

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Garkane Energy)	
Cooperative, Inc's Construction of a 30 Mile)	<u>DOCKET NO. 13-028-01</u>
138 kV Transmission Line from Tropic, Utah)	
to Hatch, Utah)	<u>ORDER</u>
)	

ISSUED: February 6, 2013

SYNOPSIS

The Commission affirms Utah Code 54-4-25(2)(c) applies to the 30-mile transmission line from Tropic, Utah to Hatch, Utah, as that line is described by Garkane Energy in its January 4, 2013, letter filed with the Commission.

By The Commission:

This matter is before the Public Service Commission of Utah ("Commission") upon the receipt of a January 4, 2013, letter from Garkane Energy Cooperative, Inc. ("Garkane Energy") requesting the Commission's interpretation of Utah Code §54-4-25(2)(c) and its applicability to certain proposed transmission facilities.

In its January 4th letter, Garkane Energy describes its intent to construct a 30-mile 138 kV transmission line (initially to be operated at 69 kV) from Tropic, Utah to Hatch, Utah. Further, Garkane Energy offers its interpretation of Utah Code §54-4-25 (2)(c) which addresses exceptions to the need for an electric corporation to secure a certificate of convenience and necessity (CPCN) from the Commission prior to commencing the construction of certain facilities. Utah Code §54-4-25(2)(c) 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 business.

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Garkane Energy believes the Tropic to Hatch line does not require a CPCN since “the construction is in territory already served by Garkane Energy and [is] necessary in the ordinary course of our business to provide adequate electric service to our members.” Garkane Energy requests the Commission’s advice if this interpretation is incorrect.

On February 4, 2013, the Utah Division of Public Utilities (“Division”) provided the Commission with its memorandum describing its review of Garkane Energy’s letter and Utah Code §54-4-25(2)(c), and its recommendation regarding whether a CPCN is required in this case. The Division states it is in agreement with Garkane Energy and recommends the Commission affirm to Garkane Energy that it is not required to obtain a CPCN for the 30-mile transmission line from Tropic, Utah to Hatch, Utah. The Division states representatives from the Attorney General’s Office also reviewed the Company’s letter and the applicable state statute, and these representatives agree with the Division’s interpretation the statute applies to the line proposed in Garkane Energy’s January 4th letter.

FINDINGS AND CONCLUSIONS

Based on the Commission’s review of Garkane Energy’s letter and Utah Code §54-4-25(2)(c), and the Division’s recommendations, the Commission finds Garkane Energy does not need to secure a CPCN for the 30-mile Tropic to Hatch line as described in Garkane Energy’s January 4th letter to the Commission.

The Commission invites any party with facts or opinions which would cause the Commission to reconsider its findings and conclusions in this case, to provide such within 14

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days of the date of this order. In the absence of any further filings in this case, the Commission's conclusions and order stated herein shall be effective as of February 20, 2013.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Garkane Energy is not required under Utah Code §54-4-25(2)(c) to secure a certificate of convenience and necessity for the transmission facilities described in Garkane Energy's January 4, 2013, letter to the Commission.
2. Any party with facts or opinions to dispute the evidence, findings and conclusions entered in this case shall submit such within 14 days of the date of this order.

DATED at Salt Lake City, Utah, this 6th day of February, 2013.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
G#241646

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Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of February, 2013, a true and correct copy of the foregoing Order was served upon the following as indicated below:

By Electronic-Mail:

Carl R. Albrecht (garkanepower@qwest.net)
Garkane Energy Cooperative, Inc.

By Hand-Delivery:

Division of Public Utilities
160 East 300 South, 4th Floor
Salt Lake City, Utah 84111

Office of Consumer Services
160 East 300 South, 2nd Floor
Salt Lake City, Utah 84111

Administrative Assistant