

**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 Evergy)
Kansas Central, Inc. for a Certificate of Public)
Convenience and Authority to Transact the) Docket No. 22-EKCE-235-COC
Business of an Electric Public Utility Defined)
as 115kV Transmission Line Project WR)
P26365 E Eureka to Otter Creek in Greenwood)
County, Kansas)

ORDER GRANTING TRANSMISSION RIGHTS ONLY CERTIFICATE

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

I. BACKGROUND

1. On November 11, 2021, Evergy Kansas Central, Inc. d/b/a Evergy Kansas Central (Evergy) filed an Application with the Commission seeking a Transmission Rights Only (TRO) Certificate in Greenwood County, Kansas.¹ The requested metes and bounds of the TRO Certificate (described in the Application and Exhibit A of the Application) provided for the building of a 12.65 mile transmission line connecting the new Otter Creek substation into Eureka to improve system reliability.² Subsequently, on January 10, 2022, Evergy filed an Amended Application seeking a TRO certificate for approximately one mile of transmission line, rather than

¹ Application of Evergy Kansas Central, Inc. (Evergy) for a Certificate of Public Convenience and Necessity, p. 1, (Nov. 11, 2021) (Application).

² *Id.* at 2.

12.65 miles of transmission line as stated in the original Application.³ The Amended Application was necessary because a TRO certificate was needed for only one mile of the transmission line—the portion of the transmission line that is proposed to transit Butler Rural Electric Cooperative, Inc. (Butler Rural).

2. Evergy requests in its Amended Application that it be granted permission to operate as an electric public utility in the following described territory to wit:

GREENWOOD COUNTY, KANSAS

In the Butler County Coop territory in the far south edge of the SW $\frac{1}{4}$ of Section 35, Township 26S, Range 10E; thence continuing west for 0.45 miles of Section 35, Township 26S, Range 10E; thence SW and enters the NW $\frac{1}{4}$ of Section 2, Township 27S, Range 10E; thence south for 0.5 mile in Section 2, Township 27S, Range 10E in Greenwood County, Kansas.⁴

3. On January 19, 2022, the Commission Staff (Staff) submitted its Report and Recommendation, recommending the Commission grant Evergy Kansas Central's request for permission to operate as an electric public utility in the territory described in paragraph 2 above.⁵ Staff's Report and Recommendation is attached to this Order as Exhibit A.

II. LEGAL STANDARDS AND DISCUSSION

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.

5. More specific 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

³ Amended Application of Evergy for a Certificate of Public Convenience and Necessity, p. 2., (Jan. 11, 2022) (Amended Application).

⁴ *Id.* at 1.

⁵ Staff's Report & Recommendation, p. 2 (Jan. 19, 2022) (Staff's Report).

which only one retail electric supplier is established for a given territory.⁶ Additionally, K.S.A. 66-1,173 provides in part:

(a) Any retail electric supplier, with approval of the commission, may extend distribution or transmission facilities through the certified territory of another retail electric supplier, if such extension is necessary for such supplier to connect with any of its facilities or those of others to serve customers within its own certified territory
....

In other words, if a retail electric supplier receives Commission approval, RESA also 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.⁷

6. The area in which Evergy seeks to locate its transmission line transits the exclusive certified territory of another retail electric supplier—Butler Rural. Therefore, Evergy is required to obtain approval from the Commission in this matter pursuant to K.S.A. 66-1,173.

7. Staff has reviewed this matter and submitted a Report and Recommendation dated January 19, 2022, attached hereto as Exhibit A and made a part hereof by reference.⁸ Staff confirmed that the legal description included in the Amended Application was accurately depicted on the map attached to the Application and that the proposed transmission line will transit Butler Rural’s territory.⁹ Staff attached the legal description to its R&R as Attachment A. Staff reiterated that the purpose of the TRO was for Evergy to connect the new Otter Creek substation into Eureka, and it will be used to serve Evergy’s certificated customers.¹⁰

⁶ K.S.A. 66-1,172.

⁷ K.S.A. 66-1,173.

⁸ Staff’s Report, at 2.

⁹ *Id.*

¹⁰ *Id.*

8. Based upon the information provided in the Amended Application, Staff recommends the Commission find the public convenience would be promoted by granting the Amended Application.¹¹

III. Findings and Conclusions

9. The Commission finds pursuant to K.S.A. 66-131, public convenience and necessity will be promoted by granting Evergy's Amended Application for permission to operate as an electric public utility in the area described above in paragraph 2.

10. The Commission finds Staff's findings and recommendation to be reasonable and adopts Staff's Report and Recommendation dated January 19, 2022, which is attached hereto and made a part hereof by reference.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. Evergy's Amended Application for a TRO Certificate in this matter is approved.
- B. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.
- C. 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).¹²

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 02/08/2022



Lynn M. Retz
Executive Director

JRJ

¹¹ *Id.*

¹² K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).



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

Laura Kelly, Governor

REPORT AND RECOMMENDATION UTILITIES DIVISION

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

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

DATE: January 19, 2022

SUBJECT: Docket No. 22-EKCE-235-COC - In the Matter of the Application of Evergy Kansas Central, Inc. for a Certificate of Public Convenience and Authority to Transact the Business of an Electric Public Utility defined as 115kV Transmission Line Project WR P26365 E Eureka to Otter Creek in Greenwood County, Kansas.

EXECUTIVE SUMMARY:

In Docket 22-EKCE-235-COC, Evergy Kansas Central (Evergy) requests a Certificate for Transmission Rights Only (TRO) in a portion of the certified territory of Butler Rural Electric Cooperative, Inc. (Butler Rural).

Staff recommends that the Commission find that public convenience will be promoted by granting a TRO for the portion of the line described in Attachment A to this Application.

BACKGROUND:

On November 29, 2021, Evergy filed the above-captioned Application requesting a Certificate for TRO to build a new 115 kV transmission line through a portion of the certified territory of Butler Rural.

Because the original Application contained the entire new 115kV line project, of which only a small portion needs a TRO Certificate, Staff asked Evergy to submit an Amended Application that contained only the portion of the project where a new TRO Certificate is required. The Amended Application was received on January 10, 2022. The Amended Application removed all references to the portion outside the subject area that requires TRO.

Together with this TRO Certificate, Evergy intends to build approximately 12.65 miles of new 115kV transmission line from their existing East Eureka Substation to their new Otter Creek

Substation in Greenwood County. This project will upgrade an old radial transmission system that was built in the 1970s and 80s that had little opportunity for maintenance. Only approximately one mile of the 115kV transmission line will transit Butler Rural's territory.

ANALYSIS:

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.¹ 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 provide necessary service to its own certificated customers.²

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.³

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.⁴

Furthermore, pursuant to K.S.A. 66-131(b), the Commission's action date for issuing a decision in this docket is May 28, 2022.

Through a Data Request, Staff requested and received the Routing Study (Study) performed by Burns & McDonnell Engineering Co. Inc. In review of the Study, Evergy held an open house on November 7, 2019 to discuss the project. Eighteen questionnaires were received from attendees, and that information was used to determine the best route for this project.

Staff confirmed the legal description included in the Application is accurately depicted on the map attached to the Application. Staff confirmed the legal description included in the Amended Application was accurately depicted on the map attached to the Application and that the proposed transmission line will transit Butler Rural's territory.

Staff believes that granting this TRO certificate for the portion of the line described in Attachment A connecting the new Otter Creek substation to Eureka will increase system reliability, and is only being used to serve Evergy's own certificated customers. Therefore, Staff believes the public convenience will be promoted by granting a TRO certificate for the portion of the line described in Attachment A to this Application.

RECOMMENDATION:

Staff recommends that the Commission find that public convenience will be promoted by granting a TRO certificate for this Application.

¹ K.S.A. 66-1,172.

² K.S.A. 66-1,173.

³ K.S.A. 66-131.

⁴ K.S.A. 66-131.

ATTACHMENT A
Legal Description of Proposed Transmission Line Route
22-EKCE-235-COC

GREENWOOD COUNTY, KANSAS

TRANSMISSION RIGHTS ONLY:

In the territory of Butler Electric Cooperative Association, Inc. in the far south edge of the SW 1/4 of Section 35, Township 26S, Range 10E; thence continuing west for 0.45 miles of Section 35, Township 26S, Range 10E; thence SW and enters the NW 1/4 of Section 2, Township 27S, Range 10E; thence south for 0.5 mile in Section 2, Township 27S, Range 10E in Greenwood County, Kansas.

CERTIFICATE OF SERVICE

22-EKCE-235-COC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 02/08/2022.

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/S/ DeeAnn Shupe

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