

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

Before Commissioners: Shari Feist Albrecht, Chairwoman  
Jay S. Emler  
Dwight D. Keen

In the Matter of the Application of Ninnescah )  
Rural Electric Cooperative Assn. Inc. for a )  
Certificate of Convenience and Authority to ) Docket No. 18-NNHE-469-COC  
Transact the Business of an Electric Utility )  
In the State of Kansas. A Portion of Pratt )  
County, Kansas )

**ORDER GRANTING CERTIFICATE OF CONVENIENCE AND AUTHORITY**

NOW, the above-captioned matter comes on for consideration and determination by the Kansas Corporation Commission (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds and concludes as follows:

**I. BACKGROUND**

1. On April 25, 2018, Ninnescah Rural Electric Assn. Inc. (Ninnescah) filed an application requesting a Certificate of Convenience and Authority to transact the business of an electric public utility in a portion of Pratt County, Kansas. Ninnescah is an electric public utility as defined by K.S.A. 66-104. A public hearing was neither requested nor held.
2. Ninnescah requests that it be certificated as an electric public utility for the purpose of providing electric public utility service in following described territory:

**PRATT COUNTY**

**The South 1/2 of the Northwest 1/4 of Section 13, Township 28 South, Range 15 West.**

3. On June 1, 2018, Commission Staff (Staff) submitted its Report and Recommendation, dated May 31, 2018, recommending the Commission grant Ninnescah’s application and issue the

company a Certificate of Authority to transact the business of an electric public utility in the territory described in paragraph 2 above.

## **II. LEGAL STANDARDS AND DISCUSSION**

4. Pursuant to K.S.A. 2017 Supp. 66-131, the Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas. 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. Notwithstanding the mandated single electric provider service territories, RESA also provides that retail electric suppliers may enter into agreements to amend boundaries between their facilities. The agreements are subject to Commission approval, and if so approved, the Commission shall issue a certificate accordingly.

5. Staff indicates that a customer in the above described territory intends to install an electric irrigation requiring three (3) phase service. The current provider's, Southern Pioneer Electric Company, nearest service is 1.8 miles from this new service station. However, Ninnescah has three (3) phase facilities immediately adjacent to the new service location. In order to economically serve the customer, Staff believes it is necessary to grant Ninnescah a certificate to transact the business of an electric utility in the above described territory.<sup>1</sup> Correspondingly, on April 26, 2018, Southern Pioneer Electric Company filed a companion Application in Docket No. 18-SPEE-470-CCS requesting to cease operating as an electric service provider in the above described territory. Staff states that it has reviewed the applications of both Ninnescah and Southern Pioneer Electric Company, determining that the legal descriptions and maps provided with the applications are accurate. Concluding, Staff determines

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<sup>1</sup> Staff's Report and Recommendation, page 2.

that the public convenience will be promoted by the requested territory exchange and recommends the Commission grant the Applications of both Southern Pioneer Electric Company and Ninnescah Rural Electric Cooperative Association.

### **III. FINDING AND CONCLUSION**

6. The Commission adopts Staff's analysis and recommendation of May 31, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Ninnescah's application should be granted and that the public convenience and necessity will be promoted by issuing Ninnescah the requested Certificate of Convenience and Authority to transact the business of an electric public utility in the territory described in paragraph 2.

#### **IT IS, THEREFORE, BY THE COMMISSION CONSIDERED AND CERTIFIED:**

A. The Application filed by Ninnescah Rural Electric Cooperative Association Inc., on April 25, 2018, is hereby granted and a Certificate of Convenience and Authority to transact the business of an electric public utility in the territory described in paragraph 2 above is granted.

B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date of this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 77-529(a)(1).

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.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 06/13/2018



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Lynn M. Retz  
Secretary to the Commission

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# STATE OF KANSAS



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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 31, 2018

**SUBJECT:** 18-SPEE-470-CCS  
In the Matter of the Application of Southern Pioneer Electric Company for permission to Cease Operating as an Electric Public Utility in the State of Kansas. S1/2 of the NW 1/4 of S13-T28S-R15W

18-NNHE-469-COC  
In the Matter of the Application of Ninnescah Rural Electric Cooperative Assn. Inc. for a Certificate of Convenience and Authority to Transact the business of an Electric Utility in the State of Kansas.

### **EXECUTIVE SUMMARY:**

In Docket 18-SPEE-470-CCS, Southern Pioneer Electric Company (Southern Pioneer) seeks the approval of the Commission to cease operating as an electric utility in a small tract of certified territory in Pratt County. In Docket 18-NNHE-469-COC, Ninnescah Rural Electric Cooperative Assn. Inc. (Ninnescah) seeks an Application for a Certificate in that tract of certified territory.

Staff recommends that the Commission grant these Applications and find that public convenience will be promoted by this transaction.

### **BACKGROUND:**

April 25, 2018, Ninnescah filed an Application for a Certificate in Docket No. 18-NNHE-469-COC. On April 26, 2018, Southern Pioneer filed a companion Cease Application in Docket No. 18-SPEE-470-CCS.

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. Notwithstanding the mandated single electric provider service territories, RESA also provides that retail electric suppliers can enter into agreements to amend boundaries between their facilities. The agreements are filed in the form of Certificates and, if approved by the Commission, Certificates to amend territory are issued.

The Commission has authority to grant a Certificate of Convenience and Necessity to any public utility seeking to transact business in the State of Kansas.<sup>1</sup>

The statutory standard of review in this matter is whether the public convenience will be promoted by the transaction of the proposed project and by permitting the applicants to transact the business of a common carrier or public utility.<sup>2</sup>

### **ANALYSIS:**

Southern Pioneer had been contacted by a customer who plans to install an electric irrigation pump requiring 3 phase service in their certified territory. Southern Pioneer's nearest service is 1.8 miles from this new service location. Ninnescah has 3 phase facilities immediately adjacent to the new service location. In order to economically serve the customer, Southern Pioneer is requesting authority to Cease and Ninnescah is requesting a Certificate in the South 1/2 of the Northwest 1/4 of Section 13, Township 28 South, Range 15 West.

Staff has reviewed Southern Pioneer's Application to Cease and Ninnescah's Application for Certificate and confirmed the legal description included in the Application is accurate. The proposed territories legal description is included as Attachment 1 to this Report and Recommendation.

The Commission action date is October 22, 2018.

### **RECOMMENDATION:**

Staff recommends that the Commission grant these Applications and find that public convenience will be promoted by this transaction. Upon approval, the updated territory descriptions will be reflected in the Commission's certified territory map.

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<sup>1</sup> K.S.A. 66-131.

<sup>2</sup> K.S.A. 66-131.

ATTACHMENT 1  
Legal Description of Territory Trade Between  
Southern Pioneer Electric Company and Ninnescah Rural Electric Cooperative  
Docket No. 18-SPEE-470-CCS and 18-NNHE-469-COC

PRATT COUNTY

The South 1/2 of the Northwest 1/4 of Section 13, Township 28 South, Range 15 West.

**CERTIFICATE OF SERVICE**

18-NNHE-469-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.

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/S/ DeeAnn Shupe

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DeeAnn Shupe