

**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 for a Certificate of Public Convenience    )  
and Authority to Transact the Business of an    )  
Electric Public Utility Specifically in Portions    ) Docket No. 19-WSEE-201-COC  
of Sections 28, 33, 34, Township 11 South,    )  
Range 3 West, Ottawa County, Kansas.        )

**ORDER GRANTING APPLICATION**

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its pleadings and records and being duly advised in the premises, the Commission makes the following findings:

**I.       Background**

1.       On November 15, 2018, Westar Energy, Inc. (Westar) filed an Application requesting a Certificate of Convenience and Authority for Transmission Rights Only in order to change the location of an existing 34.500 kV transmission line in Ottawa County, Kansas.<sup>1</sup>

2.       Westar Energy is a Kansas corporation authorized by the Commission to conduct the business of a public utility under the provisions of K.S.A. 66-104, and as such holds a Certificate of Convenience and Authority from the Commission to conduct the business of an electric public utility in the State of Kansas, thereby promoting the public convenience.<sup>2</sup>

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<sup>1</sup> Application of Westar Energy, Inc. (Nov. 15, 2018) (“Application”).

<sup>2</sup> *Id.*

3. Westar requests the Commission grant a Certificate of Convenience and Authority for Transmission Rights Only in DS&O Electric Cooperative, Inc. (DS&O) certified territory described as follows:

OTTAWA COUNTY, KANSAS

The route starts at a point in the Southeast ¼ Section 28; thence south to the south right of way of Granite Rd. in Section 33; thence east into Section 34 to a point at the Northwest corner of the Northeast ¼ of Section 34 where Westar Energy territory begins; all in township 11S, Range 3W, Ottawa County, Kansas.

4. On November 29, 2018, the Commission Staff (“Staff”) submitted a Report and Recommendation dated November 19, 2018, recommending the Commission grant Westar’s request for a Certificate of Convenience and Authority for Transmission Rights Only in DS&O certified territory described in paragraph 3 above.<sup>3</sup>

**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 transaction of the proposed project.

6. K.S.A. 66-1,170 *et seq.*, the Retail Electric Suppliers Act, 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.<sup>4</sup> If a retail electric supplier receives Commission approval, RESA allows it to extend distribution or transmission facilities through the territory of another supplier,

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<sup>3</sup> *Report and Recommendation*, at 1 (Nov. 19, 2018).

<sup>4</sup> K.S.A. 66-1,172.

provided the supplier building through the territory uses only the proposed line to serve its own certified customers.<sup>5</sup>

7. Staff has reviewed Westar's Application and has confirmed the legal description included in the Application is accurately depicted on the map attached to the Application.<sup>6</sup> Staff also confirmed the legal description does not conflict with the Commission's Certificate Records.<sup>7</sup>

8. Based on the foregoing information, and the absence of any objection, Staff recommends the Commission find that public convenience will be promoted by granting Westar a Certificate of Convenience to extend its service through DS&O territory.

**THEREFORE, THE COMMISSION ORDERS:**

- A. Westar's Application is granted pursuant to K.S.A. 66-131.
- 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>8</sup>
- C. The Commission retains jurisdiction over the subject matter and 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: 12/06/2018



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Lynn M. Retz  
Secretary to the Commission

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<sup>5</sup> K.S.A. 66-1,173.

<sup>6</sup> See Application, at. 4.

<sup>7</sup> See Report and Recommendation, at 2.

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

## CERTIFICATE OF SERVICE

19-WSEE-201-COC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 12/06/2018.

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/S/ DeeAnn Shupe  
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