

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

Before Commissioners:     Andrew J. French, Chairperson  
                                  Dwight D. Keen  
                                  Annie Kuether

In the Matter of the Application of 4 Rivers     )  
Electric Cooperative, Inc. for a Certificate of     )  
Convenience and Authority to Transact the     )  
Business of an Electric Public Utility in the State     )     Docket No. 24-4REE-382-COC  
of Kansas. Twp. 29S, Range 16E, Sec. 35 of     )  
Wilson County.     )

**ORDER GRANTING APPLICATION FOR CERTIFICATE  
OF 4 RIVERS ELECTRIC COOPERATIVE, INC.**

NOW, on this date, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (the “Commission”) for hearing on the Application for a Certificate of 4 Rivers Electric Cooperative, Inc. (“4 Rivers”). Having examined its files and records, and being duly advised in the premises, the Commission makes findings of fact and conclusions of law as follows:

**I.     FINDINGS OF FACT**

1.     On November 7, 2023, 4 Rivers filed an Application requesting the Commission to issue a Certificate of Convenience and Authority granting 4 Rivers, a public utility as defined in K.S.A. 66-104, the right to transact the business of an electric public utility in a tract of land situated outside corporate boundaries of a city in Wilson County, Kansas, described as follows:

A tract of land beginning at the Southwest corner of the Northwest 1/4 of Section 35, Township 29 South, Range 16 East, thence North 250’, thence East 350’, thence South 250’, thence West to the point of beginning.

(the “Tract”).<sup>1</sup>

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<sup>1</sup> Application for Certificate of 4 Rivers, Docket No. 24-4REE-382-COC (Nov. 7, 2023) (the “4 Rivers Application”).

2. The Tract is situated within the certified territory of Evergy Central, Inc. (“Evergy Central”), another public utility as defined in K.S.A. 66-104, and adjacent to the certified territory of 4 Rivers.<sup>2</sup>

3. Evergy Central filed an Application with the Commission on November 17, 2023, concurrently requesting the approval of the Commission to cease operating as an electric public utility in the Tract.<sup>3</sup>

4. The parties mutually agree, subject to the approval of the Commission, that 4 Rivers should serve as the electric service provider in the Tract.<sup>4</sup>

5. After analyzing both the 4 Rivers Application and the Evergy Central Application, Commission technical staff (“Staff”) submitted a Report and Recommendation (the “R&R”)—attached as **Attachment A** and incorporated by reference—in this matter on December 21, 2023, stating that Staff has confirmed that the legal description of the Tract is accurately depicted by the map attached to the 4 Rivers Application and that the legal description is not in conflict with the Commission’s Certificate records.<sup>5</sup>

6. Staff further provided in the R&R that Staff recommends that the Commission find that public convenience will be promoted by the granting of the 4 Rivers Application.<sup>6</sup>

7. Under K.S.A. 66-101, the Commission is:

given full power, authority and jurisdiction to supervise and control the electric public utilities...doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

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<sup>2</sup> 4 Rivers Application at p. 1.

<sup>3</sup> Application to Cease of Evergy Central, Docket No. 24-EKCE-396-CCS (Nov. 17, 2023) (the “Evergy Central Application”).

<sup>4</sup> *Id.* at p. 1.

<sup>5</sup> R&R at p. 2 (Dec. 21, 2023).

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

The Commission has the power to grant an Application to Cease Operation if it would promote public convenience and necessity.

8. To further that regulatory policy, the Kansas legislature enacted the Retail Electric Suppliers Act, K.S.A. 66-1,170 *et seq.* (“RESA”), directing the Commission to divide the State into electric service territories, within each of which the Commission is to certify only one retail electric supplier to provide retail electric service and then provide the retail electric supplier with a certificate of convenience. K.S.A. 66-1,172.

9. However, notwithstanding the mandated single electric provider service territories, RESA also provides that retail electric suppliers may enter into agreements to alter the establishment of boundaries between certified territories. K.S.A. 66-1,175. Such agreements are subject to approval of the Commission and if so approved, the Commission will issue certificates accordingly. *Id.*

10. The Commission adopts the analysis and factual statements in the R&R.

## **II. CONCLUSIONS OF LAW**

11. Upon review of the 4 Rivers Application, the Evergy Central Application, and the R&R, the Commission finds that public convenience and necessity will be promoted by the transactions contemplated by the Applications.

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

A. The 4 Rivers Application for a Certificate of Convenience and Authority regarding the Tract is approved.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits stated in K.S.A. 66-118b and 77-529(a)(1).

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

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 01/23/2024



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Lynn M. Retz  
Executive Director

KCW

## **CERTIFICATE OF SERVICE**

24-4REE-382-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 01/23/2024.

DENNIS SVANES, GENERAL MANAGER  
4 RIVERS ELECTRIC COOPERATIVE, INC  
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/S/ KCC Docket Room  
KCC Docket Room

# **ATTACHMENT A**

Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Annie Kuether, Commissioner

Laura Kelly, Governor

**REPORT AND RECOMMENDATION**  
**UTILITIES DIVISION**

**TO:** Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Annie Kuether, Commissioner

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

**DATE:** December 21, 2023

**SUBJECT:** **Docket No. 24-EKCE-396-CCS** – In the Matter of the Application of Evergy Kansas Central, Inc. for Authority to Cease Transacting the Business of an Electric Public Utility Specifically, in Section 35, Township 29 South, Range 16 East in Wilson County, Kansas.

**Docket No. 24-4REE-382-COC** – In the Matter of the Application of 4 Rivers Electric Cooperative, Inc. for a Certificate of Convenience and Authority to Transact the Business of an Electric Public Utility in the State of Kansas. Twp. 29S, Range 16E, Sec. 35 of Wilson County.

**EXECUTIVE SUMMARY:**

In Docket No. 24-EKCE-396-CCS, Evergy Kansas Central, Inc. (“Evergy Central”) is seeking approval of the Commission to cease operating as an electric public utility in a small tract of land in Wilson County, Kansas. In Docket No. 24-4REE-382-COC, 4 Rivers Electric Cooperative, Inc. (“4 Rivers”) is requesting a Certificate of Convenience and Authority for the same tract of land.

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

**BACKGROUND:**

On November 17, 2023, Evergy Central brought Docket Number 24-EKCE-396 (“Docket 24-396”) by filing an application to cease operating as an electric public utility in a small tract of land. On November 7, 2023, 4 Rivers brought Docket Number 24-4REE-382 (“Docket 24-382”) by filing an application for a Certificate of Convenience and Authority to transact the business of an electric public utility in the same tract of land.

A homeowner, who is a current 4 Rivers customer, plans to place a modular home on his property for a family member. The placement of the new home will be located within the certified territory of Evergy Central; however, Evergy Central has no facilities near that location. On the other hand, 4 Rivers have facilities near the location and can provide electrical service at a minimal cost to the new customer. Evergy Central and 4 Rivers have expressly agreed, subject to Commission approval, that 4 Rivers should serve as the electric provider for this new customer.

### **ANALYSIS:**

It is the public policy of Kansas to, in part, encourage the orderly development of retail electric service, facilitate the public convenience and necessity, and minimize disputes between retail electric suppliers which may result in inconvenience, diminished efficiency and higher costs in serving the consumer.<sup>1</sup> In pursuing that public policy, the Kansas legislature enacted the Retail Electric Suppliers Act (“RESA”), K.S.A. 66-1,170 *et seq.*, which 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>2</sup> However, notwithstanding the mandated single electric provider service territories, RESA also provides that retail electric suppliers can enter into agreements to alter the establishment of boundaries between certified territories.<sup>3</sup> Such agreements are subject to approval by the Commission and if so approved, the Commission will issue certificates accordingly.<sup>4</sup>

The Commission has jurisdiction to grant a Certificate of Convenience and Authority to any public utility seeking to transact business in the State of Kansas.<sup>5</sup> A Certificate of Convenience and Authority will be granted by the Commission permitting an applicant to transact business the business of a public utility in the state of Kansas if the Commission determines “that public convenience and necessity will be promoted by the transaction of the applicant’s business and permitting [the applicant] to transact the business of a...public utility.”<sup>6</sup>

Staff has reviewed the Applications and has confirmed the legal description included in the Applications is accurately depicted on the map attached on each Application. Staff also confirmed the legal description is not in conflict with the Commission’s Certificate records. The legal description is included as **Exhibit 1** to this Report and Recommendation.

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

### **RECOMMENDATION:**

Staff recommends that the Commission grant each Application 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. 66-1,172.

<sup>3</sup> K.S.A. 66-1,175.

<sup>4</sup> *Id.*

<sup>5</sup> K.S.A. 66-131(a); 66-1,172; 66-1,175.

<sup>6</sup> K.S.A. 66-131(a).



**EXHIBIT 1**

Legal Description of Territory Trade Between  
Every Central Kansas Inc. and 4 Rivers Electric Cooperative, Inc.  
Docket Nos. 24-EKCE-396-CCS and 24-4REE-382-COC

WILSON COUNTY, KANSAS

Beginning at the Southwest corner of the Northwest 1/4 of Section 35, Township 29 South, Range 16 East, thence North 250', thence East 350', thence South 250', thence West to the point of beginning.