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February 10, 2011

Dissent Letter
Garkane Energy - Declaratory Order
E-01891A-09-0377

Dear Interested Parties:

This dissent letter is to explain my "no" vote on February 1, 2011 on the Garkane Energy Cooperative, Inc. ("Garkane" or "Cooperative") Declaratory Order.

Garkane is a Utah non profit rural electric cooperative that supplies power in parts of Mohave and Coconino Counties. One Thousand Three hundred ninety (1,390) Arizona customers rely on Garkane for their electricity needs.

The Cooperative's petition asked the Commission to declare that certain Arizona statutes, (A.R.S. §§ 40-285,-301,-302 and 303), do not apply to Garkane's loan transactions because Garkane is a foreign public service corporation engaged in interstate commerce.

I agree with the conclusion reached in the ALJ's well reasoned Recommended Order and Opinion ("ROO") that the Commission has jurisdiction over Garkane and its financial transactions. (Commission approval of Garkane's future loan transactions would not be an unconstitutional burden on interstate commerce.

However, the amendment adopted during the February Open Meeting, in my opinion reversed the ROO. I do not believe that it is in the public interest of the Arizona ratepayers to rely upon another state's public utility commission to review such transactions.

I believe that the Arizona Corporation Commission has a duty to our ratepayers no matter the size of the utility's service territory. I am not comfortable in handing that over to another state. I believe that approval could be accomplished in a streamlined process to minimize administrative burden.

I did not support the amendment and once the amendment was adopted, I could not vote for the decision.

A handwritten signature in cursive script, reading "Sandra D. Kennedy". The signature is fluid and includes a large, decorative flourish at the end of the name.

Sandra D. Kennedy
Corporation Commissioner