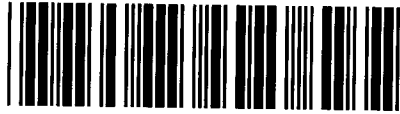


Control Number: 43183



Item Number: 30

Addendum StartPage: 0

APPLICATION OF ENGLISH ACRES §  
AND DARIO V. GUERRA III FOR §  
SALE, TRANSFER, OR MERGER OF §  
FACILITIES AND CERTIFICATE §  
RIGHTS IN JIM WELLS COUNTY §  
(37889-S) §

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PUBLIC UTILITY COMMISSION  
PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF  
TEXAS

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 10**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Response to Order No. 10 and would show the following:

**I. BACKGROUND**

On February 28, 2014, Dario V. English dba Derby, Ing. (Derby or Applicant) filed an application (Application) with the Texas Commission on Environmental Quality (TCEQ) to acquire and transfer Certificate of Convenience and Necessity (CCN) No. 12794 held by English Acres pursuant to Tex. Water Code § 13.301 (TWC) and 16 Tex. Admin. Code §§ 24.109 and 24.112 (TAC).

Order No. 8 deemed the Application sufficient for filing. On May 26, 2015, the Applicant filed affidavits of notice. Order No. 10 extended Staff's deadline to request a hearing or make a recommendation to August 18, 2015, so that Staff could request additional information from the Applicant. Therefore, this pleading is timely filed.

**II. RECOMMENDATION**

As explained in the memorandum (Attachment A) of Debbie Reyes Tamayo of the Water Utilities Division, Staff has requested additional information from the Applicant several times, and Staff has not yet received the information. Staff recommends that the Applicant be allowed until August 24, 2015 to provide the information detailed in Attachment A and clarify whether it wishes to proceed with or withdraw the Application. Staff further recommends that it be allowed until

September 2, 2015 to make a final recommendation or request a hearing. September 10, 2015 is the Commission's 120-day deadline to refer this matter to hearing.

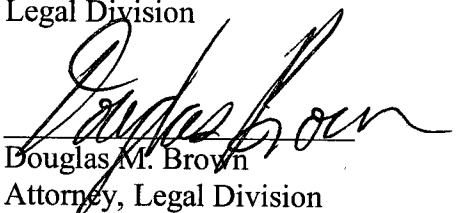
### III. CONCLUSION

Staff respectfully requests that the ALJ issue an order reflecting the above request.

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

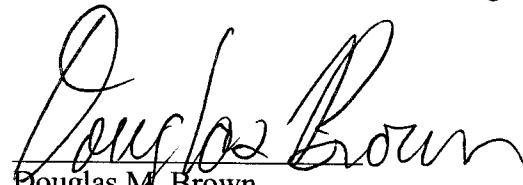
Stephen Mack  
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(512) 936-7268 (facsimile)  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**DOCKET NO. 43183**  
**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on August 18, 2015 in accordance with P.U.C. 16 TAC § 22.74.

  
Douglas M. Brown

# **ATTACHMENT A**

## PUC Interoffice Memorandum

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**To:** Douglas Brown  
Legal Division

**Thru:** Tammy Benter, Director  
Water Utility Division

**From:** Debbie Reyes Tamayo, Program Specialist  
Fred Bednarski, Financial & Managerial Review Specialist  
Water Utility Division

**Date:** August 18, 2015

**Subject:** **Docket No. 43183**, *Application of Dario V. Guerra, III dba Derby Ing and Don English dba English Acres for Sale, Transfer, or Merger (STM) of Certificate Rights in Jim Wells County*

On February 28, 2014, Mr. Dario V. Guerra, III dba Derby Ing ("Derby Ing" or "Buyer") and Mr. Don English dba English Acres ("English Acres" or "Seller") (collectively called "Applicants") filed an application to sell and transfer all the facilities, customers and service area of water Certificate of Convenience and Necessity (CCN) No. 12794 held by English Acres in Jim Wells County. This application was filed pursuant to the criteria in the Tex. Water Code Chapter 13 (TWC), and the TCEQ's rules outlined in 30 Tex. Admin. Code §§ 291.109 and 291.112 (TAC). On September 1, 2014, the rates and CCN programs were transferred from the Texas Commission on Environmental Quality (TCEQ) to the Public Utility Commission (PUC). This application was part of the transfer and is now under the PUC's purview. The application is now being reviewed under 16 TAC §§24.109 and 24.112.

**Concerning Financial, Managerial & Technical (FMT) review issues:**

Staff has reviewed the application and determined that the Buyer has not satisfactorily demonstrated that it has the "financial, managerial, and technical capability to provide continuous and adequate service" required by TWC § 13.241(a). In determining whether to grant or amend a CCN, the commission shall ensure that the Buyer possesses the financial, managerial, and technical (FMT) capability to provide continuous and adequate service.

On July 31, 2015, August 5, 2015, and September 5, 2015, staff sent the Buyer a request for financial, managerial and technical (FMT) information. Staff followed up to the request with phone calls concerning the need of the FMT information. On August 3, 2015, the commission's Staff filed a request for extension from August 4, 2015, to August 18, 2015, to allow the Buyer more time to provide the FMT information outlined below. As of today's date, Staff has not received the requested information needed as required by TWC § 13.241(a). Staff still needs the following items to be addressed by the Buyer, before proceeding with the application:

- After the financial review of the application, Staff determined that additional financial information was needed. Specifically, Staff requested that the Buyer provide information on the status of an application submitted to the Texas Water Development Board (TWDB) for funding and additional information to determine if the funds received (if applicable)

would be used to correct the problems with the water system. If the funding application wasn't approved by TWDB, then additional information would be needed from Derby, Ing to discuss and explain in detail the source of funds to pay for upgrading of the water system as well as to generate enough monthly income to cover expenses and pay for the proposed expenses based on the \$71 rate per connections.

- Staff also requests that Derby Ing provide documentation on its managerial capability to operate English Acres, including information on the certified operator or management company and his/her qualifications.