

**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 FreeState)
Electric Cooperative for a Certificate of)
Convenience and Authority to Transact the) Docket No. 25-FSEE-202-COC
Business of an Electric Public Utility in)
Jefferson County, Kansas)

ORDER GRANTING APPLICATION

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and determination. Having examined its files and records, the Commission finds and concludes:

I. BACKGROUND

1. On October 29, 2024, FreeState Electric Cooperative (“FreeState”) filed an Application in the above-captioned docket requesting to expand its certificated territory in portions of Jefferson County, Kansas.¹ FreeState is willing to provide service to the customer and is therefore requesting a Certificate of Convenience and Necessity to serve the following territory, to the extent not already served by FreeState, all of:

JEFFERSON COUNTY, KANSAS

The Tract of land is the North 1/2 of the Northwest 1/4 of the Southeast 1/4, the North 1/2 of the Northeast 1/4 of the Southeast 1/4. The South 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 17, Township 09 East, Range 17 East.

The South 1/2 of the Southwest 1/4 of the Northwest 1/4, the North 1/2 of the Northwest 1/4 of the Southwest 1/4 Section 16, Township 09 South, Range 17 East, located in Jefferson County, Kansas

¹ Application of FreeState Electric Cooperative (October 29, 2024) (“Application”).

2. The above-described tract of land is located on the service border of Evergy Kansas Central (“Evergy”) and FreeState. On August 12, 2024, Evergy filed an Application to cease servicing the above-described tract of land.² On September 5, 2024, Evergy filed a Revised Application to correct the legal description.³

3. On October 31, 2024, Commission Staff (“Staff”) submitted a Report and Recommendation (“R&R”) in which Staff analyzed FreeState’s Application.⁴ In its R&R, Staff recommended that the Commission find that the public convenience will be promoted by this transaction and therefore grant FreeState’s Application.⁵ Staff’s R&R is attached hereto as **Attachment A.**

II. LEGAL STANDARDS AND DISCUSSION

4. 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.⁶

5. 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.⁷ The Commission has the power to grant an Application for a Certificate of Convenience and Necessity if doing so would promote public convenience and necessity.

² Application for Evergy Kansas Central, p. 1, Docket No. 25-EKCE-127-CCS (“25-127”) (Aug. 12, 2024) (“Application”).

³ Evergy Revised Application to Cease – Jefferson County, p. 1., Docket No. 25-127 (Sep. 5, 2024) (“Revised Application”).

⁴ Report and Recommendation, Utilities Division, Dockets No. 25-EKCE-127-CCS and 25-FSEE-202-COC (October 31, 2024) (“Staff’s R&R” or “R&R”).

⁵ *Id.* at p. 3.

⁶ K.S.A. 66-1,172.

⁷ K.S.A. 66-101.

III. FINDINGS AND CONCLUSIONS

6. In its R&R, Staff stated that the property owner moved a house onto the above-described tract of land.⁸ Staff determined that, at a minimum, for the property owner to remain an Evergy customer, Evergy would be required to extend a distribution line approximately one mile and remove several trees through open pastureland to reach the location of the home.⁹ FreeState already has existing facilities approximately one-half mile North of the above-described tract of land.¹⁰

7. Evergy and FreeState have mutually agreed, subject to Commission approval, that FreeState should serve as the electric provider for the above-described tract of land.¹¹

8. Staff contacted the owner of the above-described tract of land. The owner confirmed that he already has an agreement with FreeState to obtain electrical service.¹²

9. Staff reviewed FreeState's Application as well as Evergy's Application in the companion docket to the above-captioned docket, Docket No. 25-EKCE-127-CCS. In its review of these applications, Staff confirmed that the above-included legal description is accurately depicted on the map attached to FreeState's Application.¹³ Staff also confirmed that the legal description of the above-described tract of land does not conflict with the Commission's Certificate Records.¹⁴

10. Staff recommended that the Commission find that public convenience will be promoted by the granting of FreeState's Application.¹⁵

⁸ Staff's R&R, p. 2.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *See id.* *See also* Evergy's Revised Application, Docket No. 25-127, p. 2.

¹² Staff's R&R, p. 2.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

11. In this instance, upon review of the record, the Commission finds and concludes that allowing FreeState to serve the customer who owns the land in the above-described tract would necessitate and promote the public convenience.

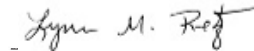
THEREFORE, THE COMMISSION ORDERS:

- A. FreeState’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).¹⁶

BY THE COMMISSION IT IS SO ORDERED.

French, Chair; Keen, Commissioner; Kuether, Commissioner

Dated: 11/26/2024



Lynn M. Retz
Executive Director

CRM/MKH

¹⁶ K.S.A. 66-118b; K.S.A. 77-503(c); 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
Paul Owings, Chief Engineer
Jeff McClanahan, Director of Utilities

DATE: October 31, 2024

SUBJECT: **Docket No. 25-EKCE-127-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 a portion of Sections 16 & 17, Township 09 South, Range 17 East in Jefferson County, Kansas.

Docket No. 25-FSEE-202-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.
Jefferson County.

EXECUTIVE SUMMARY:

In Docket 25-EKCE-127-CCS, Evergy Kansas Central, Inc. (Evergy) is seeking approval of the Commission to Cease transacting as an electric public utility for a small tract (tract) of land in Jefferson County. In Docket 25-FSEE-202-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 small tract of land.

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

BACKGROUND:

On August 12, 2024, Evergy Central brought docket 25-EKCE-127-CCS by filing an application to Cease transacting as an electric public utility in a small tract of land in Jefferson County. On September 05, 2024, Evergy filed an amended application correcting an error in the legal description. The legal description is described as follows:

The North 1/2 of the Northwest 1/4 of the Southeast 1/4, the North 1/2 of the Northeast 1/4 of the Southeast 1/4. The South 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 17, Township 09 East, Range 17 East.

The South 1/2 of the Southwest 1/4 of the Northwest 1/4, the North 1/2 of the Northwest 1/4 of the Southwest 1/4 Section 16, Township 09 South, Range 17 East, located in Jefferson County, Kansas.

On October 29, 2024, FreeState brought Docket 25-FSEE-202-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 tract is on the service border of Evergy and FreeState. The property owner (owner) moved a house onto this tract. To remain an Evergy customer, at a minimum Evergy would be required to extend a distribution line approximately one mile and remove several trees through open pastureland to reach the location of the home. FreeState already has existing facilities approximately one-half mile North of the tract.

Staff has spoken to the owner and confirmed his wish to be served by FreeState. The owner confirmed that he already has an agreement with FreeState to obtain electrical service. The owner stated that with the weather turning cold soon, he would like for FreeState to be granted the Certificate as soon as possible. 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.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.² 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.³ Such agreements are filed in the form of Certificates and, if approved by the Commission, Certificates to amend the subject territory are issued accordingly.⁴

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.⁵

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 and map is included as Attachment A in this Report and Recommendation.

¹ K.S.A. 66-131(a); 66-1,172; 66-1,175.

² K.S.A. 66-1,172.

³ K.S.A. 66-1,175.

⁴ *Id.*

⁵ 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 No. 25-EKCE-127-CCS and 25-FSEE-202-COC

JEFFERSON COUNTY, KANSAS

The Tract of land is the North 1/2 of the Northwest 1/4 of the Southeast 1/4, the North 1/2 of the Northeast 1/4 of the Southeast 1/4. The South 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 17, Township 09 East, Range 17 East.

The South 1/2 of the Southwest 1/4 of the Northwest 1/4, the North 1/2 of the Northwest 1/4 of the Southwest 1/4 Section 16, Township 09 South, Range 17 East, located in Jefferson County, Kansas.

CERTIFICATE OF SERVICE

25-FSEE-202-COC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 11/26/2024.

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/S/ KCC Docket Room

KCC Docket Room