

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

Before Commissioners: Susan K. Duffy, Chair  
Shari Feist Albrecht  
Dwight D. Keen

In the Matter of the Application of the City )  
of Wamego for a Certificate of Public )  
Convenience and Authority to Transact the ) Docket No. 20-WAME-436-COC  
Business of an Electric Municipal Public )  
Utility in the State of Kansas. County of )  
Pottawatomie. )

**ORDER APPROVING CERTIFICATE OF CONVENIENCE 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:

**BACKGROUND**

1. On April 28, 2020, City of Wamego (Wamego or City) filed its Application for Certificate of Transmission Rights Only (TRO) to construct a new three phase underground distribution line in the certified territory of Bluestem Electric Cooperative, Inc. (Bluestem).<sup>1</sup> The City of Wamego is an electric public utility as defined in K.S.A. 66-104(b).

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

New underground three phase electric line as shown on attached map, located in the NW ¼ of the SW ¼ of Section 5, Township 10 South, Range 10 East of the 6<sup>th</sup> P.M.<sup>2</sup>

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<sup>1</sup> *City of Wamego Application for Certificate of Convenience and Authority*, (Wamego Application), (Apr. 28, 2020).

<sup>2</sup> *Report and Recommendation*, at 2 (May 13, 2020).

3. On May 14, 2020, Commission Staff (“Staff”) submitted a Report and Recommendation in regards to the application dated May 13, 2020, attached hereto and made a part hereof by reference. Staff recommended the Commission grant the City of Wamego’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.<sup>3</sup>

### **DISCUSSION AND ANALYSIS**

4. 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.<sup>4</sup> Moreover, RESA states municipalities such as the City of Wamego are subject to the Commission’s jurisdiction as a public utility defined in K.S.A. 66-104, with respect to all operations within its certified territory extending more than three miles beyond its corporate limits.<sup>5</sup> 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>6</sup>

5. Bluestem is currently operating in the area at issue here. According to the Application, the City of Wamego and Bluestem have agreed to this proposal, which is for transmission rights only, and does not include service to any current Bluestem territory.

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<sup>3</sup> *Id* at 2.

<sup>4</sup> K.S.A. 66-1,172.

<sup>5</sup> K.S.A. 66-1,174.

<sup>6</sup> K.S.A. 66-1,175.

6. Based on the foregoing information, and the absence of any objection, Staff recommends the Commission find that public convenience will be promoted by the granting of the City of Wamego's Application and issuing Wamego a Certificate of Convenience.

### **FINDINGS AND CONCLUSION**

7. 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 the City of Wamego's request for a Certificate of Convenience and Authority to transact the business of an electric public utility in the State of Kansas.

8. The Commission adopts Staff's Report and Recommendation dated May 13, 2020.

### **THEREFORE, THE COMMISSION ORDERS:**

A. The Application filed herein is granted and the City of Wamego, Kansas is permitted to transact the business of an electric public utility in the territory requested.

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).<sup>7</sup>

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

### **BY THE COMMISSION IT IS SO ORDERED.**

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 05/21/2020



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Lynn M. Retz  
Executive Director

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<sup>7</sup> K.S.A. 66-118b; K.S.A. 77-529(b).

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chair Susan K. Duffy  
Commissioner Shari Feist Albrecht  
Commissioner Dwight D. Keen

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

**DATE:** May 13, 2020

**SUBJECT:** 20-WAME-436-COC  
In the Matter of the Application of the City of Wamego for a Certificate of Public Convenience and Authority to Transact the Business of an Electric Municipal Public Utility in the State of Kansas. County of Pottawatomie.

**EXECUTIVE SUMMARY:**

In Docket 20-WAME-436-COC, the City of Wamego (Wamego or City) requests a Certificate for Transmission Rights Only (TRO) to construct a new three phase underground distribution line in the certified territory of Bluestem Electric Cooperative, Inc. (Bluestem).

**BACKGROUND:**

On April 28, 2020, Wamego filed the above-captioned Application requesting a Certificate for TRO. Wamego seeks Commission approval to construct a new three phase underground distribution line.

Wamego will be serving the utility needs of a new veterinary clinic in their city limits. Due to some difficult terrain and the need to remove trees which their customer would like to retain, the City decided it would be much less involved to locate the new distribution line in the right-of-way next to the street which is in Bluestem's certified territory.

The City has been in communications with Bluestem and they have no objection to this Application.

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 the supplier building through the territory only uses the proposed line to serve its own certificated customers.<sup>1</sup>

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.<sup>2</sup>

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.<sup>3</sup>

### **ANALYSIS:**

Staff has reviewed Wamego'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 October 25, 2020.

### **RECOMMENDATION:**

Staff is recommending the Moundridge Application for Certificate in 20-WAME-436-COC be granted for Transmission Rights Only.

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<sup>1</sup> K.S.A. 66-1,173.

<sup>2</sup> K.S.A. 66-131.

<sup>3</sup> K.S.A. 66-131.

ATTACHMENT A  
Legal Description of Proposed Transmission Line Route  
20-WAME-436-COC

POTTAWATOMIE COUNTY, KANSAS

TRANSMISSION RIGHTS ONLY:

The new underground three phase electric line is located in the NW 1/4 of the SW 1/4 of Section 5, Township 10 South, Range 10 East of the 6<sup>th</sup> P.M.

## CERTIFICATE OF SERVICE

20-WAME-436-COC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of  
first class mail/hand delivered on 05/22/2020.

STACIE EICHEM, CITY MANAGER  
CITY OF WAMEGO  
430 LINCOLN STREET  
WAMEGO, KS 66547  
Fax: 785-456-2016

KEN STEIN, ADMINISTRATOR/PLANNING ASSISTANT  
CITY OF WAMEGO  
430 LINCOLN STREET  
WAMEGO, KS 66547

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
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/S/ DeeAnn Shupe  
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DeeAnn Shupe