

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

Before Commissioners: Shari Feist Albrecht, Chair  
Jay Scott Emler  
Pat Apple

In the Matter of the Application of City of )  
Anthony for a Certificate of Convenience )  
and Authority to Transact the Business of ) Docket No. 18-ANYE-257-COC  
a(n) Electric Utility in the State of Kansas. )  
The NW¼ of the NE¼ of Sec 25-T33S- )  
R6W, in Harper County, Kansas. )

**ORDER GRANTING CERTIFICATE OF CONVENIENCE AND AUTHORITY**

The above captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

**I. BACKGROUND**

1. On December 18, 2017, the City of Anthony, Kansas (“City” or “Anthony”) filed an Application requesting a Certificate of Convenience and Authority (Certificate) to transact the business of an electric public utility in a portion of Harper County, Kansas. The City is an electric public utility as defined in K.S.A. 2016 Supp. 66-104. A public hearing was neither requested nor held on the City’s Application.

2. Anthony requests that it be certificated as an electric public utility for the purpose of providing electric public utility service in the following described territory to wit:

The NW¼ of the NE¼ of Section 25, Township 33 South, Range 6 West, in Harper County, Kansas.

3. On February 19, 2018, the Commission Staff (Staff) submitted its Report and

Recommendation dated February 13, 2018, recommending the Commission grant the City's Application and issue Anthony a Certificate to transact the business of an electric public utility in the territory described in paragraph 2 above.

4. Pursuant to K.S.A. 2016 Supp. 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. The statutory standard of review is whether the "public convenience and necessity will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state". 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.<sup>1</sup>

5. According to Staff, the City and Wheatland Electric Cooperative, Inc. (Wheatland) propose a transfer of the electric service territory described in paragraph 2 above in order to permit the City to continue serving a gas pipeline installation situated in what is now Wheatland's service territory. Staff indicates that the City has been serving the pipeline installation customer and the service territory transfer will resolve this violation of K.S.A. 66-1,173. On December 18, 2017, Wheatland filed a companion Application in Docket No. 18-WHLE-256-CCS requesting to cease transacting business as an electric public utility in the subject territory. Staff indicates that it has reviewed the Applications of both the City and Wheatland, determining that the legal descriptions and maps provided with the Applications are accurate. Staff

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

also confirms that the legal descriptions provided by the parties are not in conflict with the Commission's Certificate records. Concluding, Staff determines that public convenience will be promoted by the requested territory transfer and recommends the Commission grant the Applications of both the City and Wheatland.<sup>2</sup>

### **III. FINDING AND CONCLUSION**

6. The Commission adopts Staff's analysis and recommendation of February 13, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that the City's Application should be granted, and that public convenience and necessity will be promoted by issuing the City the requested Certificate.

#### **IT IS, THEREFORE, BY THE COMMISSION ORDERED AND CERTIFIED THAT:**

A. The Application filed by the City of Anthony, Kansas on December 18, 2017 is hereby granted and the City is issued a Certificate of Convenience and Authority to transact the business of an electric public utility in the territory described in paragraph 2 above.

B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served, in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2016 Supp. 77-529(a)(1).

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.

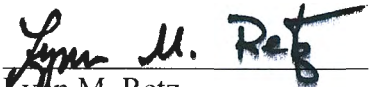
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<sup>2</sup> Report and Recommendation, pages 1 and 2.

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

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: Feb. 27, 2018

  
Lynn M. Retz  
Secretary to the Commission

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**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chair Shari Feist Albrecht  
Commissioner Jay Scott Emler  
Commissioner Pat Apple

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

**DATE:** February 13, 2018

**SUBJECT:** 18-WHLE-256-CCS  
In the Matter of the Application of Wheatland Electric Cooperative, Inc. for Permission to Cease Operating as an Electric Utility in the State of Kansas. The NW1/4 of the NE1/4 of Sec 25-T33S-R6W, in Harper County, KS.

18-ANYE-257-COC  
In the Matter of the Application of City of Anthony for a Certificate of Convenience and Authority to Transact the Business of an Electric Utility in the State of Kansas. The NW1/4 of the NE1/4 of Sec 25-T33S-R6W in Harper County, KS.

18-ANYE-262-CCS  
In the Matter of the Application of City of Anthony for Permission to Cease Operating as an Electric Utility in the State of Kansas. The NE1/4 of the NE1/4 of Sec. 32, T34S-R5W in Harper County, Kansas

18-WHLE-263-COC  
In the Matter of the Application of Wheatland Electric Cooperative for Certificate of Convenience and Authority to Transact the Business of an Electric Utility in the State of Kansas. The NE1/4 of the NE1/4 of Sec 32, T34S-R5W in Harper County, KS.

**EXECUTIVE SUMMARY:**

Wheatland Electric Cooperative, Inc. (Wheatland) and the City of Anthony (Anthony) have agreed to exchange electric territory in order to adjust and update their electric boundary. One customer is involved, however, this territory trade will place the customer in the boundary of Anthony, who has been providing service.



**BACKGROUND:**

On December 18, 2017, Wheatland filed an Application to release its Certificate of Convenience and Authority (COC) for a portion of its service territory in Docket 18-WHLE-256-CCS. Concurrent with this filing, Anthony filed an Application in Docket 18-ANYE-257-COC, for a COC in the NW1/4 of the NE1/4 of Section 25, T33S-R6W in Harper County, Kansas.

On December 19, 2017, Anthony filed an Application in Docket 18-ANYE-262-CCS to release a portion of its COC. Concurrent with this filing, Wheatland filed an Application in Docket 18-WHLE-263-COC, for a COC in the NE1/4 of the NE1/4 of Section 32, T34S-R5W in Harper County, Kansas.

In S25-T33S-R6W, Anthony currently serves a gas pipeline installation in Wheatland's service territory. Wheatland desires to release its COC for this portion of its territory in order to allow Anthony to continue serving this location.

In S32-T34S-R5W, Wheatland desires to serve backup power to a new 138kV switching station owned by Mid-Kansas Electric (Sunflower) and currently receiving service from Anthony. Anthony has agreed to cease operating at this location in order for Wheatland to be granted a COC.

Pursuant to K.S.A. 2016 Supp. 66-131, the Commission has jurisdiction to grant a certificate to a 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 each and every retail electric supplier to obtain a certificate from the Commission.

The statutory standard of review in this matter is whether the "public convenience will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state." K.S.A. 2016 Supp. 66-131. Further, single electric certification shall be the standard in Kansas under K.S.A. 66-1,170 et seq.

**ANALYSIS:**

Based on the Applications, it appears Anthony has been serving a customer not located within its certificated service territory. The proposed service territory exchange will resolve this violation of K.S.A. 66-1,173 and allow Anthony to continue service to the retail customer. In exchange for surrendering its right to serve the retail customer presently served by Anthony, Wheatland will obtain the right to serve a current customer of Anthony. The customer to be served by Wheatland, Mid-Kansas Electric Cooperative, does not object to receiving service from Wheatland. Staff views the proposed territory exchange as a reasonable means of resolving this certificated territory boundary issue. Staff has reviewed the Applications and determined that the legal descriptions and maps provided with the Applications are accurate. Staff has also confirmed that the legal descriptions are not in conflict with the Commission's Certificate records. The proposed revision to the affected territories' legal description is included as Attachment 1 to this Report and Recommendation.

The Commission action date is June 16, 2018.

**RECOMMENDATION:**

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

ATTACHMENT 1  
Legal Description of Double Territory Trade between  
Wheatland Electric Cooperative, Inc. and the City of Anthony, Kansas  
18-WHLE-256-CCS and 18-ANYE-257-COC  
Transferred between Wheatland and Anthony

HARPER COUNTY

Territory to be transferred to the Certificate of Convenience of City of Anthony, Kansas:  
The NW 1/4 of the NE 1/4 of Section 25, Township 33 South, Range 6 West.

HARPER COUNTY

Territory to be transferred to the Certificate of Convenience of the Wheatland Electric Cooperative, Inc.:

The NE 1/4 of the NE 1/4 Section 32, Township 34 South, Range 5 West.



## CERTIFICATE OF SERVICE

18-ANYE-257-COC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on Feb. 27, 2018.

GREG CLEVELAND, MAYOR  
CITY OF ANTHONY  
124 SOUTH BLUFF  
PO BOX 504  
ANTHONY, KS 67003

BRUCE W. MUELLER, GENERAL MANAGER  
WHEATLAND ELECTRIC COOPERATIVE, INC.  
101 MAIN ST  
PO BOX 230  
SCOTT CITY, KS 67871  
Fax: 620-872-7170  
bmuellet@weci.net

OTTO NEWTON, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604  
Fax: 785-271-3167  
o.newton@kcc.ks.gov  
\*\*\*Hand Delivered\*\*\*

/S/ DeeAnn Shupe

DeeAnn Shupe