

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

Before Commissioners:                      Dwight D. Keen, Chair  
   Susan K. Duffy  
   Andrew J. French

In the Matter of the Application of Ninnescah    )  
Rural Electric Cooperative Association, Inc.    )   Docket No. 23-NNHE-402-CCS  
for permission to Cease Operating as an       )  
Electric Public Utility in the State of Kansas.   )

**ORDER GRANTING APPLICATION TO CEASE OPERATIONS**  
**AS AN ELECTRIC PUBLIC UTILITY**

The above-captioned matter comes on for consideration and determination by the State Corporation Commission of the State of Kansas (Commission). Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1.       On October 12, 2022, Ninnescah Rural Electric Cooperative Association, Inc. (Ninnescah) filed an Application with the Commission requesting to cease operations in a small parcel of land in Stafford County.<sup>1</sup> Also on October 12, 2022, the Midwest Energy, Inc. (Midwest), filed an application in Docket No. 23-MDWE-403-COC requesting a certificate to operate as an electric public utility for the same parcel of land.<sup>2</sup>

2.       On November 9, 2022, Commission Staff (Staff) submitted its Report and Recommendation, attached hereto and incorporated by reference, recommending the Commission grant Ninnescah's application to cease transacting the business as an electric public utility on the parcel of land identified in their application.

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<sup>1</sup> Application to Cease (Oct. 12, 2022) (Application).

<sup>2</sup> Application for Certificate (Oct. 12, 2022) (Application).

3. 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 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.<sup>3</sup>

4. Staff states 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>4</sup>

5. Staff states that a customer operating an oil field service has requested 3 phase service from Ninnescah, which does not have any 3 phase service in the vicinity. Midwest has 3 phase service approximately 660 feet away from the location. Ninnescah and Midwest have mutually agreed, subject to Commission approval, that Midwest should serve as the electric provider for this customer.

6. Staff has reviewed both Ninnescah and Midwest's applications and has confirmed the legal descriptions included in both applications are accurately depicted on the map attached to each Application. The legal description is included as an attachment to Staff's R&R. Staff recommends that the Commission find that public convenience will be promoted by the granting of this Application.<sup>5</sup>

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<sup>3</sup> R&R at 2.

<sup>4</sup> R&R at 2.

<sup>5</sup> R&R at 2.

7. The Commission adopts Staffs analysis and recommendation of November 9, 2022, as stated in its Report and Recommendation, and finds that Ninnescah's application should be granted, and an Order should be issued authorizing Ninnescah to cease transacting the business of an electric public utility in the identified parcel of land.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. Ninnescah Rural Electric Cooperative Association, Inc.'s Amended Application to Cease, filed on October 12, 2022, is granted and Ninnescah Rural Electric Cooperative Association, Inc. is permitted to cease operations as an electric public utility in the parcel of land identified in their filing.

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>6</sup>

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

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 11/22/2022 \_\_\_\_\_



\_\_\_\_\_  
Lynn M. Retz  
Executive Director

AAL

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<sup>6</sup>K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

## **REPORT AND RECOMMENDATION UTILITIES DIVISION**

**TO:** Dwight D. Keen, Chair  
Susan K. Duffy, Commissioner  
Andrew J. French, Commissioner

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

**DATE:** November 9, 2022

**SUBJECT:** Docket No. - 23-NNHE-402-CCS - In the Matter of the Application of Ninnescah Rural Electric Cooperative Association, Inc. for permission to Cease Operating as an Electric Public Utility in the State of Kansas.

Docket No. - 23-MDWE-403-COC - In the Matter of the Application of Midwest Energy, Inc. for a Certificate of Convenience and Authority to Transact the Business of an Electric Public Utility in the State of Kansas.

### **EXECUTIVE SUMMARY:**

In Docket 23-NNHE-402-CCS, Ninnescah Rural Electric Cooperative Association, Inc. (Ninnescah) is seeking approval of the Commission to Cease Operating as an electric utility in a small parcel of land in Stafford County. In Docket 23-MDWE-403-COC, Midwest Energy, Inc. (Midwest) is requesting a Certificate for this parcel of land.

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

### **BACKGROUND:**

On October 12, 2022, Ninnescah filed the above-captioned Application to Cease in a small parcel of land in Docket 23-NNHE-402-CCS. Also on October 12, 2022, Midwest filed the above-captioned Application for the Certificate for this parcel of land in Docket 22-MDWE-403-COC.

A customer operating an oil field service has requested 3 phase service from Ninnescah, which does not have any 3 phase service in the vicinity. Midwest has 3 phase service approximately 660

feet away from the location. Ninnescah and Midwest have mutually agreed, subject to Commission approval, that Midwest should serve as the electric provider for this customer.

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.

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>2</sup>

### **ANALYSIS:**

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. 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 April 10, 2023.

### **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.

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

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

ATTACHMENT A  
Legal Description of Territory Trade Between  
Ninnescah Rural Electric Cooperative Association, Inc. and Midwest Energy, Inc.  
Docket No. 23-NNHE-402-CCS and 22-MDWE-403-COC

STAFFORD COUNTY, KANSAS

The North half of the Southeast quarter of Section 28, Township 23 South, Range 12 West.

## **CERTIFICATE OF SERVICE**

23-NNHE-402-CCS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of  
electronic service on 11/22/2022.

AHSAN LATIF, LITIGATION COUNSEL  
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/S/ KCC Docket Room  
KCC Docket Room