

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	DOCKET NO.
Garkane Energy Cooperative, Inc.)	
for Authority to Issue Securities)	VERIFIED
)	APPLICATION FOR APPROVAL
)	OF ISSUANCE OF SECURITIES
)	

Applicant Garkane Energy Cooperative Inc., (“Garkane”) hereby submits this application for authority to issue securities in the form of a Secured Promissory Note and to execute related Loan Agreement, together with related Restated Mortgage and Security Agreement, and one or more financing statement(s), (collectively the “Loan Facility”) and hereby requests an Order authorizing Garkane to issue securities in conjunction with the long-term loan facility and associated Secured Promissory Note in the amount of approximately \$15,000,000.00. Garkane hereby requests Informal Adjudication of the Application under R746-110, Rules of the Public Service Commission, and hereby represents that the Application is anticipated to be unopposed and uncontested.

Garkane hereby further requests a waiver by the Commission of the 20-day tentative period under R746-110-2 for good cause shown on the basis that Garkane’s principal secured creditor, National Rural Utilities Cooperative Finance Corporation (“CFC”) requires that the Loan Facility be final and fully enforceable without being subject to any appeal or protests prior to the expiration of CFC’s offer of long term financing, which offer was initially set to expire

approximately December 31, 2010.¹ Garkane wishes to finalize this long-term financing in a timely manner and to thereby avoid any potential loss(es) or hardship(s) that would otherwise be occasioned should the financing arrangement be delayed and/or the negotiated terms of such financing no longer be available from CFC.

Background

1. Garkane has experienced growth in its system and demand on its cash and equivalents due to several factors, several of which were previously noted in the Commission's Report and Order dated November 18, 2010 in docket No. 10-028-01; furthermore, Garkane anticipates further financing requirements related to growth on its system as well as replacement and improvements required to its utility plant. The nature of these demands are related to developments that include but are not limited to:

- Garkane's acquisition of the Twin Cities Power System;
- Growth in Net Plant and Equipment since 2005 at an average annual rate of 12.16%;
- Anticipated requirements to upgrade transmission and/or distribution facilities to meet planned growth on Garkane's system during the next several years.

2. The Loan Facility will facilitate the long-term financing of needed improvements to Garkane's system as such improvements will be implemented over the course of the Loan Draw Period, defined as five (5) years following execution of the Loan Facility.

¹ . Garkane has been delayed in securing this long-term financing during the finalization of financing documentation related to a Substitute Loan facility approved by the Commission in its order dated November 18, 2010 in docket No. 10-028-01, part of which documentation had been inadvertently left unfinished. Garkane expects to receive a temporary extension of the current expiration of CFC's offer to extend the subject long-term financing, but cannot be certain of receiving indefinite extension of that deadline.

3. The relevant terms of the Loan Facility are as set forth therein, and primarily include the following:

a) The maximum amount of borrowing authorized under the terms of the Loan Facility will be approximately \$15,000,000.00;

(b) The Maturity Date of the Loan Facility will be no later than the date that is forty (40) years from the date of the Loan Facility (the “Maturity Date”);

(c) The amortization period of each Advance under the Loan Facility will be determined as follows:

(i) for each Advance with respect to which Garkane elects, at or prior to the date of such Advance, an amortization method for repayment of principal of such Advance, such period as specified in writing by Garkane at the time of each such Advance, *provided* that in no event may the Amortization period for any such Advance extend beyond the earlier of thirty-five (35) years from the date of such Advance or the Maturity Date; or

(ii) for any Advance with respect to which no amortization method is selected by Garkane, a period ending on the date thirty-five (35) years from the date of such Advance, or the Maturity Date, whichever is earlier.

(d) For each Advance under the Loan Facility, Garkane must designate either a Fixed or a Variable interest rate. Such rates are determined and will be set to equal, such fixed or variable rate(s) established by CFC for long-term loans similarly classified pursuant to programs, policies and procedures of CFC then in effect, or

such other rate(s) as may be agreed to by the parties in writing at the time of an Advance under the Loan Facility. Interest rates for any such Advance may be converted, at Garkane's option, without a fee, pursuant to the terms of the Loan Facility Agreement. Conversion of a variable interest rate to fixed rates for any Advance(s) shall generally occur at a fixed rate or rate(s) of interest offered by or otherwise agreed to in writing by CFC in effect on the date of the Conversion Request; conversions from a fixed interest rate to a variable rate require a payment to CFC any applicable conversion fee calculated pursuant to CFC's long-term loan policies as established from time to time for similarly classified long-term loans.

- (e) The Loan Facility will be secured by a first-lien mortgage on Garkane's electric system and assets pursuant to the terms of a Restated Mortgage and Security Agreement by Garkane, as Mortgagor, in favor of CFC, as Mortgagee, which lien and security interest shall be further evidenced and established by one or more Financing Statement(s) and/or Security Agreements to be executed and filed in appropriate office(s) where Garkane does business or where Garkane owns property.
- (f) Payments under the Loan Facility will be due quarterly in February, May, August, and November, unless agreed otherwise between the parties. All amounts outstanding and unpaid as of the Maturity Date will be due and payable on the Maturity Date.

Public Interest

- 4. The approval of the Loan Facility is necessary in order to accommodate future

long-term financing to fund necessary improvements to the Garkane system. The Governing Board of Garkane, having considered other reasonable alternatives to Loan Facility, approved and authorized the Loan Facility at the regularly scheduled board meeting held November 29, 2010. A duly executed Certificate of the Garkane Secretary evidencing the authorizing resolutions approving the Loan Facility submitted herewith.

5. The proposed Loan Facility is for lawful objects within Garkane's proper corporate purposes, are compatible with the public interest, are necessary or appropriate for or consistent with the proper performance by Garkane of its services as a public utility, will not impair Garkane's ability to perform those services, and are reasonably necessary or appropriate for those purposes.

Requested Time of Approval

6. Garkane respectfully requests an Order from this Commission approving the issuance of the Garkane Guarantee and related transactions on or before January 31, 2010, to accommodate Garkane's anticipated execution of the Loan Facility and delivery of loan documents to CFC.

DATED this _____ day of December, 2010.

David F. Crabtree

Attorney for Applicant
Garkane Energy Cooperative, Inc.
10714 South Jordan Gateway, Suite 300
South Jordan, Utah 84095

VERIFICATION

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The undersigned, being first duly sworn upon oath, deposes and states that he is the Chief Executive Officer of Garkane Energy Cooperative, Inc., the Applicant in this proceeding, that he has read the foregoing Application and is familiar with the transactions referred to therein, and that, to the best of his knowledge, information and belief, the statements therein are true and accurate.

Carl R. Albrecht
CEO

Subscribed and sworn to before me the ____rd day of December, 2010.

Notary Public

My Commission Expires:

Residing in: _____

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	DOCKET NO.
Garkane Energy Cooperative, Inc.)	
for Authority to Issue Securities)	PROPOSED REPORT AND
)	ORDER APPROVING
)	ISSUANCE OF SECURITIES
)	

By the Commission:

On December 3, 2010, applicant Garkane Energy Cooperative, Inc. filed an application seeking authority pursuant to Utah Code Ann. § 54-4-31 to issue certain securities in the form of a long-term Loan Agreement and a related Secured Promissory Note in the amount of up to approximately \$15,000,000.00 (the “Loan Facility”). Applicant requested Informal Adjudication of the Application under R746-110, Rules of the Public Service Commission, and represented that the matter was anticipated to be unopposed and uncontested. Applicant further requested a waiver by the Commission of the 20-day tentative period under R746-110-2 for good cause shown on the basis that Applicant desires to finalize the Loan Facility prior to anticipated expiration of the offer for long-term financing currently being held open by the National Rural Utilities Cooperative Finance Corporation (“CFC”), applicant’s long term lender which requires, as a condition to providing such additional long term financing, that the Loan Facility must be final and fully enforceable in full force and effect without being subject to any appeal or protests

in order to finalize such financing.

Applicant has submitted copies of the relevant documents, certified and verified pursuant to the Verified Application, and other information to establish the facts pertinent to the Application.

BACKGROUND

Applicant asserts that it has experienced growth in its system and demand on its cash and equivalents due to several factors, several of which were previously noted in the Commission's Report and Order dated November 18, 2010 in docket No. 10-028-01; furthermore, Applicant asserts that it anticipates further financing requirements related to growth on its system as well as replacement and improvements required to its utility plant. The nature of these demands are related to developments that include but are not limited to:

- The acquisition of the Twin Cities Power System;
- Growth in Net Plant and Equipment since 2005 at an average annual rate of 12.16%;
- Anticipated requirements to upgrade transmission and/or distribution facilities to meet planned growth on Applicant's system during the next several years.

The relevant terms of the Loan Facility are as set forth therein, and primarily include the following:

- a) The maximum amount of borrowing authorized under the terms of the Loan Facility will be approximately \$15,000,000.00;

- (b) The Maturity Date of the Loan Facility will be no later than the date that is forty (40) years from the date of the Loan Facility (the “Maturity Date”);
- (c) The amortization period of each Advance under the Loan Facility will be determined as follows:
 - (i) for each Advance with respect to which Applicant elects, at or prior to the date of such Advance, an amortization method for repayment of principal of such Advance, such period as specified in writing by Applicant at the time of each such Advance, *provided* that in no event may the Amortization period for any such Advance extend beyond the earlier of thirty-five (35) years from the date of such Advance or the Maturity Date; or
 - (ii) for any Advance with respect to which no amortization method is selected by Applicant, a period ending on the date thirty-five (35) years from the date of such Advance, or the Maturity Date, whichever is earlier.
- (d) For each Advance under the Loan Facility, Applicant must designate either a Fixed or a Variable interest rate. Such rates are determined and will be set to equal, such fixed or variable rate(s) established by CFC for long-term loans similarly classified pursuant to programs, policies and procedures of CFC then in effect, or such other rate(s) as may be agreed to by the parties in writing at the time of an Advance under the Loan Facility. Interest rates for any such Advance may be converted, at Applicant’s option, without a fee, pursuant to the terms of the Loan Facility Agreement. Conversion of a variable interest rate to fixed rates

for any Advance(s) shall generally occur at a fixed rate or rate(s) of interest offered by or otherwise agreed to in writing by CFC in effect on the date of the Conversion Request; conversions from a fixed interest rate to a variable rate require a payment to CFC any applicable conversion fee calculated pursuant to CFC's long-term loan policies as established from time to time for similarly classified long-term loans.

- (e) The Loan Facility will be secured by a first-lien mortgage on Applicant's electric system and assets pursuant to the terms of a Restated Mortgage and Security Agreement by Applicant, as Mortgagor, in favor of CFC, as Mortgagee, which lien and security interest shall be further evidenced and established by one or more Financing Statement(s) and/or Security Agreements to be executed and filed in appropriate office(s) where Applicant does business or owns property.
- (f) Payments under the Loan Facility will be due quarterly in February, May, August, and November, unless agreed otherwise between the parties. All amounts outstanding and unpaid as of the Maturity Date will be due and payable on the Maturity Date.

Applicant asserts that it has analyzed and considered various alternatives to the Loan Facility and that the Facility represents the best available means available to Applicant to obtain long-term financing for ongoing and future anticipated capital projects and other corporate purposes. The Loan Facility was approved by Applicant's Board of Trustees at a regularly scheduled meeting of the board on November 29, 2010.

CONCLUSIONS OF LAW

1. The Applicant is a public utility subject to the jurisdiction of this Commission.

2. All legal and factual prerequisites and requirements for the issuance of this Order have been satisfied.

3. Execution and delivery of the Loan Facility as described herein is in the public interest.

4. The issuance and/or renewal of securities and security interest in connection with the Loan Facility is (i) for lawful and proper purposes; (ii) within Applicant's corporate powers; (iii) consistent with the public interest, sound financial practices and the proper performance of Applicant's public service; and (iv) designed to enhance and not impair Applicant's ability to perform its public service.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

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 under Utah Admin. Code R746-110-2 is hereby 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 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 ____ day of January, 2011.

Administrative Law Judge

Approved and confirmed this ____ day of January, 2011, as the Report and Order of the Public Service Commission of Utah.

Attest:

Julie Orchard
Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Verified Application for Approval of Issuance of Securities was served by U.S. mail this 3d day of December, 2010, upon the following:

Artie Powell
Utah Division of Public Utilities
160 East 300 South, 4th Floor
Salt Lake City, Utah 84114

Committee of Consumer Services
160 East 300 South, 4th Floor
Salt Lake City, Utah 84114

Mr. Dan Lyzinski
CFC
2201 Cooperative Way
Herndon, VA 20171-3025

ATTACHMENT NO. 1

TO THE

VERIFIED APPLICATION FOR APPROVAL
OF ISSUANCE OF SECURITIES

“LOAN AGREEMENT”

ATTACHMENT NO. 2

TO THE

VERIFIED APPLICATION FOR APPROVAL
OF ISSUANCE OF SECURITIES

“SECURED
PROMISSORY NOTE”

ATTACHMENT NO. 3

TO THE

**VERIFIED APPLICATION FOR APPROVAL
OF ISSUANCE OF SECURITIES**

**“RESTATED MORTGAGE AND SECURITY
AGREEMENT”**

ATTACHMENT NO. 4

TO THE

**VERIFIED APPLICATION FOR APPROVAL
OF ISSUANCE OF SECURITIES**

**“CERTIFICATE OF RESOLUTIONS AND INCUMBENCY”
OF
GARKANE ENERGY COOPERATIVE, INC.**