

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

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

In the Matter of the Application of DS&O )  
Electric Cooperative, Inc. for a Certificate )  
of Convenience and Authority to Transact the ) Docket No. 17-DSOE-537-COC  
Business of an Electric Public Utility in the )  
State of Kansas. Southwest Quarter of Sec. 3 )  
(Northwest of Herington). )

**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 May 31, 2017, DS&O Electric Cooperative, Inc. (DS&O) filed an Application requesting a Certificate of Convenience and Authority (Certificate) to transact the business of an electric public utility in a portion of Dickinson County, Kansas. DS&O is an electric public utility as defined in K.S.A. 2016 Supp. 66-104. A public hearing was neither requested nor held on DS&O's Application.

2. DS&O 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 Southwest ¼ of Section 3, Township 16 South, Range 4 East in Dickinson County, Kansas, as detailed on the map, attached to and made a part of the Application.

3. On June 19, 2017, the Commission Staff (Staff) submitted its Report and

Recommendation dated June 19, 2017, recommending the Commission grant DS&O's Application and issue the company a Certificate to transact the business of 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 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, DS&O and the City of Herington, Kansas (City) propose exchanging approximately 160 acres of electric service territory located in Dickinson County in order to better serve a new customer. Staff adds that there are no existing customers located in the area being exchanged. The new electric customer has requested electric service at a location where the City's closest existing facilities are approximately one mile away. DS&O's electric facilities are much closer. By exchanging this tract of service territory, Staff determines the electric suppliers will accommodate the new customer's needs as well as provide for more efficient future service in the area. On April 18, 2017, the City filed a companion Application in Docket No. 17-HTGE-464-CCS requesting to cease as an electric service provider in the subject territory. Staff indicates that it has reviewed the Applications of both DS&O and the City, determining that the legal descriptions and maps provided with the Applications are accurate.

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

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

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

6. The Commission adopts Staff's analysis and recommendation of June 19, 2017, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that DS&O's Application should be granted, and that the public convenience and necessity will be promoted by issuing DS&O the requested Certificate.

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

A. That the Application filed by DS&O Electric Cooperative, Inc. on May 31, 2017 is hereby granted and a Certificate of Convenience and Authority to transact the business of an electric public utility in the territory described in paragraph 2 above is hereby granted.

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.

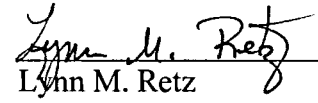
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<sup>2</sup> Report and Recommendation, page 2.

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

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: JUN 27 2017

  
Lynn M. Retz  
Secretary to the Commission

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Order Mailed Date

JUN 28 2017

Utilities Division  
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Topeka, KS 66604-4027



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Pat Apple, Chairman  
Shari Feist Albrecht, Commissioner  
Jay Scott Emler, Commissioner

Sam Brownback, Governor

## **REPORT AND RECOMMENDATION UTILITIES DIVISION**

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

**FROM:** Gary Dawdy, Utility Engineer II  
Leo Haynos, Chief Engineer  
Jeff McClanahan, Director of Utilities

**DATE:** June 19, 2017

**SUBJECT:** 17-HGTE-464-CCS  
In the Matter of the Application of The City of Herington for Permission to Cease Operating as an Electric Public Utility.

17-DSOE-537-COC  
In the Matter of the Application of DS&O Electric Cooperative Inc. for a Certificate of Convenience and Authority to Transact the Business of an Electric Public Utility in the State of Kansas. Southwest Quarter of Sec 3 (Northwest of Herington)

### **EXECUTIVE SUMMARY**

City of Herington, Kansas, (City) and DS&O Electric Cooperative, Inc. (DS&O) are proposing to exchange approximately 160 acres of electric territory located in Dickinson County. The two electric suppliers have agreed to exchange this territory to better serve the needs of a new customer requesting electric service in the area. There are currently no existing customers located in the area being exchanged. DS&O is better positioned to provide future electric service in the immediate vicinity of the new customer.

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

### **BACKGROUND:**

On April 18, 2017, the City filed an Application to Cease in Docket No. 17-HTGE-464-CCS. On May 31, 2017, DS&O filed a Companion Application for Certificate in Docket No. 17-DSOE-537-COC.

The Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas.<sup>1</sup> 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 also provides that retail electric suppliers can enter into agreements to amend boundaries between their facilities. The agreements are filed in the form of Certificates and, if approved by the Commission, Certificates to amend territory are issued.

This new electric customer has requested electric service at a location where the City's closest existing facilities are approximately one mile away. DS&O's electric facilities are within approximately one-quarter mile. By exchanging this tract of territory, the electric suppliers will accommodate this new customer's needs as well as provide for more efficient future service in the area.

### **ANALYSIS:**

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.

### **RECOMMENDATION:**

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

The Commission action date is October 15, 2017.

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<sup>1</sup> K.S.A. 66-131

ATTACHMENT 1  
Legal Description Territory Trade  
DS&O Electric Cooperative, Inc. and City of Herington  
Docket No. 17-DSOE-537-COC and 17-HGTE-464-CCS

DICKINSON COUNTY

A tract of land described as the Southwest 1/4 of Section 3, Township 16 South, Range 4 East as detailed on the map marked Exhibit A in the Application.

**CERTIFICATE OF SERVICE**

17-DSOE-537-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 JUN 27 2017.

DAVID GEHRKE, DIRECTOR OF UTILITIES  
CITY OF HERINGTON  
CITY HALL 17 N BROADWAY  
PO BOX 31  
HERINGTON, KS 67449

OTTO NEWTON, LITIGATION COUNSEL  
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o.newton@kcc.ks.gov  
\*\*\*Hand Delivered\*\*\*

TIM POWER, MANAGER  
DS&O ELECTRIC COOPERATIVE, INC.  
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Fax: 785-655-2805  
tpower@dsoelectric.com

/s/ DeeAnn Shupe  
DeeAnn Shupe

Order Mailed Date

JUN 28 2017