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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAR 27 2009

DOCKETED

IN THE MATTER OF THE APPLICATION OF  
GARKANE ENERGY COOPERATIVE, INC. TO  
EXPAND ITS CERTIFICATE OF CONVENIENCE  
AND NECESSITY TO INCLUDE COLORADO  
CITY, ARIZONA

Docket No. E-01891A-08-0598

RESPONSE TO STAFF REPORT

GALLAGHER & KENNEDY, P.A.  
2575 E. CAMELBACK ROAD  
PHOENIX, ARIZONA 85016-9225  
(602) 530-8000

Garkane Energy Cooperative, Inc. ("Garkane" or the "Cooperative") submits this Response to the March 18, 2009 Staff Report ("Staff Report"). The Staff Report is quite thorough. The Cooperative supports its Conclusions and Recommendations. This Response is limited to clarifying a few factual matters and suggesting more specific language in relation to Staff's Condition 2, which is at the top of page 7 of the Staff Report.

As required by the Procedural Order, the Cooperative has completed all notice requirements for this matter. For the convenience of the Administrative Law Judge, a copy of the Docket Control filing of the affidavits of mailing and publication is attached as Exhibit A.

Referring to the Staff Report, Garkane has three minor factual clarifications:

- In the Executive Summary (page 2, its sixth item) and at page 7, item 3, concerning the part-time maintenance crew members currently employed by Colorado City, the Cooperative will have sufficient work to make them "full-time" employees—a designation which Garkane uses instead of "permanent."

- 1           ▪ At page 3, item 6 of the Staff Report, the Memorandum of Understanding requires  
2           that the facilities charge from Deseret not exceed \$930,000 per year for the  
3           special power arrangements to serve Colorado City. Garkane has secured a  
4           facilities charge for power arrangements at less than that cost.
- 5           ▪ At page 5, in the sixth paragraph of the Public Interest section of the Staff Report,  
6           Garkane line crews normally travel to the area around Colorado City two or three  
7           times a week instead of two or three times a day.

8           Finally, on Rates, as Staff correctly states at the bottom of page 4 of its report:

9           In order to recover the additional [\$900,000 in annual] costs to serve the  
10          Colorado City Area, Garkane has included, as part of its wholesale power cost  
11          adjustment mechanism, an acquisition fuel adjustment charge (“FAC”),  
12          calculated by customer class.

13          These FACs are fixed based upon the Cooperative’s additional costs to serve Colorado City.

14          They will be in addition to other customer charges and energy charges authorized in Garkane’s  
15          tariffs.

16          Because Garkane likely will use its Commission-approved wholesale power cost  
17          adjustment mechanism to reflect other changes in its wholesale power costs which would result  
18          in other positive or negative “FACs,” the Cooperative requests that the following specific  
19          condition language be included in the Commission order:

20                 Garkane will be required to charge its current Commission-approved rates and  
21                 charges, including Acquisition FACs of \$0.037317 per kWh/Residential,  
22                 \$0.037412 per kWh/Residential Prepaid, \$0.006177 per kWh/Small Comm’l,  
23                 \$0.015035 per kWh/Large Comm’l, \$0.003956 per kWh/Public Buildings and  
24                 \$0.020568 per kWh/Small Industrial and Retail to the requested extension  
                    area until further order of the Commission.

                This language parallels Staff’s Condition 2 language at page 7 of its report. But, by identifying  
                these adjustors as “Acquisition” FACs—which will distinguish them from other “regular”

1 FACs—and also stating in the Decision the fixed rates by class, this phrasing will avoid any  
2 possible future confusion concerning the rates the Cooperative is authorized to charge in  
3 Colorado City.

4 Garkane appreciates Staff and the Hearing Division's assistance in moving this matter to  
5 the Commission's Open Meeting on April 28 so that the required closing date of no later than  
6 June 30, 2009 can be met. The Cooperative will order an expedited transcript for delivery on  
7 April 6 and will present a witness in support of these comments at the April 3 hearing.

8 RESPECTFULLY SUBMITTED this 27<sup>th</sup> day of March, 2009.

9 GALLAGHER & KENNEDY, P.A.

10

11

By   
Michael M. Grant  
2575 East Camelback Road  
Phoenix, Arizona 85016-9225  
Attorneys for Garkane Energy Cooperative, Inc.

12

13

14 **Original and 13 copies** filed this  
15 27<sup>th</sup> day of March, 2009, with:

15

16 Docket Control  
17 Arizona Corporation Commission  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 **Copies** of the foregoing delivered  
21 this 27<sup>th</sup> day of March, 2009, to:

22

23 Vicki Wallace  
24 Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

22

23

24

1 Candrea Allen  
Utilities Division  
2 Arizona Corporation Commission  
1200 West Washington Street  
3 Phoenix, Arizona 85007

4 Prem Bahl  
Utilities Division  
5 Arizona Corporation Commission  
1200 West Washington Street  
6 Phoenix, Arizona 85007

7 Robin Mitchell  
Legal Division  
8 Arizona Corporation Commission  
1200 West Washington Street  
9 Phoenix, Arizona 85007

10 Sarah N. Harping  
Administrative Law Judge  
11 Hearing Division  
Arizona Corporation Commission  
12 1200 West Washington Street  
Phoenix, Arizona 85007

13   
14 Devin Deasall  
10703-3/2067012

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**EXHIBIT A**

**GALLAGHER & KENNEDY**

P.A.

LAW OFFICES

MICHAEL M. GRANT  
DIRECT DIAL: (602) 530-8291  
E-MAIL: MMG@GKNET.COM

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2009 MAR 18 P 12:47

AZ CORP COMMISSION  
DOCKET CONTROL

March 18, 2009

2575 EAST CAMELBACK ROAD  
PHOENIX, ARIZONA 85016-9225  
PHONE: (602) 530-8000  
FAX: (602) 530-8500  
WWW.GKNET.COM

**HAND DELIVERED**

Docket Control  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007

Re: *Affidavit of Publication and Certification of Mailing in Relation to Garkane's Application to Extend Its Certificate of Convenience and Necessity; Docket No. E-01891A-08-0598*

Dear Sir or Madam:

Enclosed are (1) the original and 13 copies of the Affidavit of Publication confirming published notice in this matter in *The Spectrum*, a newspaper of general circulation in Colorado City, Arizona; and (2) the original and 13 copies of Garkane's Certification of Mailing to property owners and signatories of the Memorandum of Understanding.

Your assistance in relation to this matter is appreciated.

Very truly yours,

GALLAGHER & KENNEDY, P.A.



By:

Michael M. Grant

MMG/plp  
10703-3/2064749  
Enclosures

cc (w/enclosures): Robin Mitchell, Legal Division  
Candrea Allen, Utilities Division  
Mike Avant

**Original and 13 copies filed with Docket Control this 18<sup>th</sup> day of March, 2009.**

# SPECTRUM

A Marketing and Communications Company

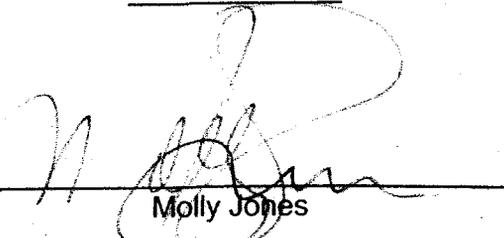
PROOF  
OF  
PUBLICATION

STATE OF UTAH SS.  
COUNTY OF WASHINGTON

**IN THE MATTER OF THE APPLICATION OF**  
**GARKANE ENERGY COOPERATIVE, INC. FOR**  
**APPROVAL TO EXTEND ITS CERTIFICATE OF**  
**CONVENIENCE AND NECESSITY TO INCLUDE**  
**COLORADO CITY, ARIZONA**  
**(Docket No. E-01891A-08-0598)**

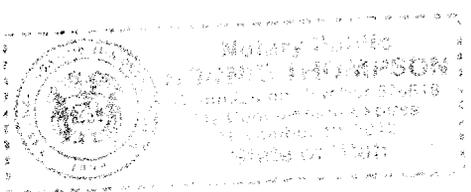
Molly Jones, being duly sworn, deposes and says that she is an accounting representative, at the daily newspaper published at St. George, Washington County, State of Utah, also distributed in Iron County, and that the notice **IN THE MATTER OF THE....** is a true copy of which is here to attached, was published in its issue dated the 26 day of **FEBRUARY** 2009 and was published again in the issues of said newspaper dated:

\_\_\_\_\_ for  
a total of 1 insertion(s).

  
Molly Jones

Subscribed and sworn before me  
this 16<sup>th</sup> day of  
March 2009.

  
NOTARY PUBLIC RESIDING  
AT WASHINGTON COUNTY



**Summary**

On December 12, 2008, Garkane Energy Cooperative, Inc. ("Garkane") filed with the Arizona Corporation Commission ("Commission") an application to extend its Certificate of Convenience and Necessity ("CC&N") to provide electric service to Colorado City, Arizona. According to its application, Garkane has entered into a Memorandum of Understanding to purchase the utility assets of Colorado City, Arizona, and Hildale, Utah ("the Twin Cities") and provide electric service to the residents of the Twin Cities, including approximately 700 customers in Colorado City. Garkane has stated that it will provide electric service to Colorado City residents using its current Commission-approved tariffs and regulations and will use the tariffs' wholesale power cost adjustment provision to adjust Colorado City's tariff rates because there is a higher annual wholesale power cost to serve the Twin Cities than exists for the remainder of Garkane's service area in Arizona and Utah.

The Commission's Utilities Division Staff ("Staff") is in the process of analyzing the application and has not yet made any recommendations in this matter. The Commission will determine whether to grant the application based on the evidence of record in this matter. The Commission is not bound by the proposals made by Garkane, Staff, or any intervenors.

**How You Can View or Obtain a Copy of the Application and Other Documents**

Copies of the application and the other documents filed in this matter are available at Garkane's offices 1802 South Highway 89A, Kanab, Utah 84741; at the Commission's Docket Control Center at 1200 West Washington, Phoenix, Arizona, for public inspection during regular business hours; and on the Internet via the Commission's website ([www.azcc.gov](http://www.azcc.gov)) using the e-Docket function.

**Arizona Corporation Commission Public Hearing Information**

The Commission will hold a hearing in this matter beginning on April 3, 2009, at 9:30 a.m., in Room 100 at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Public comments will be taken on the first day of the hearing. Written public comments may be submitted by mailing a letter referencing Docket No. E-01891A-08-0598 to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by e-mail. For a form to use and instructions on how to e-mail comments to the Commission, go to [http://www.azcc.gov/divisions/utilities/forms/public\\_comment.pdf](http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf). If you require assistance, you may contact the Consumer Services Section at 1-800-222-7000 or 602-542-4251.

ST. GEORGE OFFICE  
275 E St George Blvd. - St George, UT 84770  
Office (435)674-6200 FAX 674-6265  
CEDAR CITY OFFICE  
369 N. 100 W Cedar City, UT 84720  
Office (435) 586-7646 FAX 586-7471

### **About Intervention**

Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. If you desire to intervene, you must file a written motion to intervene with the Commission no later than **March 25, 2009**. You must send a copy of the motion to intervene to Garkane or its counsel and to all parties of record. Your motion to intervene must contain the following:

1. Your name, address, and telephone number and the name, address, and telephone number of any party upon whom service of documents is to be made, if not yourself;
2. A short statement of your interest in the proceeding (e.g., a resident of Colorado City, etc.); and
3. A statement certifying that you have mailed a copy of the motion to intervene to Garkane or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before March 25, 2009. If representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme Court, intervention will be conditioned upon the intervenor's obtaining counsel to represent the intervenor. For information about requesting intervention, visit the Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any interested person or entity from appearing at the hearing and providing public comment on the application or from filing written comments in the docket for the case.

### **ADA/Equal Access Information**

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter and request this document in an alternative format by contacting the ADA Coordinator, Shaylin A. Bernal, at [sabernal@azcc.gov](mailto:sabernal@azcc.gov), voice phone number (602) 542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

Certification of Mailing In Docket No. E-01891A-08-0598

I, Mike Avant, am the Engineering Manager of Garkane Energy Cooperative, Inc. ("Garkane"). I certify that on the 23rd day of February, 2009, I deposited in the first-class U.S. Mail, postage pre-paid, the attached Notice concerning the Application of Garkane addressed to each property owner in the Colorado City requested extension area based upon records provided to Garkane by Colorado City and also addressed to each signatory of the Memorandum of Understanding.

MAVANT

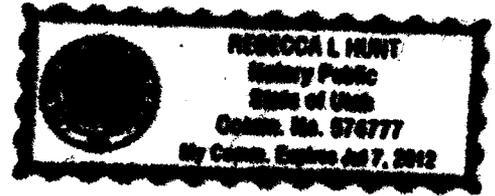
[Signature]

Notary

State of UT  
County of Kane  
On this 24 day of Feb, 2008, Ira Mike Avant  
personally appeared before me,  
 who is personally known to me,  
 whose identity I verified on the basis of UT Driver's License  
\_\_\_\_ whose identity I verified on the basis of affirmation of \_\_\_\_\_  
a credible witness.

to be the signer of the foregoing document, and he/she acknowledged that he/she signed it.

Rebecca L Hunt  
Notary Public  
My Commission Expires 7/7/12



**IN THE MATTER OF THE APPLICATION OF GARKANE  
ENERGY COOPERATIVE, INC. FOR APPROVAL TO EXTEND  
ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO  
INCLUDE COLORADO CITY, ARIZONA  
(Docket No. E-01891A-08-0598)**

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