

**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 Sumner-Cowley)
Electric Cooperative, Inc. for permission to Cease) Docket No. 19-SMCE-083-CCS
Operating as an Electric Cooperative Utility)
in the State of 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 22, 2018, Sumner-Cowley Electric Cooperative, Inc. (Sumner-Cowley) filed an Application requesting to cease transacting the business of an electric cooperative public utility in territory situated within Sumner County, Kansas. A public hearing was neither requested nor held on the Sumner-Cowley Application.

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

A tract of land commencing at a point 57.40 feet North of the Southeast corner of the Southwest Quarter (SW1/4) of Section Twelve (12), Township Thirty-two (32) South, Range One (1) West of the 6th P.M., Sumner County, Kansas: thence West on the North right-of-way line of U.S. 160 Highway, a distance of 340 feet, thence North on a line parallel to the East line of said Quarter Section a distance of 370 feet, thence East a distance of 340 feet to the line of said Quarter Section, thence South 370 feet to the point of beginning.

3. On July 12, 2018, the City of Wellington, Kansas (Wellington) filed an Application for a Certificate of Convenience and Authority for the territory proposed to be ceded by Sumner-Cowley in Docket No. 19 WELE-008-COC. The City of Wellington exercised its rights under K.S.A. 66-1,176 to be the electric supplier for the annexed acreage, allowing for a transfer of service from Sumner-Cowley to the City.

4. On September 14, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated September 12, 2018, to the Commission, recommending the Sumner-Cowley Application be granted and its request to cease operating as an electric public utility in the territory described in paragraph 2 above be approved.

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 permits a municipality to determine the electric supplier for annexed territory under conditions that may result in the utility previously certified to provide retail electric service to the affected acreage not being the selected provider.¹

6. The Commission adopts Staff's analysis and recommendation of September 12, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Sumner-Cowley's Application should be granted, and that the public convenience will be promoted by issuing an Order authorizing Sumner-Cowley to cease transacting the business of an electric public utility in the territory described in paragraph 2 above.

¹ K.S.A. 66-1,176 (a) (2); Laws 2018, ch. 6, § 3.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application of the Sumner-Cowley Cooperative, Inc. is hereby granted and it 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).²

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: 09/25/2018



Lynn M. Retz
Secretary to the Commission

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² 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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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 12, 2018

SUBJECT: 19-SMCE-083-CCS
In the Matter of the Application of Sumner Cowley Electric Cooperative, Inc. for Permission to Cease Operating as an Electric Cooperative Utility in the State of Kansas. Sumner County, Wellington KS.

19-WELE-008-COC
In the Matter of the Application of City of Wellington for a Certificate of Convenience and Authority to Transact the Business of an Electric Public Utility in the State of Kansas. Portions of Sumner County, City of Wellington.

EXECUTIVE SUMMARY:

Sumner Cowley Electric Cooperative, Inc. (Sumner Cowley) 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 Wellington in Sumner County. The City of Wellington (City) provided notice to the Commission of the annexation of the small parcel of land.

Staff recommends that the Commission grant these Applications.

BACKGROUND:

On August 22, 2018, Sumner Cowley filed an Application to Cease in Docket 19-SMCE-083-CCS. In Docket 19-WELE-008-COC, the City filed an Application for a Certificate of Public Convenience and Authority to give notice to the Commission of a recent annexation, on July 12, 2018.

The City annexed this 3-acre tract of land on November 21, 2017, and notified Sumner Cowley that the City intended to provide retail electric service to the property. As allowed by Kansas Statute,¹ Sumner Cowley requested a franchise from the City to continue providing service to the customer; however, Wellington rejected Sumner Cowley's request on March 20, 2018.

The Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas.² 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.³

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.

The Commission action date is January 7, 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. 66-1,176(a).

² K.S.A. 66-131.

³ K.S.A. 66-1,174 and 66-1,176(a).

ATTACHMENT A
Legal Description of Territory Transferred Between
Sumner Cowley Electric Cooperative, Inc. and City of Wellington
Docket No. 19-SMCE-083-CCS and 19-WELE-008-COC

SUMNER COUNTY

A tract of land commencing at a point 57.40 feet North of the Southeast corner of the Southwest Quarter (SW1/4) of Section Twelve (12), Township Thirty-two (32) South, Range One (1) West of the 6th P.M., Sumner County, Kansas: thence West on the North right-of-way line of U.S. 160 Highway, a distance of 340 feet, thence North on a line parallel to the East line of said Quarter Section a distance of 370 feet, thence East a distance of 340 feet to the line of said Quarter Section, thence South 370 feet to the point of beginning.

CERTIFICATE OF SERVICE

19-SMCE-083-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 09/26/2018.

ATTN: CITY CLERK
CITY OF WELLINGTON
CITY ADMINISTRATION CENTER
317 S WASHINGTON
WELLINGTON, KS 67152

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/s/ DeeAnn Shupe

DeeAnn Shupe