

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

Before Commissioners: Shari Feist Albrecht, Chair  
Jay Scott Emler  
Pat Apple

In the Matter of the Application of Kansas )  
Gas and Electric Company, Doing Business )  
as Westar Energy, for Authority to Cease )  
Transacting the Business of an Electric ) Docket No. 18-KG&E-381-CCS  
Public Utility, Specifically in Portions of )  
Section 35, Township 21 South, Range 2 )  
West, McPherson County, Kansas. )

**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 March 6, 2018, Kansas Gas & Electric Company d/b/a Westar Energy (Westar) filed an Application requesting to cease transacting the business of an electric public utility in territory situated partially within and partially outside the city limits of the City of Moundridge, Kansas ("City" or "Moundridge"), McPherson County. Westar is an electric public utility as defined in K.S.A. 2016 Supp. 66-104. A public hearing was neither requested nor held on Westar's Application.

2. Westar 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 Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 35, Township 21 South, Range 2 West, in McPherson County, Kansas, as detailed on the map marked Exhibit A attached to Westar's Application.

3. On March 21, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated March 19, 2018, recommending the Commission grant Westar's Application and its request to cease operating 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> RESA also allows any city annexing territory to select a retail electric service provider.<sup>2</sup> Consequently, Moundridge has selected its own municipal utility to serve the annexed portion of the territory described in paragraph 2 above.<sup>3</sup> Westar and Moundridge have agreed that the City should also serve as the electric provider for the remaining portion (approximately 1.5 acres) of the quarter-quarter section lying outside the corporate limits of the City, but within the territory described in paragraph 2 above.

5. According to Staff, the annexed portion of the territory described in paragraph 2 above was annexed into the City of Moundridge on February 12, 2018. Staff explains that in order to avoid confusion over an irregular shaped territory boundary, Westar and Moundridge agreed

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

<sup>2</sup> K.S.A. 66-1,176(a).

<sup>3</sup> Report and Recommendation, page 2.

that the City should be the provider of electric service to the entire quarter-quarter section described in paragraph 2 above. In a separate filing by the City on February 27, 2018, in Docket No. 18-MDRE-371-COC, the City seeks a Certificate of Convenience and Authority to serve as the retail electric service provider in that portion of territory (approximately 1.5 acres) adjoining the annexed portion of the quarter-quarter section, the two tracts of which make up the entire quarter-quarter section described in paragraph 2 above.<sup>4</sup> Staff states that it has reviewed the Applications of both Westar and Moundridge and determines that the legal descriptions and maps provided with the Applications are accurate and not in conflict with the Commission's Certificate records. Concluding, Staff recommends the Commission grant the Applications of both Westar and Moundridge and find that the public convenience will be promoted by these transactions. Upon approval, the updated territory descriptions will be reflected in the Commission's certified territory map.<sup>5</sup>

### **III. FINDING AND CONCLUSION**

6. The Commission adopts Staff's analysis and recommendation of March 19, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Westar's Application should be granted, and that the public convenience will be promoted by issuing an Order authorizing Westar 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 the Kansas Gas and Electric Company d/b/a Westar Energy is hereby granted and Westar is authorized to cease transacting the business of an electric public utility in the territory described in paragraph 2 above.

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<sup>4</sup> Id., page 2.

<sup>5</sup> Ibid., page 2.

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).

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.**

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: 03/27/2018



Lynn M. Retz  
Secretary to the Commission

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# STATE OF KANSAS

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SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | PAT APPLE, COMMISSIONER

## REPORT AND RECOMMENDATION UTILITIES DIVISION

**TO:** Chair Shari Feist Albrecht  
Commissioner Jay Scott Emler  
Commissioner Pat Apple

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

**DATE:** March 19, 2018

**SUBJECT:** 18-KG&E-381-CCS

In the Matter of the Application of Kansas Gas and Electric Company, doing Business as Westar Energy, for Authority to Cease Transacting the Business of an Electric Public Utility, Specifically in Portions of Section 35, Township 21 South, Range 2 West in McPherson County, Kansas.

18-MDRE-371-COC

In the Matter of the Application of the City of Moundridge, Kansas for a Certificate of Convenience and Authority to Transact the Business of an Electric Municipal Utility in the State of Kansas. A tract in the S/2, NW/4, Section 35-T21-R2W.

### EXECUTIVE SUMMARY

In Docket 18-KG&E-381-CCS, Kansas Gas and Electric Company, doing business as Westar Energy (Westar), is seeking the approval of the Commission to cease operating as an electric utility in a small section of land that has been annexed by the City of Moundridge. Westar also seeks to cease service in a small parcel of land adjacent to the annexed territory. In Docket 18-MDRE-371-COC, the City of Moundridge (Moundridge) gives notice to the Commission of the annexation and requests a Certificate of Convenience in the small parcel of land adjacent the newly annexed territory.

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

## **BACKGROUND:**

On February 12, 2018, Moundridge annexed an undeveloped plot of land. On February 27, 2018, Moundridge filed Docket 18-MDRE-371-COC for a Certificate to serve in this plot of land. On March 6, 2018, Westar filed an Application to Cease in Docket No. 18-KG&E-381-CCS.

Westar also requests to release the remainder of the Southwest 1/4 of the Northwest 1/4 of Section 35, Township 21 South, Range 2 West, in McPherson County, which is approximately 1.5 acres. Moundridge has agreed to provide service in this small electric certified territory.

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 allows any city annexing territory to select a retail electric service provider. Under these circumstances, the Commission is required to certify the annexed territory to the electric supplier selected by the city.<sup>2</sup> For the territory not annexed by the city, the Commission may certify the territory to the utility best suited to provide sufficient and efficient service.

## **ANALYSIS:**

Moundridge has selected their own municipal utility to serve the above-described territory that was annexed by the city. By virtue of its Application for a Cease of Service, Westar is agreeing to cede retail service in the annexed territory to Moundridge. In order to avoid confusion over an irregular shaped territory boundary, Westar and Moundridge also have agreed to allow Moundridge to provide service in the remaining parcel in the Southwest 1/4 of the Northwest 1/4 of Section 35.

A detailed map can be found on the Application to Cease from Westar. The legal description marked Exhibit A is attached to this Report and Recommendation.

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.

## **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.

The Commission action date is August 26, 2018.

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

<sup>2</sup> K.S.A. 66-1,176(a)

Exhibit A  
Moundridge, Kansas  
18-KG&E-381-CCS  
Westar to the City of Moundridge

MCPHERSON COUNTY

The Southwest 1/4 of the Northwest 1/4 of Section 35, Township 21 South, Range 2 West.

## CERTIFICATE OF SERVICE

18-KG&E-381-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 03/28/2018.

CATHRYN J DINGES, CORPORATE COUNSEL  
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\*\*\*Hand Delivered\*\*\*

RANDY FRAZER, CITY ADMINISTRATOR  
CITY OF MOUNDRIDGE  
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/S/ DeeAnn Shupe  
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DeeAnn Shupe