

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 Kansas City)
Power & Light Company for Authority to Transfer) Docket No. 18-KCPE-433-CCS
Portions of its Certificated Service Territory to the)
City of Gardner, Kansas, and for the Corresponding)
Modification of Service Territories.)

ORDER AND CERTIFICATE

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:

1. On April 9, 2018, Kansas City Power & Light Company (KCP&L) filed a joint application seeking authority to transfer a portion of its certificated territory to the City of Gardner, Kansas (Gardner), encompassing seventy acres of land annexed by Gardner that is specifically described in Gardner Ordinance 2548 and incorporated as Attachment A to the application. The application also seeks to modify the respective service territories for KCP&L and Gardner.

2. Pursuant to K.S.A. 66-1,176, Gardner and KCP&L entered into negotiations to transfer the tracts of land within the described acreage from KCP&L's certified territory to Gardner's certified territory. The negotiations concluded with an agreement to make the transfer of acreage.

3. In accordance with K.S.A. 66-1,176 (c), KCP&L and Gardner adopted the formula for determining the "fair and reasonable compensation" to be paid for KCP&L relinquishing its service rights and the removal of facilities on the described acreage. The letter agreement

encompassing the transfer and the applicable payment to be made by Gardner is included as Attachment B of the application.

4. On August 30, 2018, the Commission Staff (Staff) submitted its Report and Recommendation to the Commission, which is attached and incorporated by reference, recommending the joint application be granted and the transfer of territory be found to be in the public interest. The Staff reviewed the joint application to confirm the legal description included as part of the proposed transfer request and incorporated it as an attachment to the Report and Recommendation. The Staff found the legal description to be accurate and recommended the updated territorial descriptions of the respective parties be updated within the Commission's certified territory map.

5. The Commission has jurisdiction to grant a Certificate to a public utility seeking to transact the business of an electric utility in Kansas. The Retail Electric Suppliers Act (RESA) in K.S.A. 66-1,170 et seq. requires the State of Kansas to be divided into electric service territories where only a single electric provider is permitted to supply retail electric service. The RESA allows any city annexing territory to select a retail electric service provider as part of the single certification process. Gardner has selected its municipal utility operation as the service provider for the annexed territory. In accordance with K.S.A. 66-1,176 (c), KCP&L and Gardner have agreed to a transfer of the described acreage set forth in the application. Based on the Staff Report and Recommendation, which is hereby adopted, and the application of the parties, the Commission determines that granting the joint application promotes the public convenience and the proposed transfer should be granted and approved by the Commission. Additionally, Gardner should be granted the authority to provide retail electric service in the annexed territory and KCP&L be

allowed to cease operating as an electric public utility in the annexed territory, all in accordance with K.S.A. 2017 Supp. 66-131 and K.S.A. 66-1,176.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Joint Application of Kansas City Power & Light and the City of Gardner, Kansas is hereby granted.

B. The City of Gardner, Kansas is granted a Certificate of Convenience and Authority to provide retail electric service to the annexed territory and KCP&L is authorized to cease providing electric public utility service in the annexed territory.

C. 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).¹

D. 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: 09/11/2018



Lynn M. Retz
Secretary to the Commission

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¹ K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

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: August 30, 2018

SUBJECT: 18-KCPE-433-CCS
In the Matter of the Application of Kansas City Power & Light Company for Authority to Transfer Portions of its Certificated Service Territory to the City of Gardner, Kansas, and for the Corresponding Modification of Service Territories.

EXECUTIVE SUMMARY:

In Docket 18-KCPE-433-CCS, Kansas City Power & Light Company (KCP&L) is seeking the approval of the Commission to Cease Operating as a Public Utility in a small parcel of land in Johnson County, Kansas. The land was annexed by the City of Gardner (Gardner or City) last year. In the same Docket, Gardner is giving notice of the annexation which is labeled Attachment A.

Staff recommends that the Commission grant this Application and acknowledge Gardner will be responsible for providing retail electric service for customers within the recently annexed territory.

BACKGROUND:

Gardner operates a municipal electric utility for its City. On June 19, 2018, the City annexed a 70 acre parcel of land which is located in KCP&L certified territory. On April 9, 2018, KCP&L and the City filed the above-captioned Joint Application for Authority to Transfer and Modify Service Territories. KCP&L and the City negotiated and both parties agreed that the City should be the electric utility provider.

The Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas.¹ 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 allows any city annexing territory to select a retail electric service provider. Under these circumstances, the Commission is required to certify the annexed territory to the electric supplier selected by the city.²

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.³

ANALYSIS:

Gardner and KCP&L entered into negotiations for the transfer of the tract of land from KCP&L's certified service territory to Gardner's certified service territory.⁴ Following the conclusion of these negotiations, Gardner requested, and KCP&L agreed, to transfer this tract of land. Gardner has selected their own municipal utility to serve the annexed territory.

Staff has reviewed the Joint Application and has confirmed the legal description included in the Application, marked as Exhibit A, is accurate. Staff also confirmed the legal description is not in conflict with the Commission's Certificate records.

Staff recommends that the Commission find that public convenience will be promoted by the granting of this Application.

RECOMMENDATION:

Staff recommends that the Commission grant this Application. Upon approval, the updated territory descriptions will be reflected in the Commission's certified territory map.

The Commission action date is October 8, 2018.

¹ K.S.A. 66-131

² K.S.A. 66-1,176(a)

³ K.S.A. 66-131.

⁴ K.S.A. 66-1,176(c)

Exhibit A
AN ORDINANCE ANNEXING LAND SOUTH OF THE GARDNER ROAD AND
INTERSTATE-35 INTERSECTION TO THE CITY OF GARDNER, KANSAS.

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Kansas City Power & Light to the City of Gardner, Kansas

JOHNSON COUNTY

All that part of the Southeast Quarter of Section 2, Township 15 South, Range 22 East, Sixth Principal Meridian, Johnson County, Kansas described as follows: Commencing at the Northeast Corner of the Southeast Quarter of said Section 2; thence South 02 degrees 49 minutes 15 seconds East along the East line of the Southeast Quarter of said Section 2, a distance of 325.70 feet to the point of beginning; thence continuing South 02 degrees 49 minutes 15 seconds East along said East line, a distance of 996.18 feet to the Northeast corner of Friends & Neighbors II, a subdivision in the Johnson County, Kansas as now established; thence South 88 degrees 19 minutes 15 seconds West (measured) (South 88 degrees 15 minutes 53 seconds West, Plat), along the North line of Friends & Neighbors II and Friends & Neighbors, subdivision's in Johnson County, Kansas, a distance of 2655.23 feet (measured) (2655.26 Plat), to the Northwest corner of said Friends & Neighbors said point also being the Southwest corner of the North Half of the Southeast Quarter of said Section 2; thence North 02 degrees 22 minutes 48 second West along the West line of the Southeast Quarter of said Section 2, a distance of 1259.32 feet; thence North 88 degrees 30 minutes 03 seconds East, a distance of 1713.37 feet (measured) (1707.87' Deed) to a point on the West line of Lot 2, Nike School, a subdivision in the City of Gardner, Johnson County, Kansas as now established; thence South 02 degrees 48 minutes 54 seconds East (Measured & Plat) along the West line of said Lot 2, Nike School, a distance of 276.39 feet to the Southwest corner of said Lot 2; thence North 87 degrees 11 minutes 06 seconds East along the South line of said Lot 2, a distance of 932.13 feet to the point of beginning containing 70.68 acres more or less subject to that part in roads or easements.

CERTIFICATE OF SERVICE

18-KCPE-433-CCS

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 09/12/2018.

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/S/ DeeAnn Shupe

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