

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition of Granger)
Energy of South Jordan for a Declaratory) DOCKET NO. 04-2447-01
Order) SECOND DECLARATORY ORDER
)

SYNOPSIS

By this Order, the Commission determines that Granger Energy of South Jordan, LLC, is not a public utility providing public utility service under the circumstances described in its second Petition for Declaratory Order.

ISSUED: August 14, 2006

By the Commission:

On April 22, 2005, the Commission issued a Declaratory Order (“First Declaratory Order”) in the above-entitled docket finding and concluding that Granger Energy of South Jordan, LLC (“Granger”), is not a public utility if it engages in the activities described in its Petition for Declaratory Order (“First Petition”) filed December 9, 2004, relative to the collection, transport and delivery of landfill gas from the Trans-Jordan Landfill to Interstate Brick.

On July 11, 2006, Granger filed a second Petition for Declaratory Order (“Second Petition”) stating it has been unable to reach final agreement with Interstate Brick for delivery of landfill gas and is currently negotiating with Kraftmaid Cabinetry (“Kraftmaid”) and The Dannon Co. (“Dannon”) to instead deliver the landfill gas to these customers. Granger seeks a response from the Commission confirming Granger’s opinion that, based upon the Commission’s First Declaratory Order, Granger’s collection, delivery and sale of landfill gas to Kraftmaid and

Dannon would not constitute activities which would make Granger a “public utility” as that term is used in Utah Code Ann. § 54-2-1. Granger’s Second Petition states it’s sale of landfill gas to Kraftmaid and Dannon would result in the sale of the same quality and quantity of landfill gas from the same landfill as would have been sold to Interstate Brick.

In reviewing this matter, we find that, except for the identities of Granger’s proposed landfill gas customers, the facts before us in the Second Petition are identical to those in the First Petition on which we based our findings and conclusions in the First Declaratory Order. We further note our conclusion in the First Declaratory Order that landfill gas is not “natural gas,” “gas,” or “gas, natural or manufactured” as those terms are used in Section 54-2-1 was based on the nature of landfill gas, not on the identities or number of Granger’s customers for landfill gas. We therefore concluded Granger’s collection, delivery and sale of landfill gas, as described in its First Petition, would not constitute activities which would make Granger a “public utility” as that term is used in Section 54-2-1.

Given the facts before us, we hereby adopt the findings and conclusions from our First Declaratory Order as our findings and conclusions with respect to the matters set forth herein. We will therefore grant Granger’s request to issue a declaratory order that it is not a public utility if it engages in the activities described in the Second Petition.

ORDER

Wherefore, based upon the foregoing information, and our discussion, findings, and conclusions made herein, we issue this Declaratory Order finding and concluding that Granger Energy of South Jordan, LLC, is not a public utility if it engages in the activities

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described in its Petition for Declaratory Order filed July 11, 2006, relative to the collection, transport and delivery of landfill gas to Kraftmaid Cabinetry and The Dannon Co.

DATED at Salt Lake City, Utah, this 14th day of August, 2006.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#49822