

**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 Bluestem )  
Electric Cooperative, Inc. for Permission to )  
Cease Operating as an Electric Public Utility ) Docket No. 18-BECE-081-CCS  
at a 40' (Forty Foot) Wide Section on the West )  
Side of an Annexed Portion of said Section 5, )  
Township 10 South, Range 10 East. )

**ORDER GRANTING APPLICATION 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 August 21, 2017, Bluestem Electric Cooperative, Inc. (Bluestem) filed an Application requesting to cease transacting the business of an electric public utility in a portion of Section 5, Township 10 South, Range 10 East, in Pottawatomie County, Kansas. Bluestem is an electric public utility as defined in K.S.A. 2016 Supp. 66-104. A public hearing was neither requested nor held on Bluestem's Application.

2. Bluestem requests the Commission issue an Order granting it the authority to cease transacting the business of an electric public utility in the following described territory to wit:

The Northeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 5, Township 10 South, Range 10 East, in Pottawatomie County, Kansas, as detailed on the Map marked Exhibit A attached to the Application.

3. On October 9, 2017, the Commission Staff (Staff) submitted its Report and Recommendation dated September 27, 2017, recommending the Commission grant Bluestem'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 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, Bluestem, Westar Energy, Inc. (Westar), and the City of Wamego, Kansas ("City" or "Wamego") propose exchanging approximately 40 acres of electric service territory located in Pottawatomie County, annexed to the City under Ordinance No.1680. This annexed area is owned by USD 320 Wamego School District and currently serves as a sports complex and bus compound. The annexed area is currently served by Westar; however, Bluestem and Westar have reached agreement to transfer the subject territory to the City. Staff notes that Bluestem's territory pertains only to a roadway within the annexed area, which is currently certificated to Bluestem. In addition to the filing of Bluestem's Application, Westar, on September 19, 2017, filed a companion Application in Docket No. 18-

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

WSEE-125-CCS requesting to cease transacting the business of an electric public utility in the subject territory. Correspondingly, the City of Wamego, on August 24, 2017, filed an Application in Docket No. 18-WAME-096-COC, requesting a Certificate of Convenience and Authority (Certificate) to transact the business of an electric public utility in the territory described in paragraph 2 above. Staff states that it has reviewed the Applications and determines that the legal descriptions and maps provided with the Applications are accurate and that the legal description is not in conflict with the Commission's Certificate records. Staff recommends the Commission grant the parties' Applications and find that the public convenience will be promoted by this transaction.<sup>2</sup>

6. The Commission adopts Staff's analysis and recommendation of September 27, 2017, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Bluestem's Application should be granted, and that the public convenience and necessity will be promoted by issuing an Order authorizing Bluestem to cease transacting the business of an electric public utility in the territory described in paragraph 2 above.

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

A. The Application of Bluestem Electric Cooperative, Inc. is hereby granted and Bluestem 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).

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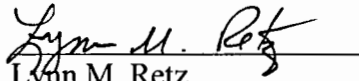
<sup>2</sup> Report and Recommendation, pages 1 and 2.

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.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: OCT 12 2017

  
Lynn M. Retz  
Secretary to the Commission

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Order Mailed Date

OCT 13 2017

**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:** September 27, 2017

**SUBJECT:** 18-WAME-096-COC  
In the Matter of the Application of the City of Wamego for a Certificate of Convenience and Authority to Transact the Business of an Electric Public Utility in the State of Kansas. City of Wamego.

18-BECE-081-CCS  
In the Matter of the Application of Bluestem Electric Cooperative, Inc. for Permission to Cease Operating as an Electric Public Utility at a 40' (forty foot) Wide Section on the West Side of an Annexed Portion of said Section 5, Township 10 South, Range 10 East.

18-WSEE-125-CCS  
In the Matter of The Application of Westar Energy, Inc. To Cease Transacting the Business of an Electric Public Utility, Specifically in a Portion of Section 5, Township 10 South, Range 10 East, in Pottawatomie County, Kansas

**EXECUTIVE SUMMARY**

In the above-captioned filings, City of Wamego (City), Westar Energy, Inc. (Westar) and Bluestem Electric Cooperative, Inc. (Bluestem) are proposing to exchange approximately 40 acres of electric territory, annexed to the City under Ordinance No. 1680. This annexed area is owned by USD 320 Wamego School District. This land is currently used by the school district to operate a sports complex and bus compound. This annexed area is currently served by Westar; however, the two electric suppliers have reached agreement to transfer the area to the City. Bluestem's Cease Application pertains only to a roadway in the annexed area, which is currently certificated to the Cooperative.

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

**BACKGROUND:**

On August 24, 2017, the City filed an Application for Certificate in Docket No. 18-WAME-096-COC. On August 21, 2017, Bluestem had already filed a Companion Application to Cease in Docket No. 18-BECE-081-CCS. Westar later filed its Companion to Cease on September 19, 2017, in Docket No. 18-WSEE-125-CCS.

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.

In these Applications, the three electric suppliers have agreed that the City should provide service to the USD 320 sports complex and bus compound. This complex is currently served by Westar, but a planned expansion of this facility has made service from the City more economically feasible, due to the location of existing three-phase facilities. Westar has agreed to release the area being requested by the City. The Cease Application by Bluestem covers a roadway that is currently certificated to the cooperative.

**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 February 17, 2018.

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

ATTACHMENT 1  
Legal Description of Territory Trade Between  
City of Wamego, Kansas, Westar Energy, Inc. and Bluestem Electric Cooperative, Inc.  
Docket Nos. 18-WAME-096-COC 18-BECE-081-CCS and 18-WSEE-125-CCS

POTTAWATOMIE COUNTY

The Northeast 1/4 of the Southwest 1/4 of Section 5, Township 10 South, Range 10 East, as detailed on the map marked Exhibit A and attached to the Application.

**CERTIFICATE OF SERVICE**

18-BECE-081-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 OCT 12 2017.

KENNETH J. MAGINLEY, GENERAL MANAGER  
BLUESTEM ELECTRIC COOPERATIVE, INC.  
614 E US HWY 24  
WAMEGO, KS 66547-0005  
Fax: 785-456-2003  
kenm@bluestemelectric.com

WILLIAM E. DITTO, MAYOR  
CITY OF WAMEGO  
CITY HALL 428 LINCOLN  
PO BOX 86  
WAMEGO, KS 66547

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  
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DeeAnn Shupe

Order Mailed Date

OCT 13 2017