

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Application of Southern)
Pioneer Electric Company for a Certificate)
of Convenience and Authority to Transact) Docket No. 18-SPEE-438-COC
the Business of an Electric Utility in the)
State of Kansas.)

**ORDER GRANTING CERTIFICATE OF CONVENIENCE AND AUTHORITY FOR
TRANSMISSION RIGHTS ONLY**

The above captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

I. BACKGROUND

1. On April 10, 2018, Southern Pioneer Electric Company (Southern Pioneer) filed an Application requesting a Certificate of Convenience and Authority (Certificate) for transmission rights only for the purpose of continuing to serve its retail customer located in Southern Pioneer’s certified retail electric service territory. On April 16, 2018, Southern Pioneer filed an Amended Application revising the description of the territory over which Southern Pioneer has in existence an approximately 450 ft. line connecting with Southern Pioneer’s 34.5kV line serving a SemCrude Distribution Substation.¹ The subject line extends through the certificated territory of Ninnescah Electric Cooperative Assn., Inc. (Ninnescah). Consequently, Southern Pioneer requests a Certificate for transmission rights only to transact the business of an electric public utility within the following described territory:

¹ Staff Report and Recommendation, page 1.

PRATT COUNTY, KANSAS

TRANSMISSION RIGHTS ONLY:

Beginning at the SE corner of Section 24, Township 27S, Range 11W in Pratt County, KS. Thence N 00 degrees 07'32.9" W a distance of 3677.15'; thence S 89 degrees 40'30.2" W a distance of 30.00' to point of beginning; thence S 89 degrees 40' 30.2" W a distance of 404.91'; thence N 00 degrees 07' 32.9" W a distance of 40.00' to the point of beginning.

2. On June 4, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated May 29, 2018, recommending the Commission grant Southern Pioneer's Amended Application and issue the company a Certificate for transmission rights only.

II. LEGAL STANDARDS

3. KSA 66-1,170 et seq., the Retail Electric Suppliers Act (RESA), requires the State of Kansas to be divided into electric service territories in which only one retail electric supplier is established for a given territory. If a retail electric supplier receives Commission approval, RESA allows it to extend distribution or transmission facilities through the territory of another supplier provided the supplier building through the territory only uses the proposed line to serve its own certificated customers. The Commission has authority to grant a Certificate to any public utility seeking to transact business in the State of Kansas.² The statutory standard of review in this matter is whether the public convenience will be promoted by the proposed project and by permitting Southern Pioneer to transact the business of a common carrier or public utility.³

4. Staff provides a detailed discussion of the circumstances where, through inadvertence, a proper Transmission Rights Only Certificate (TRO) was not requested and issued at the time Southern Pioneer's line was located within the retail territory of an adjacent retail electric provider, Ninnescah. Staff's discussion and explanation contained its Report and

² K.S.A. 66-131.

³ Id.

Recommendation will not be repeated here; however, it is accepted, adopted, and incorporated herein by reference. RESA allows the Commission to approve a TRO if the Commission determines such extension is necessary to serve consumers within the retail certified territory of the Applicant.⁴ To assist the Commission in deciding whether to approve a request for a TRO, Staff points out that RESA provides six factors declared to be the public policy of the State of Kansas.⁵ These factors include the following:

- (a) Encourage the orderly development of retail electric service;
- (b) avoid wasteful duplication of facilities for the distribution of electricity;
- (c) avoid unnecessary encumbrance of the landscape of the state;
- (d) prevent waste of materials and natural resources;
- (e) facilitate the public convenience and necessity; and
- (f) minimize disputes between retail electric suppliers which may result in inconvenience, diminished efficiency and higher costs in serving the consumer.

Staff opines that the foregoing factors have been met within the context of this transaction. Staff states that it has reviewed Southern Pioneer's Amended Application and confirms that the legal description included in the Amended Application is accurately depicted on the attached map and that the legal description is not in conflict with the Commission's Certificate records. Based on Staff's investigation of this matter and having received no objection from the certificated utility whose territory Southern Pioneer's line passes through, Staff recommends the Commission grant Southern Pioneer's Amended Application and issue the requested Certificate of Convenience and Authority for Transmission Rights Only.

III. FINDING AND CONCLUSION

5. The Commission adopts Staff's analysis and recommendation of May 29, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by

⁴ See K.S.A. 66-1,173(a).

⁵ See K.S.A. 66-1,171.

reference, and finds that Southern Pioneer's Amended Application should be granted, and that the public interest will be promoted by issuing Southern Pioneer the requested Certificate for transmission rights only.

IT IS, THEREFORE, BY THE COMMISSION CONSIDERED AND CERTIFIED THAT:

A. The Amended Application filed by Southern Pioneer Electric Company on April 16, 2018 is hereby granted and a Certificate of Convenience and Authority for Transmission Rights Only is hereby issued to Southern Pioneer for the transaction of business as an electric public utility in the territory and to the extent described in paragraph 1 above.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁶

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED AND CERTIFICATED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 06/12/2018



Lynn M. Retz
Secretary to the Commission

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⁶ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

STATE OF KANSAS



CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027

PHONE: 785-271-3100
FAX: 785-271-3354
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

FROM: Jason Kerr, Electric Utility Engineering Technician
Leo Haynos, Chief Engineer
Jeff McClanahan, Director of Utilities

DATE: May 29, 2018

SUBJECT: 18-SPEE-438-COC
In the Matter of the Application of Southern Pioneer Electric Company for a Certificate of Convenience and Authority to Transact the Business of an Electric Utility in the State of Kansas.
Transmission Rights Only, crossing the certified territory of Ninnescah Rural Electric Cooperative Association, Inc. See attached map and description below for section, township and range locations.

EXECUTIVE SUMMARY:

In Docket 18-SPEE-438-COC, Southern Pioneer Electric Company (Southern Pioneer), requests a Transmission Rights Only Certificate (TRO) for a short section of 34.5kV line that was constructed in 2010.

BACKGROUND:

On April 16, 2018, Southern Pioneer filed the above-captioned Application for a Certificate for TRO. In 2011, Southern Pioneer constructed a new substation and the subject line within the certificated territory of Ninnescah Rural Electric Cooperative, Inc. (Ninnescah). The line in question is approximately 450 feet in length and connects with a Southern Pioneer 34.5kV line serving a SemCrude Distribution Substation.¹

¹ EL 39404

In reviewing its records, Staff has determined that Staff approved an Application filed by Southern Pioneer to build the subject line on August 30, 2010.² As per Staff's internal procedure, this Electric Supply Line Application (EL 37083) was noted and filed in Staff's database. However, Staff and Southern Pioneer failed to notice the line was to be located in the retail territory of an adjacent retail electric provider, Ninnescah. In fact, at the time of the EL Application filing, Southern Pioneer did not have *any* certificated territory assigned to the company.³ At that time, Mid-Kansas Electric Company, LLC (Mid-Kansas), held the retail certificate that is now Southern Pioneer's, and Southern Pioneer served the Mid-Kansas customers through an agreement approved by the Commission.⁴ While investigating Docket 17-KPPE-092-COM, (17-092) Staff determined that Mid-Kansas and/or Southern Pioneer had failed to request a TRO for the subject line.⁵ Staff's Report and Recommendation in the 17-092 Docket provides a chronology of events that include the above described transactions.

K.S.A. 66-1,170 et seq., the Retail Electric Suppliers Act (RESA), requires the state of Kansas to be divided into electric service territories in which only one retail electric supplier is established for a given territory. RESA allows a supplier to extend distribution or transmission facilities through the retail territory of another supplier provided the supplier building through the territory (the Applicant for the TRO) receives Commission approval to do so. RESA allows the Commission to approve a TRO if the Commission determines such extension is necessary to serve consumers within the retail certified territory of the Applicant.⁶ In most cases, Staff believes the Commission has great latitude in determining the necessity of a TRO. To assist the Commission in making this decision, however, RESA provides six factors that are declared by RESA to be the public policy of Kansas.⁷ Those factors are as follows:

- (a) Encourage the orderly development of retail electric service;
- (b) avoid wasteful duplication of facilities for the distribution of electricity;
- (c) avoid unnecessary encumbrance of the landscape of the state;
- (d) prevent waste of materials and natural resources;
- (e) facilitate the public convenience and necessity; and
- (f) minimize disputes between retail electric suppliers which may result in inconvenience, diminished efficiency and higher costs in serving the consumer.

ANALYSIS:

Under the current electric supply line configuration, Southern Pioneer requires a TRO for approximately 450' of 34.5kV Transmission Line from their Substation located in Ninnescah's certified territory until it enters Southern Pioneers certified territory. Staff views Southern

² K.A.R. 82-12-3 and 82-12-5 require all electric public utilities to file an Application to construct an electric supply line that is more than ½ mile long.

³ Southern Pioneer received a certificate to provide retail service in September of 2013. See Docket 13-MKKEE-447-MIS.

⁴ See Order dated December 21, 2007, Docket 08-MKKEE-099-MIS.

⁵ See Docket 17-KPPE-092-COM, Staff Report and Recommendation, March 30, 2018.

⁶ See K.S.A. 66-1,173(a).

⁷ See K.S.A. 66-1,171.

Pioneer's failure to file a timely TRO for this line to be an oversight that was caused by the complicated history and process of parsing out the electric service territory of a financially troubled public utility, Aquila-WPK (Docket 06-MKEE 524-ACQ). Although Southern Pioneer technically is in violation of K.S.A. 66-1,173, Staff recognizes the unique acquisition in the 06-524 Docket is the reason for the filing oversights. Staff believes the six above listed public policy factors have been addressed by Southern Pioneer and Mid-Kansas through the record and Commission's rulings in Dockets 10-NNHE-326-CON and 14-MKEE-170-TAR.

Staff has reviewed Southern Pioneer's Application and has confirmed the legal description included in the Application is accurately depicted on the map attached to the Application. Staff also confirmed the legal description is not in conflict with the Commission's Certificate records. The legal description is included as Attachment 1 to this Report and Recommendation.

Based on the above information and having received no objection from the certificated utility whose territory the proposed line will pass through, Staff recommends that the Commission find that public convenience will be promoted by the granting of this Application.

The Commission action date is October 7, 2018.

RECOMMENDATION:

Staff is recommending Southern Pioneer's Application for Certificate in 18-SPEE-438-COC be granted for Transmission Rights Only.

ATTACHMENT 1
Legal Description of Proposed Transmission Line Route
18-SPEE-438-COC

PRATT COUNTY, KANSAS

TRANSMISSION RIGHTS ONLY:

Beginning at the SE corner of Section 24, Township 27S, Range 11W in Pratt County, KS. Thence N 00 degrees 07'32.9" W a distance of 3677.15'; thence S 89 degrees 40' 30.2" W a distance of 30.00' to point of beginning; thence S 89 degrees 40' 30.2" W a distance of 404.91'; thence N 00 degrees 07' 32.9" W a distance of 40.00'; to the point of ending.

CERTIFICATE OF SERVICE

18-SPEE-438-COC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 06/13/2018.

LINDSAY CAMPBELL, EXECUTIVE VP - GENERAL
COUNSEL
SOUTHERN PIONEER ELECTRIC COMPANY
1850 W OKLAHOMA
PO BOX 403
ULYSSES, KS 67880-0430
Fax: 620-356-4306
lcampbell@pioneerelectric.coop

OTTO NEWTON, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3167
o.newton@kcc.ks.gov
Hand Delivered

TERESA MILLER, GEN. MANAGER
NINNESCAH RURAL ELECTRIC COOPERATIVE ASSN.,
INC.
275 NE 20th ST
PO BOX 967
PRATT, KS 67124-0967
Fax: 620-672-6852
tmiller@ninnescan.com

/S/ DeeAnn Shupe

DeeAnn Shupe