

Exhibit D

HILDALE, UTAH

ORDINANCE NO. 06-09-1

AN ORDINANCE GRANTING AN ELECTRIC UTILITY FRANCHISE TO
GARKANE ENERGY COOPERATIVE, INC.

WHEREAS, Garkane Energy Cooperative, Inc. (the "Company") has offered to purchase from Hildale City (the "City") and the City has agreed to sell to Garkane, substantially all of the City's electric distribution utility system and transmission system (the "Sale"); and

WHEREAS, as a condition of the Sale, the Company desires to receive from the City an exclusive contractual franchise to operate an electric distribution and transmission system within the corporate limits of the City, as such limits may be modified through annexation from time to time; and

WHEREAS, the City Council of Hildale, Utah desires to grant to Garkane Energy Cooperative, Inc. such a franchise on terms and conditions set forth in this ordinance; and

THE CITY COUNCIL OF HILDALE, UTAH HEREBY ORDAINS AS FOLLOWS:

1. Short Title. This ordinance shall be known and may be cited as the "Garkane Electric Distribution Franchise Ordinance."
2. Definitions. For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein.
 - a. "City" is the city of Hildale, Utah.
 - b. "Company" is Garkane Energy Cooperative, Inc., a Utah corporation, the grantee of rights under this Franchise, and its successors and assigns.
 - c. "Council" is the City Council of Hildale, Utah.
 - d. "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
 - e. "Prudent Utility Practice" is any of the practices, methods and acts, as changed from time to time, engaged in or approved by a significant portion of the electric utility industry to operate electrical equipment lawfully and in a safe, dependable, efficient and economic manner, or any practices, methods and acts which, in the exercise of reasonable judgment in the light of the known facts, could be expected to accomplish the desired result at reasonable costs and consistent with reliability, safety and expedition and the requirements of governmental agencies having jurisdiction. Prudent Utility Practices are not intended to be limited either to the optimum or least costly practice, method or act to the exclusion of all others, but rather to be a range of reasonable practices, methods or acts.

- f. "Franchise" is the right, authority, and contractual undertakings granted to the Company in Section 4 and 5.
 - g. "Franchise Area" is all of the area currently within the corporate limits of the City and any area annexed into the corporate limits of the City during the term of this Franchise.
 - h. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
3. Purpose and Effect. The Purpose of this ordinance is to provide authority to the Company to use City streets, roads, alleys and other public ways within the Franchise Area and to set forth the terms of the agreement between the City and the Company for the grant of an exclusive contractual franchise to the Company for the purpose of distributing retail electrical power and energy to residents, businesses, and Persons located within the Franchise Area. By filing acceptance as provided in Section 15, the Company accepts all of the terms of this ordinance and agrees to comply with, and be bound by, all of the terms hereof, whereupon the Company and the City shall be bound contractually to the terms of the Franchise granted hereby.
4. Grant of Authority. There is hereby granted by the City to the Company the right and privilege to do the following:
- a. Construct, erect, relocate, upgrade, operate and maintain in, upon, along, across, above, over and under streets, roads, alleys and other public ways now laid out or dedicated, and all extensions, additions, improvements or upgrades thereof in the Franchise Area. Poles, wires, cables, underground conduits, manholes and other electric fixtures necessary or proper for the construction, maintenance and operation in the Franchise Area of an electric distribution and transmission system, and such other services as are generally provided to members of the Company, including any and all wires and associated equipment connected therewith.
 - b. Supply, sell, distribute and furnish electrical power and energy, associated services, and such other incidental electrical services as generally are provided or offered to the members of the Company at retail in the Franchise Area.
 - c. Provide such additional services, perform or make such additional improvements, and construct such additional facilities as may from time to time be required by applicable federal, state, or local law with respect to any activities of the Company within the Franchise Area related to its electric distribution and transmission system.
5. Exclusive Franchise. This Franchise is an exclusive franchise to the extent that the Company has been granted an exclusive certificate by the Utah Public Service Commission to service any part or all of the Franchise Area and for so long as such exclusive certificate remains in full force and effect. The City will not grant a franchise in the Franchise Area to any other Person in that same business. Notwithstanding the foregoing, this Franchise shall be non-exclusive as to all services other than constructing, maintaining and operating an electric distribution and transmission system in all portions

of the Franchise Area. The City shall not directly or indirectly, during the term of the Franchise, undertake in any manner to sell, supply, distribute or furnish electric power and energy for retail for end use consumption to any Person located within the Franchise Area, except as required by federal or state statute; provided that the City shall not exercise any option it may have under such statutes in a way that would have the effect of nullifying its commitment under this provision, if it can reasonably avoid doing so in a manner consistent with its obligations to its citizens.

6. Compliance with Applicable Laws and Ordinances. The Company shall, at all times during the term of this Franchise, be subject to and shall comply with all lawful exercise of the police power by the City, such lawful regulation of general and non-discriminatory application as the City shall from time to time by resolution or ordinance provided, and all rules and regulations of any other governing authority having jurisdiction. The Company shall, at all times during the term of this Franchise, furnish and supply electric power and energy to residents of the City within the Franchise Area in such a manner as shall be reasonably calculated to satisfy any legal obligation of the City to provide for such utility service within the corporate limits of the City. Company will construct facilities to the Rural Utility Service (formerly REA) standard and specifications and to the requirements of the National Electrical Safety Code (NESC), which are acceptable to City. In particular, the Company represents and warrants that it shall use its best efforts to upgrade and maintain its electric distribution system in the Franchise Area as necessary to provide retail electric service to its members located within the Franchise Area that is similar in quality and reliability to the service that other members of the Company receive, , except as may be otherwise agreed between the Company and the City. Taxes and fees imposed on the Company by the City shall not be included in such service rate comparison. In particular, the Company shall comply with the requirements set forth in APPENDIX B with respect to the construction, installation, maintenance, repair and replacement of its electric transmission and distribution facilities within the Franchise Area.

Furthermore, the Company shall notify the City no less than 10 days in advance of any capital expenditures in excess of \$100,000 that it intends to make during any calendar quarter on repairs, replacements or upgrades of its distribution facilities in the Franchise Area after a notice of termination of this Franchise has been given in accordance with Section 12.

The Company shall follow Prudent Utility Practice in maintaining and making capital expenditures in the repair and replacements or upgrades of the distribution facilities in the Franchise Area. Company shall maintain emergency repair service available to City customers on a twenty-four (24) hour per day, seven (7) days per week basis. Such emergency service shall be available on a 24 hour basis..

Company shall establish an office for receipt of payment and customer service in Hildale or Colorado City for a minimum period of three years from the effective date of this agreement. Continuation of the office after the initial period shall be at the discretion of Company.

7. Fees, Taxes and Assessments. The Company shall pay any Franchise fees, lawful taxes, other fees, charges or assessments adopted by the City from time to time during the term of this Franchise, including without limitation any Municipal Energy Sales and Use Tax levied and collected by or on behalf of the City pursuant to Utah Code Section 10-1-301

et seq. on the delivered value of electric power and energy sold by the Company to members and customers within the Franchise Area. The Company may include any such taxes, fees, charges and assessments in its rates or bills to the customers in the Franchise Area.

8. Rights-of-Way. As part of the Franchise granted pursuant to Section 4 and 5, the City also grants to the Company a license to use all electric rights-of-way owned by the City across private property.
9. Company Liability – Indemnification. The City shall not be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by the Company of its transmission or distribution facilities. The acceptance of this Franchise shall be deemed an agreement on the part of the Company to indemnify the City and hold it harmless against any and all liability, loss, cost, damage and expense (including, without limitation, attorneys' fees) which may accrue to the City by reason of the negligence, fault or misconduct of the Company, its agents or employees, or violation of any applicable environmental regulations or standards, in the construction, operation, maintenance or removal and disposal of the Company's transmission and distribution facilities under this Franchise, provided however, that nothing herein shall expand or otherwise set forth in or pursuant to applicable law.
10. Assignment or Transfer. This Franchise and the rights hereunder are non-transferable and non-assignable, except as such assignment or transfer is approved by the City in writing.
11. City Rights in Franchise Area. Notwithstanding anything to the contrary herein, the City shall have the following rights to use the Company's system within the corporate limits of the City:
 - a. Use of System by City. The City shall have the right, during the term of this Franchise, free of charge, where aerial construction exists, of maintaining upon the poles of the Company within the City limits wire and pole fixtures necessary for a police, fire alarm and communication system, for the City's own municipal use, for City employees or municipal facilities, such wires and fixtures to be constructed and maintained to the satisfaction of the Company and in accordance with its specifications. All such construction and maintenance must be in conformance to Rural Utility Services, National Electrical Safety Code, and Garkane's requirements. The City will be responsible for any cost associated with modifications, upgrades, extensions, or replacements of the Company's facilities necessary to accommodate the City's facilities.
 - i. Compliance with Company Rule. The City in its use and maintenance of such wires and fixtures shall at all times comply with the rules and regulations of the Company so that there may be a minimum danger of contact or conflict between the wires and fixtures of the Company and the wires and fixtures by the City.
 - ii. Liability. The City shall be solely responsible for all damage to Persons or property arising out of the construction or maintenance of said wires and fixtures authorized by this Paragraph (a) and shall indemnify and save the Company harmless from all claims and demands whatsoever arising out of

the attachment, maintenance, use, change or removal of said wires and fixtures. In case of rearrangement of the of the Company plant or removal of poles or fixtures, the City shall indemnify and save the Company harmless from any damage to Persons or property arising out of the removal or construction of the City's wires or other fixtures. The City shall be solely responsible for the cost of relocating, maintaining, and operating any wire or fixtures authorized by this Paragraph (a). Notwithstanding anything to the contrary in this Paragraph (a), in no event shall the City be responsible for or have any obligation to indemnify or save harmless any Person for damage, destruction or other loss to the extent that such loss is the result of any negligence on the part of the Company or its agents or employees.

- b. Supervision and Inspection of Company System. The City shall have the right to supervise all construction or installation work performed subject to the provisions of this Franchise and to make such inspections as it shall find necessary to insure compliance with governing ordinances. The Company shall correct any construction or installation found by the City not to be in compliance with this Franchise or other applicable ordinances. Nothing herein shall create any obligation of the City to the Company or any third party, or give rise to a claim for failure to supervise or inspect or to a claim for improper inspection, supervision direction.
12. Procedure after Termination or Revocation. Upon the revocation of this Franchise, or at the end of the term of this Franchise, all rights, duties, and obligations or undertakings of the Company under this Franchise shall terminate. The City shall have the right to determine whether the Company may continue to operate and maintain its electric distribution and transmission system within the Franchise Area pending the decision of the City as to the Future maintenance and operation of the Company's electric distribution and Company to remove any portion of its system or to cease providing service to any part of the Franchise Area, then absent a written agreement between the City and the Company, the City shall be deemed to have directed removal of the system from the entire Franchise Area at that time. In the event the City shall so direct in writing, the Company shall remove all of its poles, wires, cables, underground conduit, manholes and other electric fixtures, and shall restore the streets and other premises from which they are removed. The City shall reasonably cooperate with and not interfere in the Company's right to remove its property, plant and equipment. Nothing in this paragraph shall be deemed or decreed to be consent by the Company to the City's use of the Company's poles, wires and other facilities to provide electrical service to citizens of the City.
13. Inspection Obligation. The right of the City to supervise and/or inspect the work or facilities of the Company shall impose no obligation upon the City to discover or correct any defects in the work or facilities of the Company.
14. Records and Reports. During the term of the Franchise, the City shall have access at all reasonable hours to all the Company's , financial, and statistical, records relating to the properties and the operation of the Company within the Franchise Area. The Company shall provide to the City within 60 days after the end of each year an annual summary report, which summary report shall be certified by the duly elected President or Chief Financial Officer of the Company, showing the gross revenues received by the Company from its operations within the City during the prior year and such other information as the

City shall request with respect to properties and expenses related to the Company's service within the City.

15. Effective Date and Term. The Franchise shall take effect when the Company executes this ordinance in the space below and delivers the executed ordinance to the City Recorder and upon the final closing of the Company's acquisition of the Twin Cities System (contingent of the full, complete, and permanent release and discharge of the City from any and all debts, liabilities, obligations or claims of any kind or nature whatsoever by or through Colorado City and/or the bondholders.) The Franchise shall continue in force and effect for a term of thirty (30) years after the effective date, unless sooner terminated as provided herein.
16. Forfeiture. In the event the Company fails to comply with any of the provisions of this Franchise and that failure continues for a period of thirty (30) days after written notice by the City to Company, all rights of the Company under this Franchise may be terminated by the City upon written notice of termination, and the term of the Franchise shall thereupon cease.
17. Revocation and Replacement. By its adoption of this Franchise, the City hereby repeals and replaces conflicting ordinances.
18. Notice. All notices required to be given in writing under this ordinance shall be deemed to be given when a registered or certified mail is received by a party addressed as follows:

Hildale City: City Recorder's Office
Hildale City
P O Box 840490
Hildale, UT 84784-0490

Garkane: General Manager
Garkane Energy
1802 South Highway 89A
Kanab, UT 84741

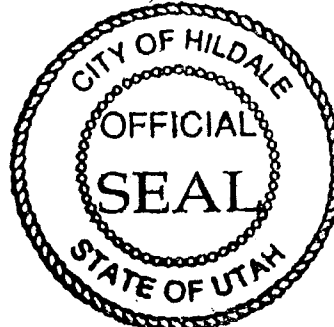
PASSED the 22nd day of June, 2009

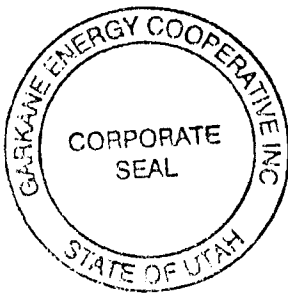
CERTIFIED AND ACCEPTED:


MAYOR, HILDALE CITY

ATTEST:


CITY RECORDER





ACCEPTED:
GARKANE ENERGY COOPERATIVE, INC.

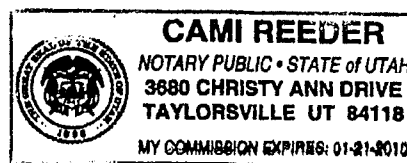
By: *Cami Reeder*

Title: CEO

ATTEST:

Cami Reeder
~~SECRETARY~~ *NOTARY Public*

Date accepted: June 24, 2009



APPENDIX A
MAP OF HILDALE CITY

**CORPORATE LIMITS
OF THE
CITY OF HILDALE, UTAH**

May 22, 2009

Description

The following described parcels located in Township 43 South, Range 10 West, Salt Lake Base and Meridian:

- Section 14: The southwest quarter; the south half of the northwest quarter.
- Section 21: The southeast quarter of the southeast quarter; the east half of the southwest quarter of the southeast quarter; the south half of the northeast quarter of the southeast quarter; the southeast quarter of the northwest quarter of the southeast quarter.
- Section 22: The southwest quarter; the west half of the west half of the southeast quarter; the southwest quarter of the southwest quarter of the northeast quarter; the south half of the south half of the northwest quarter.
- Section 23: The west half.
- Section 26: The southwest quarter of the southeast quarter; The southeast quarter of the southwest quarter; The southwest quarter of the southwest quarter; The northwest quarter of the southwest quarter; The west half of the northeast quarter of the southwest quarter; ALSO: Beginning at the west quarter corner of Section 26, THENCE North 89°59'22" East 1,980.00 feet along the quarter-section line; thence North 19°15'22" East 420.44 feet; thence North 39°36'11" East 286.87 feet; thence North 25°30'09" East 253.13 feet; thence North 43°09'10" West 18.49 feet; thence North 13°59'47" East 409.10 feet; thence North 06°13'06" West 355.00 feet; thence North 77°50'48" West 30.11 feet; thence North 25°33'48" West 179.49 feet; thence North 10°33'08" West 151.31 feet; thence North 01°00'47" East 428.37 feet; thence North 25°30'50" East 315.50 feet to a point on the north line of said Section 26; thence West 2,468.00 feet along said section line to the northwest corner of said Section 26; thence South 00°01' East 2,640.18 feet along the section line to the POINT OF BEGINNING, CONTAINING approximately 141 acres.
- Section 27: The north half of the northwest quarter; the southeast quarter of the northwest quarter; the northeast quarter; the north half of the southeast quarter; the southeast quarter of the southeast quarter.
- Section 28: The northeast quarter of the northeast quarter; the west half of the southwest quarter.
- Section 29: The south half; the south half of the northwest quarter; the northwest quarter of the northwest quarter.
- Section 32: The entire section.

- Section 33: The south half of the northwest quarter; the northwest quarter of the northwest quarter; the southwest quarter of the northeast quarter; Sectional Lots 1, 2, 3, and 4.
- Section 34: The northeast quarter; the southeast quarter of the northwest quarter; Sectional Lots 1, 2, 3, and 4.
- Section 35: The west half; the northwest quarter of the northeast quarter.

TOTALLING ROUGHLY 3500 ACRES.

APPENDIX B

PHYSICAL REQUIREMENTS

- (a) **Use.** Before constructing any facilities in the streets, roads, alleys, and other public ways and places of the City for non-emergency construction, the Company shall apply for and obtain from the City such permit or permits as are required by the City for work in the public rights of way and shall secure written approval of the location of such facilities from the City. The City, except in an emergency, shall provide such written approval within 14 days of any such construction request except the City shall state reasons for withholding such approval in writing, which reasons may not be arbitrary or unreasonable. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be erected and placed in accordance with applicable safety codes and regulations and shall be so located as to cause minimum interference with the proper use of streets, roads, alleys, and other public ways and places, to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, roads, alleys, or other public ways and places. The Company shall not cause any interference with or damage to the water lines, sewers, gas lines, fiber lines, conduits or other property of the City or the property of any other utility in the City, provided such facilities are adequately marked or located by the owner of such facilities.
- (b) **Restoration.** In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Company shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, drive or surface of any street or alley disturbed in as good condition as before said work was commenced, and shall maintain the restoration in an approved condition for a period of two (2) years. If the Company fails to so make and maintain the restoration, the City may perform the necessary work and the Company shall reimburse the City for the cost thereof.
- (c) **Relocation.** In the event that, at any time during the period of this Franchise, the City shall lawfully elect to alter, or change the grade of, any street, alley or other public way, the Company upon reasonable notice by the City shall remove and relocate the Company's poles, wires, cables and other fixtures at the City's expense of Company's actual costs. If Company decides to upgrade the relocated facility due to actions of the City, Company will credit City for the difference in costs between the upgraded facility and the original facility. In the event that Company elects to relocate or upgrade a facility then Company will relocate facilities at Company's expense.
- (d) **Temporary Removal of Wire for Building Moving.** The Company shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The person requesting the same shall pay the expense of such temporary removal, raising or lowering of wires, and the Company shall have the authority to require such payment in advance. In addition, the Company may require not less than forty-eight hours advance notice to arrange for such temporary wire changes. Any cutting, removing and adjusting of wires and poles shall be done at such time of the day or night as will least interfere with the public use of the Company's electric service.
- (e) **Tree Trimming.** The Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company; provided that the Company shall promptly remove and dispose of all branches and leaves cut pursuant to this authority. All trimming shall be at the expense of the Company.

(f) **Poles.** All poles shall be set in straight lines so far as reasonably practicable. All abandoned poles shall be removed as soon as the use thereof is discontinued.

(g) **Environmental Compliance.** The Company shall be solely responsible for compliance with all applicable environmental protection regulations and requirements relating to its activities and facilities in the Franchise Area.

(h) **Maps of Distribution System.** Upon reasonable request, Company shall provide to the City, on a project specific basis, information indicating the horizontal location, in compliance with One-Call regulation, relative to the boundaries of the right-of-way, of all equipment which it owns or over which it has control and which is located in the project right-of-way. Mapping information provided to the City by the Company shall be for the exclusive use of the City in administering the use and occupancy of the public rights-of-way within the City.