

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

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

In the Matter of the Application of Heartland)
Rural Electric Cooperative for a Certificate)
of Convenience and Authority to Transact)
the Business of an Electric Public Utility in) Docket No. 18-HREE-140-COC
the State of Kansas. Specifically in Portions)
of Section 30, Township 25 South, Range)
19 East, Allen County, Kansas.)

ORDER GRANTING CERTIFICATE OF CONVENIENCE AND AUTHORITY

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 September 22, 2017, Heartland Rural Electric Cooperative, Inc. (Heartland) filed an Application requesting a Certificate of Convenience and Authority (Certificate) to transact the business of an electric public utility in a portion of Allen County, Kansas. Heartland is an electric public utility as defined in K.S.A. 2016 Supp. 66-104. A public hearing was neither requested nor held on Heartland's Application.

2. Heartland requests that it be certificated as an electric public utility for the purpose of providing electric public utility service in the following described territory to wit:

A tract of land described as the South ½ of the Northeast ¼ of Section 30, Township 25 South, Range 19 East; in Allen County, Kansas, as detailed on the map marked Exhibit A and attached to the Application.

3. On October 10, 2017, the Commission Staff (Staff) submitted its Report and Recommendation dated October 9, 2017, recommending the Commission grant Heartland's Application and issue the company a Certificate to transact the business of 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.¹

5. According to Staff, Heartland and Kansas Gas and Electric Company d/b/a Westar Energy (KG&E) propose exchanging approximately 80 acres of electric service territory located in Allen County in order to better serve a new customer developing in the area. Currently, there are no existing customers in the territory being exchanged. Staff indicates that Heartland is better positioned to provide future electric service in the immediate vicinity of the affected customer. KG&E would be required to build more facilities and service from KG&E would involve extensive tree trimming. Heartland's infrastructure is close by and can more efficiently serve the new customer.²

¹ K.S.A. 66-1,175.

² Report and Recommendation, pages 1 and 2.

6. On September 11, 2017, KG&E filed a companion Application in Docket No. 18-KG&E-127-CCS requesting authority to cease transacting the business of an electric public utility in the subject territory. Staff indicates that it has reviewed the Applications of both Heartland and KG&E, determining that the legal descriptions and maps provided with the Applications are accurate. Staff also confirms that the legal descriptions provided by the parties are not in conflict with the Commission's Certificate records. Concluding, Staff determines that the public convenience will be promoted by the requested territory exchange and recommends the Commission grant the Applications of both Heartland and KG&E.³

III. FINDING AND CONCLUSION

7. The Commission adopts Staff's analysis and recommendation of October 9, 2017, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Heartland's Application should be granted, and that the public convenience and necessity will be promoted by issuing Heartland the requested Certificate.

IT IS, THEREFORE, BY THE COMMISSION ORDERED AND CERTIFIED:

A. That the Application filed by Heartland Rural Electric Cooperative, Inc. on September 22, 2017 is hereby granted and Heartland is hereby issued a Certificate of Convenience and Authority to transact the business of an electric public utility in the territory described in paragraph 2 above.

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).

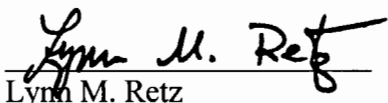
³ Id., page 2.

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 AND CERTIFICATED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: OCT 17 2017


Lynn M. Retz
Secretary to the Commission

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Order Mailed Date

OCT 18 2017

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chairman Pat Apple
Commissioner Shari Feist Albrecht
Commissioner Jay Scott Emler

FROM: Gary Dawdy, Utility Engineer II
Leo Haynos, Chief Engineer
Jeff McClanahan, Director of Utilities

DATE: October 9, 2017

SUBJECT: 18-KG&E-127-CCS
In the Matter of the Application of Kansas Gas and Electric Company,
Doing Business as Westar Energy, to Cease Transacting the Business of
an Electric Public Utility, Specifically in a Portion of Section 30,
Township 25 South, Range 19 East, in Allen County, Kansas

18-HREE-140-COC
In the Matter of the Application of Heartland Rural Electric Cooperative
for a Certificate of Convenience and Authority to Transact the Business of
an Electric Public Utility in the State of Kansas. Specifically in Portions of
Section 30, Township 25 South, Range 19 East

EXECUTIVE SUMMARY

Kansas Gas and Electric Company, dba Westar Energy (KG&E), and Heartland Rural Electric Cooperative, Inc. (Heartland) are proposing to exchange approximately 80 acres of electric territory located in Allen County. These two electric suppliers have agreed to exchange this territory to better serve the needs of a new customer developing in the area. There are currently no existing customers located in the area being exchanged. Heartland is better positioned to provide future electric service in the immediate vicinity of the affected customer.

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

BACKGROUND:

On September 11, 2017, KG&E filed an Application to Cease in Docket No. 18-KG&E-127-CCS. On September 21, 2017, Heartland, filed a Companion Application for Certificate in Docket No. 18-HREE-140-COC.

The Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas.¹ 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 can enter into agreements to amend boundaries between their facilities. The agreements are filed in the form of Certificates and, if approved by the Commission, Certificates to amend territory are issued.

A new residential customer has requested electric service in the area the electric suppliers seek to exchange. KG&E would have to build more facilities and service from KG&E would involve extensive tree trimming. Heartland has existing infrastructure close by and can more efficiently serve this customer.

ANALYSIS:

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. The proposed revision to the affected territory's legal description is included as Attachment 1 to this Report and Recommendation.

RECOMMENDATION:

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

The Commission action date is March 10, 2018.

¹ K.S.A. 66-131

ATTACHMENT 1
Legal Description of Territory Trade Between
Kansas Gas and Electric Company, dba Westar Energy,
Heartland Electric Cooperative, Inc.
18-KG&E-127-CCS and 18-HREE-140-COC

ALLEN COUNTY

A tract of land described as the South ½ of the Northeast 1/4 of Section 30, Township 25 South, Range 19 East; in Allen County, Kansas, as detailed on the map marked Exhibit A and attached to the Application

CERTIFICATE OF SERVICE

18-HREE-140-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/hand delivered on OCT 17 2017.

DALE COOMES, CEO
HEARTLAND RURAL ELECTRIC COOPERATIVE, INC.
110 N ENTERPRISE DR
PO BOX 40
GIRARD, KS 66743
Fax: 620-724-8253
dalec@heartland-rec.com

OTTO NEWTON, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3167
o.newton@kcc.ks.gov
Hand Delivered

CATHRYN J. DINGES, SENIOR CORPORATE COUNSEL
WESTAR ENERGY, INC.
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
Fax: 785-575-8136
cathy.dinges@westarenergy.com

PAUL NORRIS, DIRECTOR OF OPERATIONS
HEARTLAND RURAL ELECTRIC COOPERATIVE, INC.
110 N ENTERPRISE DR
PO BOX 40
GIRARD, KS 66743
Fax: 620-724-8253
pauln@hearland-rec.com

/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

OCT 18 2017