

**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 Wheatland)
Electric Cooperative for Permission to Cease)
Operating as a(n) Electric Public Utility Inside) Docket No. 18-WHLE-332-CCS
the City Limits of the City of Garden City, KS)
in the State of Kansas.)

**ORDER GRANTING AUTHORITY 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 (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 February 6, 2018, Wheatland Electric Cooperative, Inc. (Wheatland) filed an Application requesting to cease transacting the business of an electric public utility in territory situated within the city limits of the City of Garden City, Kansas (“City” or “Garden City”), Finney County. Wheatland is an electric public utility as defined in K.S.A. 2016 Supp. 66-104. A public hearing was neither requested nor held on Wheatland’s Application.

2. Wheatland requests the Commission issue an Order granting it the authority to cease operating as an electric public utility in the following described territory to wit:

Parcel 1:

A parcel of land located in Section 22, Township 24 South, Range 32 West of the 6th P.M., Finney County, Kansas, also known as Lot 1, Block 1, First Replat of TP&L Industrial Park, as further described in Exhibit #1 on the Map attached to Wheatland’s Application. Parcel 1 was annexed by the City on July 11, 2017.

Parcel 2:

A parcel of land located in Section 21, Township 24 South, Range 32 West of the 6th P.M., Finney County, Kansas, also known as Tract C and the tract designated Windriver Drive, Plat of Windriver II, as further described in Exhibit #2 on the Map attached to Wheatland's Application. Parcel 2 was annexed by the City on August 19, 2017.

Parcel 3:

A parcel of land located in Section 21, Township 24 West, Range 32 West of the 6th P.M., Finney County, Kansas, also known as Tract B, Parcel Plat of Windriver, as further described in Exhibit #3 on the Map attached to Wheatland's Application. Parcel 3 was annexed on September 21, 2017.

3. On February 20, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated February 19, 2018, recommending the Commission grant Wheatland's Application and its request to cease transacting business as an electric public utility in the territory described in paragraph 2 above.

II. LEGAL STANDARDS AND DISCUSSION

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. Notwithstanding the mandated single electric provider service territories, RESA allows any city annexing territory to select a retail electric service provider.¹ Consequently, Garden City has selected its own municipal utility to serve the territory described in paragraph 2 above.²

5. The three Parcels of territory described in paragraph 2 above were annexed into Garden City on the dates noted in the descriptions. In a document styled "Notice of Annexation of

¹ K.S.A. 66-1,176(a).

² Report and Recommendation, page 2.

Territory” filed with the Commission on January 16, 2018, and assigned Docket No. 18-GDCE-304-MIS, Garden City provided notice of the City’s annexation of the three Parcels of territory described in paragraph 2 above, including the respective dates of annexation. The City’s Notice further states that the owner of each Parcel requested and consented in writing to the annexation of its parcel and Garden City has been providing, and continues to provide electricity to each Parcel. The Notice also states that no other retail electric supplier has ever served customers in the Annexed Territories. Inasmuch as the territory described in paragraph 2 above has been annexed into the City and the City has chosen to serve the annexed territory with its own municipal utility, Wheatland seeks Commission authorization to cease transacting the business of an electric public utility in the territory described in paragraph 2 above. Staff indicates that it has reviewed Wheatland’s Application, determining that the legal descriptions and map provided with the Application are accurate. Staff also confirms that the legal descriptions provided by the parties are not in conflict with the Commission’s Certificate records. Concluding, Staff recommends the Commission grant Wheatland’s Application. Upon approval, the updated territory descriptions will be reflected in the Commission’s certified territory map.³

III. FINDING AND CONCLUSION

6. The Commission adopts Staff’s analysis and recommendation of February 19, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Wheatland’s Application should be granted, and that public convenience will be promoted by issuing an Order authorizing Wheatland to cease operating as an electric public utility in the territory described in paragraph 2 above.

³ Id., page 2.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application of Wheatland Electric Cooperative, Inc., filed February 6, 2018, is hereby granted and Wheatland is authorized to cease transacting 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.

BY THE COMMISSION IT IS SO ORDERED.

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 19, 2018

SUBJECT: 18-WHLE-332-CCS
In the Matter of the Application of Wheatland Electric Cooperative for
Permission to Cease Operating as an Electric Public Utility Inside the City Limits
of the City of Garden City, KS in the State of Kansas.
In the State of Kansas.

EXECUTIVE SUMMARY

In Docket 18-WHLE-332-CCS, Wheatland Electric Cooperative (Wheatland) is seeking the approval of the Commission to cease as an electric utility in three parcels of land that has been annexed by the City of Garden City (Garden City). In Docket 18-GDCE-304-MIS, Garden City noticed the Commission of the Annexation of these three Parcels of land.

Staff recommends that the Commission grant this Application and acknowledge Garden City will be responsible for providing retail electric service for customers within the recently annexed territory.

BACKGROUND:

On February 9, 2017, Wheatland filed Docket 17-GDCE-370-COM (17-370), a Complaint against the Garden City for illegally servicing Conestoga Energy Partners LLC. On January 5, 2018, in a Joint Motion for Approval of Settlement Agreement filed in the 17-370 Docket, both parties agreed to resolve the remaining territorial issues between the parties that have been identified.

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 allows any city annexing territory to select a retail electric service provider. Under these circumstances, the Commission is required to certify the annexed territory to the electric supplier selected by the city.²

ANALYSIS:

As stated in the 17-370 Docket, Garden City has selected their own municipal utility to serve the above described territory. By virtue of its Application for a Cease of Service, Wheatland is agreeing to cede the described territories to Garden City.

A detailed map can be found on the Application to Cease from Wheatland. The legal description marked as Exhibit A is attached to this Report and Recommendation.

Staff has reviewed the Application and determined that the legal descriptions and maps provided with the Application are accurate. Staff has also confirmed that the legal descriptions are not in conflict with the Commission's Certificate records.

RECOMMENDATION:

Staff recommends that the Commission grant this Application. Upon approval, the updated territory descriptions will be reflected in the Commission's certified territory map.

The Commission action date is August 5, 2018.

¹ K.S.A. 66-131

² K.S.A. 66-1,176(a)

Exhibit A
Legal Description Parcel 1, Parcel 2 and Parcel 3
Garden City, Kansas
18-WHLE-332-CCS and 18-GDCE-304-COC
Wheatland Electric Cooperative to the City of Garden City

FINNEY COUNTY

Parcel 1:

A parcel of land located in Section 22, Township 24 South, Range 32 West of the 6m P.M., Finney County, Kansas, also known as Lot 1, Block 1, First Replat of TP&L Industrial Park, as further described in **Exhibit #1**. Parcel 1 was annexed on July 11, 2017.

Parcel 2:

A parcel of land located in Section 21, Township 24 South Range 32 West of the 6m P.M., Finney County, Kansas, also known as Tract C and the tract designated Windriver Drive, Plat of Windriver II, as further described in **Exhibit #2**. Parcel 2 was annexed on August 19, 2017.

Parcel 3:

A parcel of land located in Section 21, Township 24 West, Range 32 West of the 6m P.M., Finney County, Kansas, also known as Tract B, Parcel Plat of Windriver, as further described in **Exhibit #3**. Parcel 3 was annexed on September 21, 2017.

CERTIFICATE OF SERVICE

18-WHLE-332-CCS

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.

BRUCE W. MUELLER, GENERAL MANAGER
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SCOTT CITY, KS 67871
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OTTO NEWTON, LITIGATION COUNSEL
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Hand Delivered

/S/ DeeAnn Shupe

DeeAnn Shupe