

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

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

In the Matter of the Application Heartland    )  
Rural Electric Cooperative, Inc. for Permission    ) Docket No. 19-HREE-442-CCS  
to Cease Operating as an Electric Public Utility    )  
in the State of Kansas. Linn County.                    )

**ORDER GRANTING APPLICATION**

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

**I.       Background**

1.       Heartland Rural Electric Cooperative, Inc. (“Heartland”) is seeking approval of the Commission to cease operating as an electric utility in a small tract of certified territory in Linn County.<sup>1</sup>

2.       Heartland is a Kansas corporation authorized by the Commission to conduct the business of a public utility under the provisions of K.S.A. 66-104, and as such holds a Certificate of Convenience and Authority from the Commission to conduct the business of an electric public utility in the State of Kansas, thereby promoting the public convenience.<sup>2</sup>

3.       A landowner has requested Lyon-Coffey provide service to their home, which is currently in Heartland Rural Electric Cooperative, Inc. (“Heartland”) certified territory.<sup>3</sup> For

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<sup>1</sup> Application of Heartland (Apr. 25, 2019) (“Application”).

<sup>2</sup> Application. at 1.

<sup>3</sup> See Application and attachments.

Heartland to provide service to this landowner, they would be required to build one mile of distribution line; Lyon-Coffey has a supply line 750' from the future building site.<sup>4</sup> Because of the cost to build one mile of distribution line, the landowner asked Heartland to cede the certified territory to Lyon-Coffey, to which Heartland agreed.<sup>5</sup> A letter from the landowner is attached to Lyon-Coffey's Application.<sup>6</sup>

4. Heartland requests the Commission grant Authority to cease transacting as an Electric Public Utility in the specific certified Territory of Linn County, described as follows:

LINN COUNTY, KANSAS

Section 35, Township 21, Range 21, 20 Acres M/L, N2 W2 NW4.<sup>7</sup>

5. On May 14, 2019, the Commission Staff ("Staff") submitted a Report and Recommendation dated May 8, 2019, recommending the Commission grant Heartland's request for Authority to cease service in the specified certified territory described in paragraph 4 above.

**II. Legal Standards and Discussion**

6. K.S.A. 66-1,170 *et seq.*, the Retail Electric Suppliers Act, 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>8</sup>

7. 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>9</sup>

8. The Commission is given full power, authority and jurisdiction to supervise and control the electric public utilities, as defined in K.S.A. 66-101a, doing business in Kansas, and is

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<sup>4</sup> Staff's Report and Recommendation at 2 ("Report") (May 14, 2019).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Application at 1.

<sup>8</sup> K.S.A. 66-1,172.

<sup>9</sup> K.S.A. 66-131.

empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.<sup>10</sup> Accordingly, the Commission has the power to grant an Application to Cease Service if it is necessary and convenient to supervise and control the electric public utilities.

9. Staff has reviewed Heartland's Application and has confirmed the legal description included is accurately depicted on the map attached to the Application.<sup>11</sup> Staff also confirmed the legal description does not conflict with the Commission's Certificate Records.<sup>12</sup>

10. Staff recommends that the Commission grant this Application and find that the public convenience will be promoted by this transaction.<sup>13</sup> Upon approval, the updated territory descriptions will be reflected in the Commission's certified territory map.<sup>14</sup>

**THEREFORE, THE COMMISSION ORDERS:**

- A. Heartland's Application is granted pursuant to K.S.A. 66-131.
- 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>15</sup>
- C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order or orders, as it may deem necessary.

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<sup>10</sup> K.S.A. 66-101.

<sup>11</sup> *Report*, at 2.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 05/21/2019

A handwritten signature in dark ink, appearing to read "Lynn M. Retz", is written above a horizontal line.

Lynn M. Retz  
Secretary to the Commission

CRM

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Dwight D. Keen, Chair  
Shari Feist Albrecht, Commissioner  
Susan K. Duffy, Commissioner

Laura Kelly, Governor

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

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

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

**DATE:** May 8, 2019

**SUBJECT:** 19-HREE-442-CCS  
In the Matter of the Application of Heartland Rural Electric Cooperative, Inc. for  
Permission to Cease Operating as an Electric Utility Public Utility in the State of  
Kansas. Linn County.

19-LYCE-368-COC  
In the Matter of the Application of Lyon-Coffey Electric Cooperative, Inc. for a  
Certificate of Public Convenience and Authority to Transact the Business of an  
Electric Utility Public Utility in the State of Kansas. Linn County.

**EXECUTIVE SUMMARY:**

In Docket 19-HREE-442-CCS, Heartland Rural Electric Cooperative, Inc. (Heartland) is seeking approval of the Commission to cease operating as an electric utility in a small tract of certified territory in Linn County. In Docket 19-LYCE-368-COC, Lyon-Coffey Electric Cooperative, Inc. (Lyon-Coffey) is requesting a Certificate for this tract of certified territory.

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

**BACKGROUND:**

On March 12, 2019, Lyon-Coffey filed the above-captioned Application for a Certificate in Docket No. 19-LYCE-368-COC. On March 25, 2019, Heartland filed a Companion Application to Cease in Docket No. 19-HRCE-442-CCS.

For Heartland to provide service to this landowner, they would be required to build one mile of distribution line; Lyon-Coffey has a supply line 750' from the future building site. Because of the cost to build one mile of distribution line, the landowner has asked Heartland to cede the certified territory to Lyon-Coffey, which Heartland has agreed. A letter from the landowner is attached to Lyon-Coffey's Application.<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.

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>

**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. Staff also confirmed the legal description is not in conflict with the Commission's Certificate records.

Staff recommends that the Commission find that public convenience will be promoted by the granting of this Application.

The Commission action date is September 8, 2019.

**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. 66-1,171

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

ATTACHMENT A  
Legal Description of Territory Trade Between  
Heartland Rural Electric Cooperative, Inc. and Lyon-Coffey Electric Cooperative, Inc.  
Docket No. 19-HREE-442-CCS and 19-LYCE-368-COC

LINN COUNTY, KANSAS

Section 35, Township 21, Range 21, 20 Acres M/L. N2, W2, NW4

## **CERTIFICATE OF SERVICE**

19-HREE-442-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 05/21/2019.

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/S/ DeeAnn Shupe  
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DeeAnn Shupe