



## Filing Receipt

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**DOCKET NO. 52442**

<b>PETITION OF MERITAGE HOMES OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>TEXAS, LLC TO AMEND NORTH</b>	<b>§</b>	
<b>COLLIN SPECIAL UTILITY</b>	<b>§</b>	<b>OF TEXAS</b>
<b>DISTRICT’S CERTIFICATE OF</b>	<b>§</b>	
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	
<b>COLLIN COUNTY BY EXPEDITED</b>	<b>§</b>	
<b>RELEASE</b>	<b>§</b>	

**ORDER NO. 16**  
**DENYING NORTH COLLIN SPECIAL UTILITY MOTION TO DISMISS**

This Order addresses North Collins Special Utility’s motion to dismiss filed on June 6, 2022.

The motion identifies the following grounds for dismissal.

**A. Federal Preemption**

North Collin argues that Meritage Homes’ petition should be dismissed because North Collin is indebted on a loan guaranteed by the federal government and has provided or made service available to the land in question, thereby entitling North Collin to the protections provided under 7 U.S.C. § 1926(b).

Meritage responded to the motion to dismiss on October 4, 2021. Meritage argues that, irrespective of North Collin’s apparent federal loan, 7 U.S.C. § 1926(b) does not impair the Commission’s mandate to process the streamlined expedited release application.

Commission Staff has not taken a direct position on the motion to dismiss, but in its recommendation on final disposition, filed on January 14, 2022, staff argues that irrespective of North Collin’s apparent federal loan, 7 U.S.C. § 1926(b) does not impair the Commission’s mandate to process the streamlined expedited release application.

The administrative law judge concludes that this portion of the motion to dismiss should be denied. The question of whether North Collin has a federal loan need not be, and cannot be, answered in this case. Under Texas Water Code (TWC) § 13.2541, the Commission “may not deny [a streamlined expedited release] petition based on the fact that the certificate holder is a borrower under a federal loan program.” Thus, the question of whether North Collin possesses a federal loan is immaterial to the determination to be made in this case. Accordingly, North Collin’s motion to dismiss on this ground is denied.

**B. Receiving Water Service Under the Standards of the Texas Water Code**

North Collin next argues that the petition must be dismissed because the property in question is receiving water service as defined by the TWC §§ 13.002(21) and 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h), as interpreted by Texas courts.

Meritage opposes dismissal on this ground.

Commission Staff has not taken a direct position on this ground of this motion, but in its recommendation on final disposition, filed on January 14, 2022, Commission Staff states that North Collin's has not submitted evidence sufficient to rebut Meritage's claim that the property in question is not receiving service.

North Collins's arguments on this point address the merits of the petition; they do not identify a ground for dismissal specified in the Commission's dismissal rule, 16 TAC § 22.181(d). Accordingly, the motion to dismiss on this ground is denied.<sup>1</sup>

The schedule adopted in Order No. 10 remains in effect.

**Signed at Austin, Texas the 22nd day of June 2022.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**GREGORY R. SIEMANKOWSKI**  
**ADMINISTRATIVE LAW JUDGE**

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<sup>1</sup> By denying North Collin's motion on this ground, the ALJ is not precluding North Collin from asserting the same facts in opposition to the merits of the petition.