

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of Garkane )  
Energy Cooperative, Inc. for Authority to ) DOCKET NO. 10-028-01  
Issue Securities ) REPORT AND ORDER  
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ISSUED: November 18, 2010

By The Commission:

This matter is before the Commission on the application of Garkane Energy Cooperative, Inc. (Garkane or Company) for Authority to Issue Securities. Garkane filed its verified Application on October 11, 2010. Garkane asked for approval before December 1, 2010 in order for it to proceed with the issuance of securities, and also asked for informal adjudication of the matter as it was not expected to be opposed—pursuant to Utah Admin. Code R746-110-1, -2. The Division of Public Utilities (Division) filed its recommendation on October 21, 2010 recommending approval.

BACKGROUND

In November 1999, the Company entered into a long term loan agreement with national Rural Utilities Cooperative Finance Cooperative (CFC) for a loan amount up to \$4,546,000 to make necessary improvements to Garkane’s distribution system. As a condition for the CFC loan, the U.S. Department of Agriculture’s Rural Utilities’ Service (RUS) served as guarantor. That loan was approved by the Commission on January 27, 2000 in Docket No. 99-028-01.

Garkane later desired to streamline the terms and conditions of the original loan and also desired to obtain other benefits by releasing the RUS guarantee. It requested the CFC

release RUS as guarantor and the CFC agreed. Garkane and the CFC entered into an Amended and Restated Loan Agreement dated April 22, 2009 to memorialize their agreement to release Garkane from the requirement to maintain the RUS guarantee. The Company provided a Substitute Secured Promissory Note dated that same day and delivered it to the CFC in April 2009, but did so without prior Commission authorization. Both Garkane and the Division affirm that the Substitute Note did not alter the terms and conditions of the original loan approved by the Commission. However, Garkane now seeks to remedy its omission by submitting the application for permission to issue the Substitute Note.

Garkane made recent application to the CFC for an additional \$15 million and if this loan is approved, Garkane will request another application for approval for this loan to the Commission.

In reviewing Garkane's application, the Division stated that Garkane has a total debt obligation of \$32.5 million, comprised of 32 individual notes each financed with the CFC. The \$4.5 million portion is the only one that was guaranteed by the RUS and has been reduced to \$3.6 million. The Division reviewed the Company's application and attachments, and also audited annual financial reports for years 2005 through 2009. The Division also spoke with Stan Chappell and David Crabtree from Garkane about certain details of the application and other questions regarding Garkane's financial statements.

The Division made several findings regarding Garkane's operations. First, it made findings concerning Garkane's financial ratios. Although the Company struggled in 2008 with low margins and high maintenance expenses, it increased rates in August 2008 and July

2009. The Company also increased its revenues by 9.55%—from \$14.4 million in 2005 to \$20.7 million in 2009. Operating expenses have grown more slowly, by 8.39%—increasing from \$12.3 million in 2005 to \$17 million in 2009.<sup>1</sup> The Division further noted that operations earnings increased annually from 2005 to 2009 by 15.85%. Net margin before any return of patron’s capital showed a dramatic increase of 32.54%—primarily due to the \$1.7 million gain on the sale of assets in 2009, when the Company sold a transmission line extending from Colorado City to Hurricane to Pacificorp. With the exclusion of this sale, the net margin grew at 15.30%, which is consistent with the historic averages.

The Division also noted:

- Net plant and equipment has increased since 2005 at an average rate of 12.16% and stands at 55.1 million;
- Cash and equivalents account is down in 2009 but have been increasing annually at a rate of 4.79%;
- With the Company’s purchase of the Twin Cities Power System it added about 1,100 retail customers resulting in a significant increase in Accounts Receivable;
- Total equity increased at a rate of 7.67% while long-term debt grew at 13.64%;
- The long-term solvency ratios for year-end 2009 are “strong and near historical averages”;
- Net margin and profitability ratios are above historical averages.

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<sup>1</sup> The Division noted that part of this slower rate was due to reduced costs for propane and lower transmission and distribution maintenance expenses.

DOCKET NO. 10-028-01

- 4 -

The Division concluded that the Company is able to meet its current and planned obligations and that it is financially a sound entity. It also concluded that the loan modification and release of the RUS guarantee loan provision will not add to the debt obligation nor affect the interest rate. The Division also concluded that the Amended and Restate Loan Agreement and Substitute Promissory Note should have no effect on ratepayers and not increase costs to the Company. It recommended approving the application.

Therefore, based on Garkane's application and corresponding attachments, and based on the Division's review and recommendation, the Commission finds Garkane's application should be approved. It also should be approved expeditiously, to allow it to seek further financial assistance as may be necessary. Also, since no opposition has been filed, and since the application meets all requirements for informal adjudication, this matter should be adjudicated informally.

ORDER

1. This matter is converted to an informal matter and is adjudicated informally;
2. The application of Garkane Energy Cooperative, Inc. (Garkane or Company) for Authority to Issue Securities is granted;
3. The 20-day tentative period of Utah Admin. Code R746-110-2 is waived and this is a final order.
4. Pursuant to Sections 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this Order. Responses

DOCKET NO. 10-028-01

- 5 -

to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of Sections 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 18<sup>th</sup> day of November, 2010.

/s/ Ruben H. Arredondo  
Administrative Law Judge

Approved and confirmed this 18<sup>th</sup> day of November, 2010, as the Report and Order of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G#69651