

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

Before Commissioners: Susan Duffy, Chair
Shari Feist Albrecht
Dwight D. Keen

In the Matter of the Application of Evergy)
Kansas Central, Inc. for Authority to Cease)
transacting the business of an Electric Public) Docket No. 20-EKCE-325-CCS
Utility specifically, in Section 15, Township)
12 South, Range 20 East in Leavenworth)
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 January 28, 2020, Evergy Kansas Central, Inc. (“Evergy”) filed an Application seeking approval of the Commission to cease operating as an electric utility in a small tract of certified territory in Leavenworth County.¹ In Docket 20-FSEE-383-COC, FreeState Electric Cooperative, Inc. (“FreeState”) is requesting a Certificate for this tract of territory.

2. A new residential landowner contacted Evergy wishing to obtain electric service to the property where they intend to build their future home.² For Evergy to serve the customer’s needs, the customer would be required to clear heavy vegetation across their neighbor’s property.³ The customer would be obligated to pay approximately \$5,000.00 in additional fees to Evergy.⁴

¹ Application of Evergy Kansas Central, Inc. (Jan. 28, 2020) (“Application”).

² Staff’s Report and Recommendation at 2 (Mar. 12, 2020) (“R&R”).

³ *Id.*

⁴ *Id.*

FreeState's certified territory boundary is just north of the property; it has a distribution line serving customers in the nearby location.⁵ The customer asked Evergy if it was possible for FreeState to provide service because of cost savings.⁶ Evergy and FreeState both agree it would be best for FreeState to provide electrical service to the customer⁷ at the following location:

LEAVENWORTH COUNTY, KANSAS

Beginning at the Northwest corner of the Northwest Quarter of said Section 15, also being the centerline of intersection of 262nd Street and Loring Road; thence North 88 Degrees 36 Minutes 52 Seconds East, along the north line of the Northwest Quarter of said Section 15, also being the centerline of said Loring Road, a distance of 1316.625 feet to the Northeast corner of the West one half of the Northwest Quarter of said Section 15; thence South 02 Degrees 25 Minutes 57 Seconds East along the east line of the West one half of the Northwest Quarter of the said Section 15, a distance of 626.67 feet; thence South 88 Degrees 36 Minutes 52 Seconds West, being parallel with the north line of the Northwest Quarter of said Section 15, a distance of 531.73 feet; thence South 02 Degrees 18 Minutes 12 Seconds East, being parallel with the west line of the Northwest Quarter of said Section 15, a distance of 175.54 feet; thence South 88 Degrees 36 Minutes 52 Seconds West, being parallel with the north line of the Northwest Quarter of said Section 15, a distance of 27.09 feet to a point on the east line of the West one half of the west one half of the Northwest Quarter of said Section 15; thence South 02 degrees 22 Minutes 05 Seconds East, along the East line of the West one half of the West one half of the Northwest Quarter of the said Section 15, a distance of 1187.51 feet to a point on the north line of Homeworks USA Community Final Plat, a recorded Subdivision in said County and State; thence South 88 Degrees 42 Minutes 07 Seconds West, along the North line of said Homeworks USA Community Final plat, a distance of 660.575 feet to the Northwest Corner of said Homeworks USA Community Final Plat, being a point on the west line of the Northwest Quarter of said Section 15, also being a point on the centerline of said 262nd Street; thence North 02 Degrees 18 Minutes 12 Seconds West, along the west line of the Northwest Quarter of said Section 15, being the centerline of said 262nd Street, a distance of 1988.66 feet to the point of beginning.⁸

⁵ R&R at 2.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at Attachment A.

II. Legal Standards and Discussion

3. 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.⁹

4. The Commission is given full power, authority and jurisdiction to supervise and control the electric public utilities, as defined in K.S.A. 66-101a, doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.¹⁰ Accordingly, the Commission has the power to grant an Application to Cease Service if it is necessary and convenient to supervise and control the electric public utilities.

III. Staff's Analysis and Recommendation

5. Commission Staff ("Staff") analyzed the Application and submitted a Report and Recommendation ("R&R") on March 12, 2020, dated March 9, 2020.¹¹

6. Staff spoke with the landowner to confirm they were requesting a territory change. Staff has confirmed the legal description included is accurately depicted on the map attached to the Application.¹² Staff also confirmed the legal description does not conflict with the Commission's Certificate Records.¹³

7. Staff recommends that the Commission find that the Application is granted and that public convenience will be promoted by the granting of this Application.¹⁴

THEREFORE, THE COMMISSION ORDERS:

A. Evergy's Application is granted pursuant to K.S.A. 66-131.

⁹ K.S.A. 66-1,172.

¹⁰ K.S.A. 66-101.

¹¹ *See generally* R&R.

¹² R&R at 3.

¹³ *Id.*

¹⁴ *Id.*

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).¹⁵

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.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 03/19/2020



Lynn M. Retz
Executive Director

CRM

¹⁵ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

Laura Kelly, Governor

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Susan K. Duffy
Commissioner Shari Feist Albrecht
Commissioner Dwight D. Keen

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

DATE: March 9, 2020

SUBJECT: 20-EKCE-325-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 15, Township 12 South, Range 20 East in Leavenworth County, Kansas.

20-FSEE-383-COC
In the Matter of the Application of FreeState Electric Cooperative, Inc. for a Certificate of Public Convenience and Authority to Transact the Business of an Public Utility in the State of Kansas.
In Section 15, Township 12 South, Range 20 East in Leavenworth County, Kansas.

EXECUTIVE SUMMARY:

In Docket 20-EKCE-325-CCS, Evergy Kansas Central, Inc. (Evergy) is seeking approval of the Commission to cease operating as an electric utility in a small tract of certified territory in Leavenworth County. In Docket 20-FSEE-383-COC, FreeState Electric Cooperative, Inc. (FreeState) is requesting a Certificate for this tract of certified territory.

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

BACKGROUND:

On January 28, 2020, Evergy filed the above-captioned Application to Cease in Docket No. 20-EKCE-325-COC. On March 5, 2020, FreeState filed the above-captioned Application for a Certificate in Docket No. 20-FSEE-383-COC.

A new residential landowner contacted Evergy wishing to obtain electric service to the property where they intend to build their future home. For Evergy to serve the customer's needs, the customer would be required to clear heavy vegetation across their neighbor's property. In addition, the customer would be responsible to pay nearly \$5,000.00 in additional fees to Evergy. FreeState's certified territory boundary is just north of the property with a distribution line currently serving customers in the nearby location. The customer asked Evergy if it was possible for FreeState to provide service because of the cost savings. Evergy spoke with FreeState; both agree it would be best for FreeState to provide electrical service to the new customer.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.

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.²

ANALYSIS:

Staff spoke with the landowner to confirm they were requesting a territory change.

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 July 26, 2020.

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. 66-1,171

² K.S.A. 66-131

ATTACHMENT A
Legal Description of Territory Trade Between
Evergy Kansas Central, Inc. and FreeState Electric Cooperative, Inc.
Docket No. 20-EKCE-325-CCS and 20-FSEE-383-COC

LEAVENWORTH COUNTY, KANSAS

Beginning at the Northwest corner of the Northwest Quarter of said Section 15, also being the centerline of intersection of 262nd Street and Loring Road; thence North 88 Degrees 36 Minutes 52 Seconds East, along the north line of the Northwest Quarter of said Section 15, also being the centerline of said Loring Road, a distance of 1316.625 feet to the Northeast corner of the West one half of the Northwest Quarter of said Section 15; thence South 02 Degrees 25 Minutes 57 Seconds East along the east line of the West one half of the Northwest Quarter of the said Section 15, a distance of 626.67 feet; thence South 88 Degrees 36 Minutes 52 Seconds West, being parallel with the north line of the Northwest Quarter of said Section 15, a distance of 531.73 feet; thence South 02 Degrees 18 Minutes 12 Seconds East, being parallel with the west line of the Northwest Quarter of said Section 15, a distance of 175.54 feet; thence South 88 Degrees 36 Minutes 52 Seconds West, being parallel with the north line of the Northwest Quarter of said Section 15, a distance of 27.09 feet to a point on the east line of the West one half of the west one half of the Northwest Quarter of said Section 15; thence South 02 degrees 22 Minutes 05 Seconds East, along the East line of the West one half of the West one half of the Northwest Quarter of the said Section 15, a distance of 1187.51 feet to a point on the north line of Homeworks USA Community Final Plat, a recorded Subdivision in said County and State; thence South 88 Degrees 42 Minutes 07 Seconds West, along the North line of said Homeworks USA Community Final plat, a distance of 660.575 feet to the Northwest Corner of said Homeworks USA Community Final Plat, being a point on the west line of the Northwest Quarter of said Section 15, also being a point on the centerline of said 262nd Street; thence North 02 Degrees 18 Minutes 12 Seconds West, along the west line of the Northwest Quarter of said Section 15, being the centerline of said 262nd Street, a distance of 1988.66 feet to the point of beginning.

CERTIFICATE OF SERVICE

20-EKCE-325-CCS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 03/19/2020.

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/S/ DeeAnn Shupe

DeeAnn Shupe