

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

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

In the Matter of the Application of Brown-)
Atchison Electric Cooperative Association Inc.) Docket No. 24-BRAE-379-CCS
for Permission to Cease Operating as a(n))
Electric Public 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. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On November 6, 2023, Brown-Atchison Electric Cooperative Association, Inc., (Brown-Atchison) filed an Application requesting to cease transacting the business of an electric public utility in territory situated within Jackson County, Kansas. Brown-Atchison is an electric public utility as defined in K.S.A. 66-104.

2. Brown-Atchison 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:

JACKSON COUNTY, KANSAS

The West half of the Southwest quarter of Section 31, Township 06 South, Range 16 East

3. On October 31, 2023, Holton filed an Application in Docket No. 24-HOLE-362-COC requesting a Certificate for the territory described in paragraph two (2), above, indicating Holton will supply electric service in the territory.

4. On November 9, 2023, the Commission Staff submitted its Report and Recommendation to the Commission, recommending Brown-Atchison's Application be granted to cease operating as an electric public utility in the territory described in paragraph two (2) above. The Staff Report and Recommendation indicates the purpose of the Application is to acknowledge Holton will be responsible for providing retail electric service within the territory to be ceded.

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. 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.¹

6. Staff states that it has reviewed the Application of Brown-Atchison 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 Brown-Atchison's Application 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.²

7. The Commission adopts Staff's analysis and recommendation of November 9, 2023, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Brown-Atchison's Application should be granted, and that the public

¹ K.S.A. 66-1,175.

² Report and Recommendation at 2 (November 9, 2023).

convenience will be promoted by issuing an Order authorizing Brown-Atchison to cease transacting the business of an electric public utility in the territory described in paragraph two (2) above.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application of Brown-Atchison Electric Cooperative Association, Inc., is hereby granted and Brown-Atchison is authorized to cease transacting the business of an electric public utility in the territory described above in paragraph two (2).

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).³

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.

French, Chair; Keen, Commissioner; Kuether, Commissioner

Dated: 11/28/2023



Lynn M. Retz
Executive Director

BWB

³ K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

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

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

DATE: November 9, 2023

SUBJECT: Docket No. - 24-BRAE-379-CCS - In the Matter of the Application of Brown-Atchison Electric Cooperative Association Inc. for permission to Cease Operating as an Electric Public in the State of Kansas.

Docket No. - 24-HOLE-362-COC - In the Matter of City of Holton 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-BRAE-379-CCS, Brown-Atchison Electric Cooperative Association Inc. (Brown-Atchison) is seeking approval of the Commission to Cease Operating as a small tract of land in Jackson County. In Docket 24-HOLE-362-COC, the City of Holton (Holton) is requesting a Certificate for 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 November 06, 2023, Brown-Atchison filed the above-captioned Application to Cease in a small tract of land in Docket 24-BRAE-379-CCS. On October 31, 2023, Holton filed the above-captioned Application for the Certificate for the tract of land in Docket 24-HOLE-362-COC.

The property owner, whose home is located within the certified territory of Holton and served by Holton, is planning to build a small feed lot on the East side of his property which happens to be in the certified territory of Brown-Atchison. The customer has requested that his feed lot be served

by Holton. This would also be the most economical option for the customer as Holton has facilities right across the road where the feed lot will be located. Both Holton and Brown-Atchison have mutually agreed, subject to Commission approval, that Holton should serve the electrical needs of this customer.

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 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.

The statutory standard of review in this matter is whether the public convenience will be promoted by the transaction of the proposed project and by permitting the Applicants to transact the business of a common carrier or public utility.²

ANALYSIS:

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 also confirmed the legal description is not in conflict with the Commission's Certificate records. The legal description is included as Attachment A to this Report and Recommendation.

Staff recommends that the Commission find that public convenience will be promoted by the granting of this Application.

The Commission action date is April 28, 2024.

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.

¹ K.S.A. 66-131.

² K.S.A. 66-131.

ATTACHMENT A
Legal Description of Territory Trade Between
Brown-Atchison Electric Cooperative Association, Inc. and the City of Holton, Kansas
Docket No. 24-BRAE-379-CCS and 24-HOLE-362-COC

JACKSON COUNTY, KANSAS

The West half of the Southwest quarter of Section 31, Township 06 South, Range 16 East

CERTIFICATE OF SERVICE

24-BRAE-379-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 11/28/2023.

BRETT W. BERRY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
b.berry@kcc.ks.gov

MICHAEL VOLKER, GENERAL MANAGER
BROWN-ATCHISON ELEC. COOP. ASSN., INC.
1712 CENTRAL
PO BOX 230
HORTON, KS 66439
mvolker@baelectric.com

/S/ KCC Docket Room
KCC Docket Room