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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

IN THE MATTER OF THE PETITION OF  
GARKANE ENERGY COOPERATIVE, INC.  
FOR A DECLARATORY ORDER.

DOCKET NO. E-01891A-09-0377

PROCEDURAL ORDER

BY THE COMMISSION:

On July 30, 2009, Garkane Energy Cooperative, Inc. ("Garkane") filed with the Arizona Corporation Commission ("Commission") a Petition for Declaratory Order ("Petition"). In its Petition, Garkane requests that the Commission issue a declaratory order confirming that Garkane is not required to obtain Commission approval of financings under A.R.S. §§ 40-301 et seq. or encumbrances under A.R.S. § 40-285 because Garkane is a foreign public service corporation engaged in interstate commerce. In the alternative, Garkane requests retroactive Commission approval of a November 1999 mortgage and security agreement, a December 2003 loan agreement, an October 2007 loan agreement, an April 2009 substitute secured promissory note, and a May 2009 revolving line of credit. Garkane was required to file its Petition, by Decision No. 70979 (May 5, 2009), and indicated in that matter that it was amenable to doing so.

On September 16, 2009, a Procedural Order was issued scheduling a procedural conference in this matter to be held on September 30, 2009, to discuss the procedures and scheduling for this matter.

On September 30, 2009, a procedural conference was held in this matter. Garkane and the Commission's Utilities Division ("Staff") appeared through counsel. At the procedural conference, Garkane and Staff both stated that they believe no hearing is necessary to resolve the legal issues raised by Garkane's Petition. Staff suggested that the legal issues raised be resolved through a Recommended Order from the Hearing Division and that additional proceedings be held regarding

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1 the analysis and approval of Garkane's financings only if it is first determined that Garkane is legally  
2 required to obtain Commission approval of its financings. Counsel for Garkane agreed with Staff's  
3 suggested approach. The parties also agreed that no public notice is necessary at this time, but that  
4 the issue of public notice should be revisited in the event additional proceedings are scheduled  
5 regarding the analysis and approval of Garkane's past financings. The parties suggested that Staff be  
6 provided approximately one month to file a Response to Garkane's Memorandum of Points and  
7 Authorities and that Garkane then be provided two to three weeks to file a Reply to Staff's Response.

8 The parties' suggested approach for resolving this matter is reasonable and should be  
9 followed.

10 IT IS THEREFORE ORDERED that **Staff shall, by November 2, 2009**, file a Response to  
11 Garkane's Petition, in which Staff shall specifically respond to the Memorandum of Points and  
12 Authorities included therewith.

13 IT IS FURTHER ORDERED that **Garkane shall, by November 23, 2009**, file a Reply to  
14 Staff's Response.

15 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
16 Communications) applies to this proceeding and shall remain in effect until the Commission's  
17 Decision in this matter is final and non-appealable.

18 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
19 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

20 DATED this 1st day of October, 2009.

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24 SARAH N. HARPRING  
25 ADMINISTRATIVE LAW JUDGE  
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1 Copies of the foregoing mailed/delivered  
this 1<sup>st</sup> day of October, 2009, to:

2 Michael M. Grant  
3 GALLAGHER & KENNEDY, P.A.  
4 2575 East Camelback Road  
5 Phoenix, Arizona 85016-9225  
6 Counsel for Garkane Energy Cooperative, Inc.

7 Janice Alward, Chief Counsel  
8 Legal Division  
9 ARIZONA CORPORATION COMMISSION  
10 1200 West Washington Street  
11 Phoenix, Arizona 85007

12 Steven M. Olea, Director  
13 Utilities Division  
14 ARIZONA CORPORATION COMMISSION  
15 1200 West Washington Street  
16 Phoenix, Arizona 85007

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By:   
Debra Broyles  
Secretary to Sarah N. Harpring