

Westar Energy's territory begins in the Southwest ¼ of Section 8, T19S, R14E, Coffey County, Kansas².

3. On October 4, 2018, the Commission Staff ("Staff") submitted a Report and Recommendation dated October 3, 2018, recommending the Commission grant Westar's request for permission to operate as an electric public utility in the territory described in paragraph 2 above.³

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. 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.⁴ 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.⁵

5. Lyon-Coffey Electric Cooperative, Inc., ("Lyon-Coffey Electric") is currently operating in the area of land at issue here. Lyon-Coffey Electric, is subject to Commission jurisdiction pursuant to K.S.A. 66-104d. According to Staff, Westar gave Lyon-Coffey Electric notice of this filing on July 26, 2018. Lyon-Coffey Electric will remain certified in the area and Westar will have transmission rights only through this area.

² *Report and Recommendation*, at 3 (Oct. 3, 2018).

³ *Report and Recommendation*, at 1.

⁴ K.S.A. 66-1,172.

⁵ K.S.A. 66-1,175.

6. Based on the foregoing information, and the absence of any objection, Staff recommends the Commission find that public convenience will be promoted by granting Westar permission to operate a 3 phase 34.500 kV overhead subtransmission line in the area described above in paragraph 2.

III. Findings and Conclusion

7. The Commission finds pursuant to K.S.A. 66-131 and K.S.A. 66-1,170 et seq., public convenience and necessity will be promoted by granting Westar's request for permission to operate in the area described above in paragraph 2.

8. The Commission adopts Staff's Report and Recommendation dated October 3, 2018, which is attached hereto and made a part hereof by reference.

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).⁶
- 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; Keen, Commissioner

Dated: 11/01/2018



Lynn M. Retz
Secretary to the Commission

cab

⁶ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

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

DATE: October 3, 2018

SUBJECT: 19-WSEE-111-COC
In the Matter of the Application of Westar Energy for a Certificate of Public Convenience and Authority to Transact the Business of an Electric Public Utility Specifically in Portions of Sections 7, 8, 11, and 12; Township 19 South; Range 14 East; in Coffey County, Kansas.

EXECUTIVE SUMMARY:

In Docket 19-WSEE-111-COC, Westar Energy, Inc. (Westar) requests a Certificate for Transmission Rights Only along a four mile stretch of Old Highway 50 in Coffey County, Kansas. A road project requires the 34.500kV line to be moved from the south side of the road to the north side.¹

BACKGROUND:

On September 18, 2018, Westar filed the above-captioned Application requesting a Certificate for Transmission Rights Only. Westar proposes to remove an existing 3 phase 34.500 kV overhead subtransmission line from the south side of Old Hwy 50 and rebuild the line on the north side of the highway. The route will remain in the area certified to Lyon-Coffey Electric Cooperative, Inc. (Lyon-Coffey).

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. If a retail electric supplier receives Commission approval, RESA allows it

¹ EL 39454.

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.

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

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.³

ANALYSIS:

On July 26, 2018, Lyon-Coffey received notice of this filing and Staff has received no objection or comment.

Staff has reviewed Westar's Application and has confirmed the legal description included in the Application is accurately depicted on the map attached to the Application. Staff also confirmed the legal description is not in conflict with the Commission's Certificate records. The legal description is included as Attachment A to this Report and Recommendation.

Based on the above information and having received no objection from the certificated utility whose territory the proposed line will pass through, Staff recommends that the Commission find that public convenience will be promoted by the granting of this Application.

The Commission action date is March 17, 2018.

RECOMMENDATION:

Staff is recommending Westar's Application for Certificate in 19-WSEE-111-COC be granted for Transmission Rights Only.

² K.S.A. 66-131.

³ K.S.A. 66-131.

ATTACHMENT A
Legal Description of Proposed Transmission Line Route
19-WSEE-111-COC

COFFEY COUNTY, KANSAS

TRANSMISSION RIGHTS ONLY:

Beginning at a point at the Southwest corner of Section 11, thence east through Section 12, T19S, R13E; continuing east through Sections 7 & 8, to the point where Westar Energy's territory begins in the Southwest 1/4 of section 8, T1 9S, R14E, Coffey County, Kansas.

CERTIFICATE OF SERVICE

19-WSEE-111-COC

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 and electronic service on 11/01/2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe