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State of Utah
Department of Commerce
Division of Public Utilities

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ACTION REQUEST RESPONSE

To: Public Service Commission

From: Division of Public Utilities
Chris Parker, Director
Energy Section
Artie Powell, Manager
Doug Wheelwright, Utility Analyst

Date: February 4, 2013

Subject: Docket No. 13-028-01, Correspondence from Garkane Energy Cooperative, Inc. for Construction of a 30 Mile 138 kV Transmission Line from Tropic, Utah to Hatch, Utah.

RECOMMENDATION:

The Commission should respond to Garkane Energy and affirm that the Company is not required to obtain a Certificate of Convenience and Necessity for the construction of the 30 Mile transmission line from Tropic, Utah to Hatch, Utah.

ISSUE:

On January 2, 2013, Garkane Energy Cooperative (Company) sent a letter to the Utah Public Service Commission asking for clarification of Utah Code §54-4-25 in relation to the proposed construction of a 30 mile 138 kV transmission line from Tropic, Utah to Hatch, Utah. On January 7, 2013, the Commission issued an Action Request to the Division of Public Utilities (Division) to review the notice and make recommendations. This memo is the Division's response to the action request.

Garkane Energy provides electric service to its member/owners living in the Garfield and Kane County. Due to load growth in this area, the current transmission line has become inadequate to serve the current load. One of the primary reasons for the increased load requirement is the growth and expansion that has occurred in the Cedar Mountain area. The Company has been planning to upgrade this line for over seven years and has received the necessary right-of-way approval from the US Forest Service, Grand Staircase – Escalante National Monument, National Park Service and BLM and would like to move forward with construction. The Company has asked that the Commission confirm its interpretation of Utah Code §54-4-25 Certificate of Convenience and Necessity Prerequisite to Construction - as it relates to the proposed project.

Utah Code §54-4-25 states;

(2) This section may not be construed to require any corporation to secure a certificate for an extension:

(c) within or to territory already served by it, necessary in the ordinary course of its business.

Since the proposed transmission line is needed to serve the existing customers and upgrade the existing transmission line currently in service, the Company has interpreted this Section to mean that Commission approval is not required in this instance and has asked for confirmation.

DISCUSSION:

The Division has reviewed the letter submitted by the Company and has reviewed the Utah Code referenced above. The Division is in agreement with the Company that approval from the Commission is not required in this instance and would recommend that the Commission provide a written response to the Company. Representatives from the Attorney General's Office have also reviewed the Company's letter along with the State Statute and agree with the Division's findings. It has been suggested that the correspondence to the Company should state that given the limited representations set forth in the letter, the Commission does not believe that Garkane is required to obtain a certification for the 30 mile transmission line from Tropic, Utah to Hatch, Utah.

Cc: Carl R. Albrecht, Garkane Energy Cooperative, Inc.
Michelle Beck, Office of Consumer Services