

**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 Westar)
Energy, Inc. for Authority to Cease)
Transacting the Business of an Electric) Docket No. 19-WSEE-057-CCS
Public Utility Specifically in Portions of)
Section 6, Township 13 South, Range 23)
East, Johnson County, Kansas.)

**ORDER GRANTING APPLICATION TO CEASE TRANSACTING
THE BUSINESS OF AN ELECTRIC PUBLIC UTILITY**

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 August 2, 2018, Westar Energy, Inc. (Westar) filed an Application requesting to cease transacting the business of an electric public utility in territory situated within Johnson County, Kansas. Westar is an electric public utility as defined in K.S.A. 2017 Supp. 66-104. A public hearing was neither requested nor held on Westar’s Application.

2. Westar requests the Commission issue an Order granting it authority to cease transacting the business of an electric public utility in the following described territory, to wit:

JOHNSON COUNTY, KANSAS

All that part of Canyon Creek Point, 2nd Plat Subdivision, located in NE ¼ of Section 6, Township 13-S, Range 23-E, located in the City of Lenexa, Johnson County, Kansas, as detailed on the map marked as Exhibit A and attached hereto.

3. On August 9, 2018, Kansas City Power & Light Company (KCP&L) filed an application with the Commission in Docket No. 19-KCPE-062-COC seeking to serve the area

proposed to be ceded by Westar in paragraph no. 2 above. The KCP&L application indicates Westar and KCP&L are in agreement regarding service to the area and the proximity of their respective operations and safety concerns relating to possible confusion that might arise regarding two utilities providing service to the same subdivision.

4. On August 24, 2018, the Commission Staff (Staff) submitted its Report and Recommendation to the Commission, recommending Westar's Application be granted and its request to cease operating as an electric public utility in the territory described in paragraph 2 above be approved. The Staff Report and Recommendation indicates Westar and KCP&L share a boundary line through a new residential subdivision, with 80 of the planned residences being located in the KCP&L certified territory and the remaining four residences in the Westar certified territory. Moreover, the Staff indicates Westar's closest facilities are half a mile from the subdivision, making it more practicable for KCP&L to render service to the entire subdivision.

5. 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.¹

6. Staff states that it has reviewed the Application of Westar and determines that the legal description and map provided with these filings are accurate and not in conflict with the

¹ K.S.A. 66-1,175.

Commission's Certificate records. Staff recommends the Commission grant Westar's Application and find that the public convenience will be promoted by this transaction. Upon approval, the updated territory description will be reflected in the Commission's certified territory map.²

7. The Commission adopts Staff's analysis and recommendation of August 24, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Westar's Application should be granted, and that the public convenience will be promoted by issuing an Order authorizing Westar to cease transacting the business of an electric public utility in the territory described in paragraph 2 above.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application of Westar Energy, Inc. is hereby granted and Westar is authorized to cease transacting the business of an electric public utility in the territory described in paragraph 2 above.

B. Pursuant to K.S.A. 66-131 and K.S.A. 66-1,170, Kansas City Power & Light Company has authority to provide electric service to the residential subdivision by virtue of its agreement with Westar, Inc.

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).³

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.

² Report and Recommendation at 3 (July 27, 2018).

³ K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 09/06/2018



Lynn M. Retz
Secretary to the Commission

wah

STATE OF KANSAS



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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 24, 2018

SUBJECT: 19-WSEE-057-CCS
In the Matter of the Application of Westar Energy, Inc. for Authority to Cease Transacting the Business of an Electric Public Utility Specifically in Portions of Section 6, Township 13-S, Range 23-E, Johnson County, Kansas.

19-KCPE-062-COC
In the Matter of the Application of Kansas City Power & Light Company for Certificate of Public Convenience and Authority to Transact the Business of an Electric Public Utility, Specifically in Portions of Section 6, Township 13 South, Range 23 East, in Johnson County, Kansas.

EXECUTIVE SUMMARY:

Westar Energy, Inc. (Westar) is seeking the approval of the Commission to cease operating as an electric utility in a small tract of land in Johnson County, Kansas. Kansas City Power and Light, (KCP&L) seeks a Certificate of Public Convenience and Authority in this tract of land.

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

BACKGROUND:

On August 6, 2018, Westar filed an Application to Cease in Docket 19-WSEE-057-CCS. In Docket 19-KCPE-062-COC, KCP&L filed an Application for a Certificate of Public Convenience and Authority on August 9, 2018.

Westar and KCP&L share a boundary line through a new residential subdivision, 80 of the planned homes are in KCP&L's certified territory and the remaining 4 homes will be within Westar's certified territory. At this point, the homes are under construction and no customers are currently receiving electric service.

Westar's closest facilities to extend power to the four lots is approximately 1/2 mile away. Due to the proximity between the two facilities and to eliminate confusion for employees and customers, Westar and KCP&L have mutually agreed that KCP&L should serve as the electric public utility for this entire subdivision.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 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.²

ANALYSIS:

Staff has reviewed the Applications and determined that the legal descriptions and maps provided with the Applications are accurate. Staff has also confirmed that the attached legal description, marked attachment A, 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.

The Commission action date is February 1, 2019.

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.

¹ K.S.A. 66-1,171

² K.S.A. 66-131.

ATTACHMENT A
Legal Description of Territory Trade Between
Kansas City Power & Light Company and Westar Energy, Inc.
Docket No. 19-WSEE-057-CCS and 19-KCPE-062-COC

JOHNSON COUNTY

All that part of Canyon Creek Point, 2nd Plat Subdivision, located in the NE 1/4 of 06-13-23 located in the City of Lenexa, Johnson County, Kansas as detailed on the map marked **Exhibit A** and attached hereto.

KCP&L and Westar Energy propose that the new territory line be at the rear property line of lots 53, 54, 55 and 56 in Section 06 Township 13 Range 23 of Canyon Creek Point, 2nd Plat, Subdivision on Sandal St. cul-de-sac.

CERTIFICATE OF SERVICE

19-WSEE-057-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 09/07/2018.

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