

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

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

In the Matter of the Application of the City of)
Wamego for a Certificate of Convenience and)
Authority to Transact the Business of an Electric) Docket No. 19-WAME-072-COC
Public Utility in the State of Kansas.)

ORDER GRANTING CERTIFICATE OF CONVENIENCE AND AUTHORITY

This matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

I. Background

1. On August 17, 2018, the City of Wamego filed an Application requesting a Certificate of Convenience and Authority (“Certificate”) to transact the business of an electric public utility in a recently annexed 4.35 acre tract of land.¹ The City of Wamego is an electric public utility as defined in K.S.A. 66-104(b).

2. The City of Wamego requests that it be certified as an electric public utility for the purpose of providing electric public utility service in the following described territory to wit:

A tract of land located in government lot 3 of fractional section 10, township 10 south, range 10 east of the sixth principal meridian, in Pottawatomie County, Kansas, more particularly described in Attachment A.²

¹ *City of Wamego Application for Certificate of Convenience and Authority*, (“Wamego Application”), (Aug. 17, 2018).

² *Report and Recommendation*, at 3 (Sept. 11, 2018).

3. A few weeks later on September 4, 2018, Bluestem Electric Cooperative, Inc. (“Bluestem”) filed an Application requesting permission to cease operating as an electric public utility in the recently annexed 4.35 acre tract of land referred to above in paragraph 2.³

4. On September 13, 2018, the Commission Staff (“Staff”) submitted its Report and Recommendation dated September 11, 2018, recommending the Commission grant the City of Wamego’s Application and issue the Company a Certificate to transact the business of an electric public utility in the territory described in paragraph 2 above.⁴

II. Legal Standards and Discussion

5. Pursuant to K.S.A. 66-131, the Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas. The standard for granting a certificate under K.S.A. 66-131 is that public convenience and necessity will be promoted by the granting of a certificate. 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.⁵ Moreover, RESA states municipalities such the City of Wamego are subject to the Commission’s jurisdiction as a public utility defined in K.S.A. 66-104, with respect to all operations within its certified territory extending more than three miles beyond its corporate limits.⁶ 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.⁷

³ *Bluestem Electric Cooperative, Inc. Application to Cease Operating as an Electric Public Utility*, (“Bluestem Application”), (Sep. 4, 2018).

⁴ *Report and Recommendation*, at 1.

⁵ K.S.A. 66-1,172.

⁶ K.S.A. 66-1,174.

⁷ K.S.A. 66-1,175.

6. Bluestem is currently operating in the annexed area at issue here. According to Staff, the City of Wamego and Bluestem have agreed to exchange the tract of territory described in paragraph 2 above located in Pottawattamie County as a matter of convenience.

7. Based on the foregoing information, and the absence of any objection, Staff recommends the Commission find that public convenience will be promoted by the granting of the City of Wamego's Application and issuing Wamego a Certificate of Convenience.

III. Findings and Conclusion

8. The Commission finds pursuant to K.S.A. 66-131 and K.S.A. 66-1,170 et seq., public convenience and necessity will be promoted by granting the City of Wamego's request for a Certificate of Convenience and Authority to transact the business of an electric public utility in the State of Kansas.

9. The Commission adopts Staff's Report and Recommendation dated September 11, 2018, which is attached hereto and made a part hereof by reference.

THEREFORE, THE COMMISSION ORDERS:

A. The Application filed herein is granted and the City of Wamego, Kansas is permitted to transact the business of an electric public utility in the territory described in paragraph 2 above and more specifically detailed in Attachment A.

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).⁸

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

⁸ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

BY THE COMMISSION IT IS SO ORDERED AND CERTIFICATED.

Albrecht, Chair; Emler, Commissioner; Keen Commissioner

Dated: 09/25/2018



Lynn M. Retz
Secretary to the Commission

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ATTACHMENT "A"

STATE OF KANSAS



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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: September 11, 2018

SUBJECT: 19-BECE-097-CCS
In the Matter of the Application of Bluestem Electric Cooperative, Inc. for Permission to Cease Operating as an Electric Public Utility at an Annexed Portion of Section 10, Township 10 South, Range 10 East.

19-WAME-072-COC
In the Matter of the Application of the City of Wamego for a Certificate of Convenience and Authority to Transact the Business of an Electric Public Utility in the State of Kansas.

EXECUTIVE SUMMARY:

Bluestem Electric Cooperative, Inc. (Bluestem) is seeking the approval of the Commission to cease operating as an electric utility in a small tract of land that was annexed by the City of Wamego. The City of Wamego (City) gives notice to the Commission of the annexation of the small parcel of land.

Staff recommends that the Commission grant these Applications.

BACKGROUND:

On September 4, 2018, Bluestem filed an Application to Cease in Docket 19-BECE-097-CCS. On August 17, 2018, the City filed Docket 19-WAME-072-COC to give notice to the Commission of the recent annexation.

Bluestem and the City have mutually agreed that as a matter of convenience within the annexed area that the City should serve as an electric public utility to serve the above described territory and abide with all aspects of the Service Territory Agreement between Bluestem and the City.

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

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 12, 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. 66-131

² K.S.A. 66-1,176(a)

ATTACHMENT A
Legal Description of Territory Trade Between
Bluestem Electric Cooperative, Inc. and City of Wamego
Docket No. 19-BECE-097-CCS and 19-WAME-072-COC

POTTAWATOMIE COUNTY

A TRACT OF LAND LOCATED IN GOVERNMENT LOT 3 OF FRACTIONAL SECTION 10, TOWNSHIP 10 SOUTH, RANGE 10 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN POTTAWATOMIE COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID FRACTIONAL SECTION 10, SAID CORNER BEING MARKED BY A 3/4" IRON BAR; THENCE SOUTHERLY ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID FRACTIONAL SECTION 10 ON AN ASSUMED BEARING OF SOUTH 02 DEGREES 50 MINUTES 41 SECONDS EAST A DISTANCE OF 1323.32 FEET TO A POINT MARKED BY A STAINLESS STEEL SURVEY MARKER AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 3; THENCE EASTERLY ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 3 ON A BEARING OF NORTH 88 DEGREES 10 MINUTES 02 SECONDS EAST A DISTANCE OF 752.50 FEET TO A POINT MARKED BY A 5/8" IRON BAR WITH A PLASTIC CAP AT THE NORTHEAST CORNER OF MILLER'S FIRST ADDITION TO WAMEGO, KANSAS, AS SHOWN ON THE PLAT FOUND IN THE POTTAWATOMIE COUNTY REGISTER OF DEEDS' OFFICE IN BOOK 'B' ON PAGE 118, BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING EASTERLY ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 3 ON A BEARING OF NORTH 88 DEGREES 10 MINUTES 02 SECONDS EAST A DISTANCE OF 630.43 FEET TO A POINT MARKED BY A 5/8" IRON BAR WITH A PLASTIC CAP AT THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 3, BEING THE NORTHWEST CORNER OF THREE TRACTS OF LAND DEEDED TO THE CITY OF WAMEGO, KANSAS, AS DESCRIBED IN GENERAL WARRANTY DEEDS FOUND IN THE POTTAWATOMIE COUNTY REGISTER OF DEEDS' OFFICE IN BOOKS 116 ON PAGE 137, BOOK 161 ON PAGE 155 AND IN BOOK 258 ON PAGE 377; THENCE SOUTHERLY ALONG THE WEST LINE OF SAID CITY OF WAMEGO TRACTS ON A BEARING OF SOUTH 00 DEGREES 15 MINUTES 55 SECONDS EAST A DISTANCE OF 300.11 FEET TO A POINT MARKED BY A 5/8" IRON BAR WITH A PLASTIC CAP; THENCE LEAVING SAID WEST LINE WESTERLY ON A BEARING OF SOUTH 88 DEGREES 10 MINUTES 02 SECONDS WEST A DISTANCE OF 632.40 FEET TO A POINT MARKED BY A 5/8" IRON BAR WITH A PLASTIC CAP ON THE EASTERLY LINE OF SAID MILLER'S FIRST ADDITION; THENCE NORTHERLY ALONG THE EAST LINE OF SAID MILLER'S FIRST ADDITION ON A BEARING OF NORTH 00 DEGREES 06 MINUTES 39 SECONDS EAST A DISTANCE OF 300.17 FEET TO THE POINT OF BEGINNING, CONTAINING 4.35 ACRES, SUBJECT TO THE RIGHT OF WAY OF COUNTY ROAD NUMBER 741 (VALLEY ROAD) ON THE NORTH SIDE THEREOF AND SUBJECT TO ANY OTHER EASEMENTS AND RESTRICTIONS OF RECORD.

CERTIFICATE OF SERVICE

19-WAME-072-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 09/26/2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe