official service area boundary maps for North Collin SUD are revised to reflect this change as provided in the map included with this Order.
6. North Collin SUD must serve every customer and applicant for service within the area previously served by Altoga WSC under CCN number 12580 and such service must be continuous and adequate.
7. North Collin SUD must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Collin County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Order.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the _____ day of March 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

W2013
q:\cadm\orders\soah settled\46000\46452po.docx