

**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      )  
Gas and Electric Company, doing business      )  
as Westar Energy, Inc. for Authority to      )      Docket No. 19-KG&E-049-CCS  
Cease Transacting the Business of an      )  
Electric Public Utility Specifically in      )  
Portions of Section 34, Township 29 South,      )  
Range 3 East, Butler 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. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1.      On August 1, 2018, Kansas Gas and Electric Company, doing business as Westar Energy, Inc. (Westar) filed an Application requesting to cease transacting the business of an electric public utility in territory situated within Butler 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:

North 1/2 of the Southwest 1/4 and the North 1/2 of the South 1/2  
of the Southwest 1/4, Section 34, Township 29S, Range 3E, in  
Butler County Kansas.

3.      On August 24, 2018, Butler Electric Cooperative (Butler) filed an application with the Commission in Docket No. 19-BTRE-089-COC seeking to serve the area proposed to be ceded

by Westar in paragraph no. 2 above. The Westar application indicates Westar and Butler are in agreement regarding service to the area and the benefit of serving a customer by Butler, given the cost that would otherwise be incurred by Westar in extending electric service to a construction site where a primary electric line would need to be installed.

4. On August 28, 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 the existing facilities of Butler are closer to a proposed location for service being requested by a customer and the cost of extending electric service are significantly lower if Butler is allowed to provide service to the area under consideration.

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.<sup>1</sup>

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 Commission's Certificate records. Staff recommends the Commission grant Westar's Application

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<sup>1</sup> K.S.A. 66-1,175.

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.<sup>2</sup>

7. The Commission adopts Staff's analysis and recommendation of August 28, 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 Kansas Gas and Electric Company, doing business as Westar Energy, Inc. is hereby granted and Westar Energy, Inc. is authorized to cease transacting the business of an electric public utility in the territory described in paragraph 2 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).<sup>3</sup>

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: 09/11/2018



Lynn M. Retz  
Secretary to the Commission

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<sup>2</sup> Report and Recommendation at 3 (July 27, 2018).

<sup>3</sup> K.S.A. 66-118b; K.S.A. 77-503(c); and 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:** August 28, 2018

**SUBJECT:** 19-KG&E-049-CCS  
In the Matter of the Application of Kansas Gas and Electric Company, doing Business as Westar Energy, Inc. for Authority to Cease Transacting the Business of an Electric Public Utility Specifically in Portions of Section 34, Township 29 South, Range 3 east, Butler County, Kansas.

19-BTRE-089-COC  
In the Matter of the Application of Butler Electric Cooperative Ass'n Inc. for Certificate of Public Convenience and Authority to Transact the Business of an Electric Public Utility in the State of Kansas.

**EXECUTIVE SUMMARY:**

Kansas Gas and Electric Company, doing business as 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 Butler County, Kansas. Butler Electric Cooperative Ass'n, Inc. (Butler) 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 1, 2018, Westar filed an Application to Cease in Docket 19-KG&E-049-CCS. In Docket 19-BTRE-089-COC, Butler filed an Application for a Certificate of Public Convenience and Authority on August 27, 2018.

The landowner had contacted Westar requesting electric service to the location of his future home. Westar's closest facilities to provide power to this construction site is over 1/2 mile away. Westar's estimate to extend the primary line to service the customer and tree removal would potentially cost the customer \$66,000. Butler has facilities closer to the construction site. The customer obtained an estimate from Butler in the amount of \$11,648.00.<sup>1</sup>

Staff has had conversations with the customer who stated because of the cost difference, he wishes to receive electric service from Butler.

Because of this cost difference, Westar has agreed to Cease out of this tract of land and allow Butler to apply for 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. 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.<sup>2</sup>

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.

**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.

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<sup>1</sup> K.S.A. 66-1,171

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

ATTACHMENT A  
Legal Description of Territory Trade Between  
Kansas Gas and Electric Company and Butler Electric Cooperative Association, Inc.  
Docket No. 19-KG&E-049-CCS and 19-BTRE-089-COC

BUTLER COUNTY

North 1/2 of the Southwest 1/4 and the North 1/2 of the South 1/2 of the Southwest 1/4, Section 34, Township 29S, Range 3E, in Butler County Kansas.

**CERTIFICATE OF SERVICE**

19-KG&E-049-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.

JEFF ADAMS, VICE PRESIDENT OF OPERATIONS  
BUTLER RURAL ELECTRIC COOPERATIVE ASSN., INC.  
P.O. BOX 1242  
EL DORADO, KS 67042  
Fax: 316-321-9980  
jeffa@butler.coop

CATHRYN J DINGES, CORPORATE COUNSEL  
KANSAS GAS & ELECTRIC CO.  
D/B/A WESTAR ENERGY  
818 S KANSAS AVE  
PO BOX 889  
TOPEKA, KS 66601-0889  
Fax: 785-575-8136  
cathy.dinges@westarenergy.com

WALKER HENDRIX, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3354  
w.hendrix@kcc.ks.gov

/S/ DeeAnn Shupe  
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DeeAnn Shupe