

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

Before the 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 and Electric) Docket No. 19-WSEE-159-COC
Public Utility Specifically in Portion of Section)
28 & 29, Township 11 South, Range 3 West,)
Ottawa County, Kansas.)

ORDER GRANTING APPLICATION

This matter comes before the State Corporation Commission of the State of Kansas
("Commission") for consideration and decision. Having reviewed the pleadings and record, the
Commission makes the following findings:

I. Background

1. On October 24, 2018, Westar Energy, Inc. ("Westar") filed an Application
requesting a Certificate for Transmission Rights Only in DS&O Electric Cooperative, Inc.'s
(DS&O) certified territory in Ottawa County, Kansas.¹

2. Westar requests that it be granted a Certificate for Transmission Rights Only (TRO)
to operate as an electric public utility in the following described territory to wit:

The route starts at a point near the Northeast ¼ of the Northwest ¼ of the Northeast
¼ Section 28; thence west along the south right of way of Homestead Rd. to a point
in the far Northeast ¼ of Section 29, Township 11 South, Range 3 West, Ottawa
County, Kansas.²

¹ *Westar Energy, Inc. Application for a Certificate of Public Convenience and Authority to Transact the Business of an Electric Public Utility, Transmission Rights Only*, ("Westar Application"), (Oct. 24, 2018).

² *Report and Recommendation*, at 3 (Nov. 15, 2018).

3. Westar proposes to remove an existing 34.500 kV overhead transmission line from the north side of Homestead Road in Ottawa County and rebuild it on the south side of the road right-of-way, which is in DS&O's certified territory.³

4. On November 16, 2018, Staff submitted its Report and Recommendation dated November 15, 2018, recommending the Commission grant Westar's request for permission for Transmission Rights Only in the territory described in paragraph two above.⁴

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 granting of a certificate. 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.⁵ Moreover, RESA allows utilities to extend distribution or transmission facilities through the territory of another supplier provided the supplier building through the territory only uses the proposed line to serve its own certified customers.⁶ 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.⁷

³ *Report and Recommendation*, at 1.

⁴ *Id.* at 2.

⁵ K.S.A. 66-1,172.

⁶ K.S.A. 66-1,173.

⁷ K.S.A. 66-1,175.

6. DS&O is currently operating in the annexed area at issue here. According to the Application, Westar has notified DS&O by sending a copy of the Application to DS&O when it was originally filed.⁸

7. 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's Application for Transmission Rights Only in the area described in paragraph two, Ottawa County, Kansas.

III. Findings and Conclusion

8. The Commission finds pursuant to K.S.A. 66-131 and K.S.A. 66-1,170 et seq., public convenience and necessity will be promoted by granting Westar's request for permission to operate as an electric public utility in area described above in paragraph two.

9. The Commission adopts Staff's Report and Recommendation dated November 15, 2018, which is attached hereto and made a part hereof by reference.

THEREFORE, THE COMMISSION ORDERS:

A. Westar's Application for a Transmission Rights Only Certificate is granted pursuant to K.S.A. 66-131 and K.S.A. 66-1,170 et seq.

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).⁹

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.

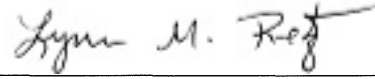
⁸ *Westar Application*, at 1.

⁹ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 11/29/2018

A handwritten signature in dark ink, appearing to read "Lynn M. Retz", is written over a horizontal line.

Lynn M. Retz
Secretary to the Commission

cab

STATE OF KANSAS



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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: November 15, 2018

SUBJECT: 19-WSEE-159-COC
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 of Sections 28 & 29, Township 11 South, Range 3 West, Ottawa County, Kansas.

EXECUTIVE SUMMARY:

In Docket 19-WSEE-159-COC, Westar Energy, Inc. (Westar) requests a Certificate for Transmission Rights Only in order to change the location of an existing 34.500 kV transmission line.¹

BACKGROUND:

On October 24, 2018, Westar filed the above-captioned Application requesting a Certificate for Transmission Rights Only (TRO). To upgrade and improve service, Westar proposes to remove an existing 34.500 kV overhead transmission line from the north side of Homestead Road in Ottawa County and rebuild it on the south side of the road right-of-way, which is in certified territory of DS&O Electric Cooperative, Inc. (DS&O).

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. If a retail electric supplier receives Commission approval, RESA allows it to extend distribution or transmission facilities through the territory of another supplier provided

¹ EL 39502.

the supplier building through the territory only uses the proposed line to serve its own certificated customers.²

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.³

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.⁴

ANALYSIS:

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. 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 22, 2019.

RECOMMENDATION:

Staff is recommending Westar's Application for Certificate in 19-WSEE-159-COC be granted for Transmission Rights Only.

² K.S.A. 66-1,173.

³ K.S.A. 66-131.

⁴ K.S.A. 66-131.

ATTACHMENT A
Legal Description of Proposed Transmission Line Route
19-WSEE-159-COC

OTTAWA COUNTY, KANSAS

TRANSMISSION RIGHTS ONLY:

Northeast 1/4 of the Northwest 1/4 of the Northeast 1/4 Section 28; thence west along the south right of way of Homestead Rd. to a point in the far Northeast 1/4 of Section 29, Township 11 South, Range 3 West, Ottawa County, Kansas.

CERTIFICATE OF SERVICE

19-WSEE-159-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 11/29/2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe