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PUBLIC UTILITY COMMISSION
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APPLICATION OF CITY OF PRINCETON	§	
TO AMEND ITS WATER AND SEWER	§	BEFORE THE
CERTIFICATES OF CONVENIENCE AND	§	
NECESSITY AND TO DECERTIFY A	§	PUBLIC UTILITY COMMISSION
PORTION OF ALTOGA WATER SUPPLY	§	
CORPORATION'S WATER SERVICE	§	OF TEXAS
AREA IN COLLIN COUNTY	§	

**COMMENTS OF NORTH COLLIN SPECIAL UTILITY DISTRICT AND
ALTOGA WATER SUPPLY CORPORATION
REGARDING CITY OF PRINCETON MOTION TO CONSOLIDATE**

TO THE PUBLIC UTILITY COMMISSION:

North Collin Special Utility District ("North Collin SUD") and Altoga Water Supply Corporation ("Altoga") file these Comments Regarding City of Princeton Motion to Consolidate and respectfully show the following:

BACKGROUND

Order No. 1 in the current docket provided for Princeton and PUC staff to file comments/recommendations regarding processing the Application by the City of Princeton to amend its certificates of convenience and necessity to include an area currently certificated to Altoga (the "Princeton CCN Application"), and to propose a procedural schedule, by March 8, 2017. By motion dated February 26, 2017, PUC staff requested abatement of this proceeding due to the fact that Altoga and North Collin SUD previously filed an application with the Public Utility Commission of Texas ("PUC") for approval of the sale, transfer or merger of facilities and certificate rights from Altoga to North Collin SUD for Altoga's certificated water service territory in Collin County (the "STM Application"). The STM Application is the subject of PUC Docket No. 46452.

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On March 6, 2017, Princeton filed a Response to PUC Staff's Motion to Abate. On the same date, PUC Staff requested an extension of the March 8, 2017 deadline set forth in Order No. 1. On March 7, 2017, Altoga and North Collin SUD filed comments regarding the administrative completeness of the Princeton CCN Application. On March 8, 2017, Princeton filed a response to Order No. 1, and further filed a Motion to Consolidate this proceeding with Docket No. 46452 (which relates to the STM Application).

These Comments are being filed by Altoga and North Collin SUD in response to Princeton's Motion to Consolidate. For the reasons more fully set forth below, Altoga and North Collin SUD assert that the motion is premature, and that this docket should not be consolidated with Docket No. 46452.

Altoga and North Collin SUD incorporate by reference the "England Reservation" set forth in their March 7, 2017 comments relating to the Princeton CCN Application for all purposes.

PRINCETON'S MOTION TO CONSOLIDATE IS PREMATURE

1. Princeton's Motion to Consolidate is premature. The Princeton CCN Application has not yet been declared administratively complete. As noted in Altoga's and North Collin SUD's prior comments, which comments are incorporated herein by reference, the Princeton CCN Application states "single certification or dual certification is being sought." The Application cannot be declared administratively complete until it clearly specifies whether Princeton seeks single certification (i.e., decertification) or dual certification. Such clarification is necessary to determine the applicable statutory criteria that will govern consideration of the Princeton CCN Application so that proper notice may be issued, and so that members of the public and adjacent utilities may properly evaluate the

potential impact of the Princeton CCN Application.

2. Public notice has not yet been issued for the Princeton CCN Application. Such notice will not be issued until and unless it is declared administratively complete. After such notice is issued, then affected persons and utilities will have an opportunity to intervene and participate. Only after all potential parties are identified should consolidation be considered. Only after Princeton amends its application to clarify the relief it seeks, and after all affected persons have an opportunity to intervene based on such notice, will the Administrative Law Judge have all relevant facts available to consider whether consolidation of any proceedings is in the public interest.

CONSOLIDATION IS NOT IN THE PUBLIC INTEREST

3. Consolidation is governed by PUC Rule § 22.34(a), which provides that proceedings may be consolidated if: (i) the proceedings involve common questions of law or fact; (ii) consolidation would serve the interest of efficiency or prevent unwarranted expense and delay; and, (iii) the applicant's ability to present its case and other parties' ability to respond to the applicant's case are not unduly prejudiced. After consideration of such factors, this proceeding should not be consolidated with Document No. 46452.

4. In its Motion to Consolidate, Princeton asserts that this proceeding should be consolidated with Docket No. 46452 in the "interest of judicial economy." To the contrary, there are very few common questions of law and fact between this proceeding and Document No. 46452.

5. The STM Application is governed by Section 13.301 of the Texas Water Code. The primary consideration under said statute and related rules that govern consideration of the STM Application relate to the managerial, technical and financial capabilities of North

Collin SUD, and whether transfer of the facilities, assets and rights of Altoga to North Collin SUD is in the public interest.

6. On the other hand, assuming Princeton seeks decertification of Altoga (which is not clear), consideration of its application is governed by the factors set forth at Section 13.254 of the Texas Water Code, which requires consideration of whether Altoga has “never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service.” ***None of these issues of fact or law are relevant to the STM Application. Further, upon approval of the STM transferring Altoga’s assets to North Collin SUD, none of these issues or facts (all of which relate to Altoga) would be relevant.***

7. It is not in the public interest, and does not promote judicial efficiency, for PUC to consider the decertification of Altoga when Altoga has previously agreed to transfer its service rights to North Collin SUD and an application is pending for approval of such transfer. To the contrary, the PUC would be considering issues that are rendered entirely moot by the STM Application. Said differently, it is contrary to the interests of efficiency, and would result in unwarranted expense, to consider decertification of Altoga when Altoga is already seeking to transfer its CCN to North Collin SUD.

8. Consolidation of the proceedings would also result in unwarranted expense and delay because of federal law considerations uniquely applicable to the Princeton CCN Application, which are not applicable to the STM Application. As previously referenced in Altoga’s and North Collin SUD’s March 7th comments regarding the Princeton CCN Application, Altoga/North Collin are indebted to the United States Department of Agriculture (“USDA”). Because of this indebtedness, Altoga/North Collin qualify for protection from

municipal encroachment of their service territory under 7 U.S.C. § 1926(b) ("1926(b)"). Further, PUC's authority to act upon the Princeton CCN Application is preempted by federal law if Princeton fails to secure the prior consent of USDA-RD.

9. If Princeton seeks to prosecute the Princeton CCN Application without prior USDA consent, Altoga and North Collin will seek to permanently enjoin Princeton from taking any actions in violation of 1926(b), including prosecuting the Princeton CCN Application. Since any prosecution of the Princeton CCN Application without USDA consent will be subject to federal litigation, judicial economy is not served by consolidating this proceeding with Docket No. 46452. To consolidate this proceeding with Docket No. 46452 would unnecessary delay consideration of the STM Application while all federal issues are litigated.

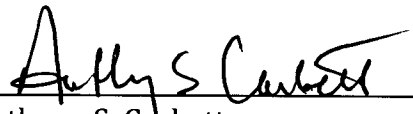
CONCLUSION

Princeton's Motion to Consolidate is premature. The Princeton CCN Application has not been declared administratively complete and notice of the application has not been issued. Further, there are unique issues pertaining to Princeton CCN Application, including that its prosecution is preempted by federal law until and unless Princeton secures USDA consent. Judicial efficiency and the public interest require that the Princeton CCN Application remain independent of Docket No. 46452 until: (i) Princeton's CCN Application is declared administratively complete; (ii) public notice of the Princeton CCN Application is issued and all parties are designated in this proceeding; (iii) Princeton secures USDA consent to its Application, or if Princeton fails to secure such consent, until the federal litigation regarding Altoga's/North Collin SUD's rights under 1926(b) concludes.

For all such reasons, this proceeding should not be consolidated with Docket No. 46452. Altoga and North Collin SUD request that Princeton's Motion to Consolidate be

denied.

Respectfully submitted,

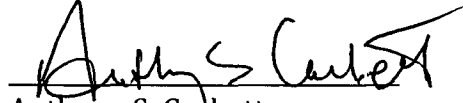
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CERTIFICATE OF SERVICE

"I, Anthony S. Corbett, legal counsel to North Collin Special Utility District and Altoga Water Supply Corporation certify that a copy of this document was served on all parties of record in this proceeding on March 13, 2017 by facsimile and/or electronic mail.


Anthony S. Corbett

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