

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

Before Commissioners: Andrew J. French, Chairperson  
Dwight D. Keen  
Annie Kuether

In the Matter of the Application of Evergy Kansas )  
Central, Inc. for Authority to Cease Transacting )  
the Business of an Electric Public Utility ) Docket No. 24-EKCE-398-CCS  
Specifically, in Section 32 T12S R19E in Douglas )  
County, Kansas. )

**ORDER GRANTING APPLICATION OF EVERGY KANSAS CENTRAL, INC. TO  
CEASE TRANSACTING THE BUSINESS OF AN ELECTRIC PUBLIC UTILITY**

NOW, on this date, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (the “Commission”) for consideration and decision on the Application of Evergy Kansas Central, Inc. d/b/a Evergy Kansas Central (“Evergy Central”) for authority to cease transacting as an electric public utility. Having examined its files and records, and being duly advised in the premises, the Commission makes findings of fact and conclusions of law as follows:

**I. FINDINGS OF FACT**

1. On November 20, 2023, Evergy Central filed an Application seeking the approval of the Commission to cease operating as an electric public utility in a tract of land situated outside corporate boundaries of a city in Douglas County, Kansas, described as follows:

A tract of land located in the W 1/2, SW 1/4, NW 1/4, SE 1/4 of SW 1/4 of Section 32 T12S R19E in Douglas County, Kansas.

(the “Tract”).<sup>1</sup>

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<sup>1</sup> Application to Cease of Evergy Central, Docket No. 24-EKCE-398-CCS at p. 1 (Nov. 20, 2023) (the “Evergy Central Application”).

2. Evergy Central, a public utility as defined in K.S.A. 66-104, has been issued a Certificate of Convenience and Authority from the Commission to transact the business of an electric public utility in the Tract.<sup>2</sup>

3. The Tract is situated within Evergy Central’s certified territory and adjacent to the certified territory of FreeState Electric Cooperative, Inc. (“FreeState”), another electric public utility as defined in K.S.A. 66-104.<sup>3</sup>

4. FreeState filed an Application with the Commission on January 16, 2024, requesting the Commission to issue a Certificate of Convenience and Authority granting FreeState the right to transact the business of an electric public utility in the Tract.<sup>4</sup>

5. The parties expressly agree that “[t]he change in electric providers would provide a more reliable set up for customers and reduce expenses for both utility providers.”<sup>5</sup> The parties further agree, subject to the approval of the Commission, that FreeState should serve as the electric service provider in the Tract.<sup>6</sup>

6. After analyzing both the Evergy Central Application and the FreeState Application, Commission technical staff (“Staff”) submitted a Report and Recommendation (the “R&R”)—attached as **Exhibit 1** and incorporated by reference—in this matter on March 19, 2024, stating that Staff has confirmed that the legal description of the Tract is accurately depicted by the map attached to the Evergy Central Application and that the legal description is not in conflict with the Commission’s Certificate records.<sup>7</sup>

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<sup>2</sup> Evergy Central Application at p. 1.

<sup>3</sup> *Id.*

<sup>4</sup> Application for Certificate of FreeState, Docket No. 24-FSEE-502-COC (Jan. 16, 2024) (the “FreeState Application”).

<sup>5</sup> Evergy Central Application at p. 1.

<sup>6</sup> *Id.* at p. 2.

<sup>7</sup> R&R at p. 2 (Mar. 19, 2024).

7. Staff further stated in the R&R that Staff recommends that the Commission approve the Evergy Central Application, thereby promoting public convenience and necessity.<sup>8</sup>

8. Under K.S.A. 66-101, the Commission is:

given full power, authority and jurisdiction to supervise and control the electric public utilities...doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

The Commission has the power to grant an Application to Cease Service if it would promote public convenience and necessity.

9. To further that regulatory policy, the Kansas legislature enacted the Retail Electric Suppliers Act, K.S.A. 66-1,170 *et seq.* (“RESA”), directing the Commission to divide the State into electric service territories, within each of which the Commission is to certify only one retail electric supplier to provide retail electric service and then provide the retail electric supplier with a certificate of convenience. K.S.A. 66-1,172.

10. However, notwithstanding the mandated single electric provider service territories, RESA also provides that retail electric suppliers may enter into agreements to alter the establishment of boundaries between certified territories. K.S.A. 66-1,175. Such agreements are subject to approval of the Commission and if so approved, the Commission will issue certificates accordingly. *Id.*

11. The Commission adopts the R&R in its entirety.

## **II. CONCLUSIONS OF LAW**

12. Upon review of the Evergy Central Application, the FreeState Application, and the R&R, the Commission finds that public convenience and necessity will be promoted by the transactions contemplated by the Applications.

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<sup>8</sup> R&R at p. 3 (Mar. 19, 2024).

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. The Evergy Central Application to cease operating as an electric public utility in the Tract is granted.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits stated in K.S.A. 66-118b and 77-529(a)(1).

**BY THE COMMISSION IT IS SO ORDERED.**

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 03/26/2024



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Lynn M. Retz  
Executive Director

KCW

# **Exhibit 1**

**REPORT AND RECOMMENDATION**  
**UTILITIES DIVISION**

**TO:** Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Annie Kuether, Commissioner

**FROM:** Jason Kerr, Utility Engineering Technician  
Paul Owings, Deputy Chief Engineer  
Leo Haynos, Chief Engineer  
Jeff McClanahan, Director of Utilities

**DATE:** March 19, 2024

**SUBJECT:** **Docket No. 24-EKCE-398-CCS** – In the Matter of the Application of Evergy Kansas Central, Inc. for Authority to Cease Transacting the Business of an Electric Public Utility Specifically, in Section 32 T12S R19E in Douglas County, Kansas.

**Docket No. 24-FSEE-502-COC** – In the Matter of the Application of FreeState Electric Cooperative for a Certificate of Convenience and Authority to Transact the Business of an Electric Public Utility in the State of Kansas.

**EXECUTIVE SUMMARY:**

In Docket 24-EKCE-398-CCS, Evergy Kansas Central, Inc. (Evergy Central) is seeking approval of the Commission to Cease transacting as an electric public utility for a small tract of land in Douglas County. In Docket 24-FSEE-502-COC, FreeState Electric Cooperative, Inc. (FreeState) is requesting a Certificate of Convenience and Authority to engage in the business of an electric public utility for the tract of land.

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

## **BACKGROUND:**

On November 20, 2023, Evergy Central brought Docket 24-EKCE-398-CCS by filing an Application to Cease transacting as an electric public utility for a small tract of land (the Tract) in Douglas County, described as follows:

A tract of land located in the W 1/2, SW 1/4, NW 1/4, SE 1/4 of SW 1/4 of Section 32 T12S R19E in Douglas County, Kansas.

On January 16, 2024, FreeState brought Docket 24-FSEE-502-COC by filing an Application for the Certificate of Convenience and Authority to engage in the business of an electric public utility for the Tract.

The Kansas Department of Transportation (KDOT) plans to widen State Highway 10 (K-10), which traverses on or near the Tract. The next stage of the project is to complete final designs, coordinating right-of-way acquisitions, and have Evergy Central and FreeState each relocate their facilities out of the construction boundary.

FreeState has a limited number of customers on the East side of K-10 along East 902 Road, which is fed by an overhead crossings from the West side of K-10. Evergy Central plans to move the overhead crossings and re-feed the section from Evergy Central's K-10 metering point that is currently on the east side of K-10. In doing this work, the Tract would be better served by FreeState. Evergy and FreeState have mutually agreed, subject to Commission approval, that FreeState should serve as the electric provider for the Tract.

## **ANALYSIS:**

The Commission has jurisdiction to grant a Certificate of Convenience to any public utility seeking to transact business in the State of Kansas.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> Such agreements are filed in the form of Certificates and, if approved by the Commission, Certificates to amend the subject territory are issued accordingly.<sup>4</sup>

The statutory standard in this matter is whether the public convenience will be promoted by the transaction of the applicant's business and permitting the Applicant to transact the business of a...public utility.<sup>5</sup>

Staff has reviewed both Applications and has confirmed the legal descriptions included in both Applications are accurately depicted on the map attached to each Application. Staff has also confirmed that the legal descriptions are not in conflict with the Commission's Certificate records. The legal description is included as Attachment A to this Report and Recommendation.

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<sup>1</sup> K.S.A. 66-131(a); 66-1,172; 66-1,175.

<sup>2</sup> K.S.A. 66-1,172.

<sup>3</sup> K.S.A. 66-1,175.

<sup>4</sup> *Id.*

<sup>5</sup> K.S.A. 66-131(a).

**RECOMMENDATION:**

Staff recommends that the Commission grant these Applications and find that public convenience will be promoted by this transaction. Upon approval, the updated territory descriptions will be reflected in the Commission's certified territory map.



**ATTACHMENT A**

Legal Description of Territory Trade Between  
Evergy Kansas Central, Inc. and FreeState Electric Cooperative, Inc.  
Docket Nos. 24-EKCE-398-CCS and 24-FSEE-502-COC

**DOUGLAS COUNTY, KANSAS**

A tract of land in the West 1/2, Southwest 1/4, Northwest 1/4, Southeast 1/4 of Southwest 1/4 of Section 32, Township 12 South, Range 19 East in Douglas County, Kansas.

**CERTIFICATE OF SERVICE**

24-EKCE-398-CCS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 03/26/2024.

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/S/ KCC Docket Room  
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