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Arizona Corporation Commission

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BOB STUMP, Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

IN THE MATTER OF THE APPLICATION OF
DIXIE ESCALANTE RURAL ELECTRIC
ASSOCIATION, INC. FOR A DETERMINATION
OF THE FAIR VALUE OF ITS PROPERTY AND
FOR AN ORDER SETTING JUST AND
REASONABLE RATES

Docket No. E-02044A-12-0419

**REPLY IN SUPPORT OF
PETITION FOR
DECLARATORY ORDER**

Dixie Escalante Rural Electric Association, Inc. ("Dixie") submits this reply in support of its petition for a Declaratory Order confirming that certain Arizona statutes, namely A.R.S. §§ 40-301, 40-302, 40-303 and 40-285, do not apply to Dixie in relation to its past or future secured loan transactions. Dixie based its petition on prior Commission precedent and specifically on the Commission's recent decision in the Garkane matter, Decision No. 72125.

On September 6, 2013, Utilities Division Staff filed a response brief in which it concluded that the currently existing facts as set forth in Dixie's petition warrant a finding commensurate with the Commission's conclusions in Garkane. Staff's response recommended that Dixie file courtesy copies with the Commission and Staff of all future financing applications, affidavits verifying its then-existing percentages of Utah and Arizona customers and any orders issued relative thereto by the Public Service Commission of Utah. Dixie agrees with this recommendation.

GALLAGHER & KENNEDY, P.A.
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1 In reviewing Staff's response, Dixie noted one item for clarification. Staff indicated that
2 Dixie is a Rural Utilities Service borrower.¹ Actually, Dixie's existing debt is provided by the
3 National Rural Utilities Cooperative Finance Corporation ("CFC"). As indicated in Dixie's
4 petition, its CFC loan agreements contain covenants regarding its operations and business
5 financing, including restrictions on the cooperative's ability to sell, lease or transfer its capital
6 assets.² Dixie has confirmed with Staff that the covenants contained in the CFC loan agreements
7 provide sufficient additional oversight and that this clarification does not alter Staff's
8 conclusions or recommendations.

9 Therefore, Dixie requests that the Administrative Law Judge recommend and the
10 Commission approve an Order confirming that A.R.S. § 40-301, *et seq.*, and A.R.S. § 40-285 are
11 not applicable to Dixie's secured loan transactions based on the currently existing facts. As to
12 Dixie's past loans, Dixie requests that the Commission find it reasonable and appropriate to take
13 no action in relation to them and to confirm, in that regard, that the Commission's inaction with
14 regard to prior loans does not deem them void under Arizona statutory law.

15 RESPECTFULLY SUBMITTED this 12th day of September, 2013.

16 GALLAGHER & KENNEDY, P.A.

17
18 By 

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20 Jennifer A. Cranston
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23 Attorneys for Dixie Escalante Rural Electric
24 Association, Inc.

¹ Staff's Responsive Brief, p. 3, ll. 7-9.

² Petition for Declaratory Order, p. 3, ll. 4-7 and Exhibit A, ¶ 10.

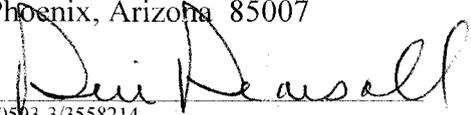
1 **Original and 13 copies** filed this
12th day of September, 2013, with:

2 Docket Control
3 Arizona Corporation Commission
1200 West Washington
4 Phoenix, Arizona 85007

5 **Copies** of the foregoing delivered
this 12th day of September, 2013, to:

6 Teena Jibilian
7 Administrative Law Judge
Arizona Corporation Commission
8 Hearing Division
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