

**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 of Westar)
Energy, Inc. for a Certificate of Public)
Convenience and Authority to Transact the)
Business of an Electric Public Utility,) Docket No. 19-WSEE-434-COC
Specifically in a Portion of Section 32,)
Township 9 South, Range 16 East, In Jackson)
County, Kansas)

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. Westar Energy, Inc. (“Westar”) is seeking approval by the Commission of its Application for a Certificate of Public Convenience and Authority in a small tract of certified territory in Jackson County.¹

2. Westar is a Kansas electric public utility as defined in 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.²

3. Currently, the location of the prospective customer’s building site is within FreeState’s certified territory.³ Westar has facilities adjacent to the customer’s future building

¹ Application of Westar (Apr. 24, 2019) (“Application”).

² *Id.* at 1.

³ Staff’s Report and Recommendation at 2 (“Report”), May 22, 2019.

site.⁴ To save on construction cost, the customer petitioned FreeState to release the territory to allow Westar to serve the property, to which FreeState agreed.⁵

4. Westar requests the Commission grant a Certificate of Public Convenience and Necessity to transact as an Electric Public Utility in the specific certified Territory of Jackson County, described as follows:

JACKSON COUNTY, KANSAS

The South 600 feet and the West 290 feet in the East $\frac{1}{2}$, of the Southwest $\frac{1}{4}$,
Section 32, Township 9 South, Range 16 East, Jackson County, Kansas.⁶

5. On May 24, 2019, the Commission Staff (“Staff”) submitted a Report and Recommendation dated May 22, 2019, recommending the Commission grant Westar’s request for a Certificate of Public Convenience and Necessity to transact as an Electric Public Utility 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.⁷

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.⁸

⁴ Report at 2.

⁵ *See id.*

⁶ *Id.* at Attachment A.

⁷ K.S.A. 66-1,172.

⁸ K.S.A. 66-131.

8. Staff has reviewed Westar's Application and has confirmed the legal description included is accurate.⁹ Staff also confirmed the legal description does not conflict with the Commission's Certificate Records.¹⁰

9. Staff recommends that the Commission grant this Application and find that the public convenience will be promoted by this transaction.¹¹ Upon approval, the updated territory descriptions will be reflected in the Commission's certified territory map.¹²

THEREFORE, THE COMMISSION ORDERS:

- A. Westar'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).¹³
- 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.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Feist Albrecht, Commissioner; Duffy, Commissioner

Dated: 06/04/2019



Lynn M. Retz
Secretary to the Commission

CRM

⁹ Report, at 2.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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 22, 2019

SUBJECT: 19-FSEE-452-CCS
In the Matter of the Application of FreeState Electric Cooperative, Inc. for
Permission to Cease Operating as an Electric Utility Public Utility in the State of
Kansas.

19-WSEE-434-COC
In the Matter of the Application of Westar Energy, Inc. for a Certificate of Public
Convince and Authority to Transact the Business of an Electric Public Utility
specifically in a portion of Section 32, Township 9 South, Range 16 East in Jackson
County, Kansas.

EXECUTIVE SUMMARY:

In Docket 19-FSEE-452-CCS, FreeState Electric Cooperative, Inc. (FreeState) is seeking approval of the Commission to cease operating as an electric utility in a small tract of certified territory in Jackson County. In Docket 19-WSEE-434-COC, Westar Energy, Inc. (Westar) is requesting a Certificate for this tract of certified territory.¹

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

¹ EL 39574

BACKGROUND:

On May 5, 2019, FreeState filed the above-captioned Application to Cease in Docket No. 19-FSEE-452-CCS. On April 24, 2019, Westar filed the above-captioned Companion Application for a Certificate in Docket No. 19-WSEE-434-COC.

Currently, the location of the prospective customer's building site is within FreeState's certified territory. Westar has facilities adjacent to the customer's future building site. To save on construction cost, the customer petitioned FreeState to release the territory to allow Westar to serve the property, which FreeState agreed.

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.²

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. Because both affected utilities are in agreement with the proposed service territory modification, and because the modification provides the most economical means of serving the prospective customer, Staff recommends approval of the Application.

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

The Commission action date is October 21, 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.

² K.S.A. 66-131

ATTACHMENT A
Legal Description of Territory Trade Between
FreeState Electric Cooperative, Inc. and Westar Energy, Inc.
Docket No. 19-FSEE-452-CCS and 19-WSEE-434-COC

JACKSON COUNTY, KANSAS

The South 600 feet and the West 290 feet in the East 1/2, of the Southwest 1/4, Section 32,
Township 9 South, Range 16 East, Jackson County, Kansas.

CERTIFICATE OF SERVICE

19-WSEE-434-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 06/04/2019.

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/S/ DeeAnn Shupe

DeeAnn Shupe