

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

Before Commissioners:      Shari Feist Albrecht, Chair  
                                     Jay Scott Emler  
                                     Dwight D. Keen

In the Matter of the Application of Westar      )  
Energy, Inc. to Cease Transacting the      )  
Business of an Electric Public Utility      )      Docket No. 18-WSEE-463-CCS  
in Portions of Section 25, Township 8      )  
South, Range 21 East, in Leavenworth      )  
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 April 24, 2018, Westar Energy, Inc. (Westar) filed an Application requesting to cease transacting the business of an electric public utility in portions of Section 25, Township 8 South, Range 21 East, Leavenworth County, Kansas. Westar is an electric public utility as defined in K.S.A. 2017 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:

A tract of land described as the West 300 feet of the East ½ of the Southwest 1/4 , and the West 300 feet of the Southeast ¼ of the Northwest ¼ of Section 25, Township 8 South, Range 21 East in Leavenworth County, Kansas, as detailed on the map marked Exhibit A attached to the Application.

3. On May 2, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated April 27, 2018, recommending the Commission grant Westar's Application and its request to cease transacting business as an electric public utility in the territory described in paragraph 2 above.

## **II. LEGAL STANDARDS AND DISCUSSION**

4. Pursuant to 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>

5. According to Staff, Westar and FreeState Electric Cooperative, Inc. (FreeState) propose exchanging the tract of territory described in paragraph 2 above located in Leavenworth County in order to accommodate a residential customer requesting service to a new house and barn. Staff states that the barn, already in existence, is located on the dividing territory line between FreeState and Westar. Because the customer's house will be in FreeState's territory, Westar has agreed to release the territory described in paragraph 2 above. Correspondingly, FreeState, on April 25, 2018, filed an Application in Docket No. 18-FSEE-466-COC requesting a Certificate of Convenience and Authority to provide electric utility service within the subject territory. Staff indicates that it has reviewed the Applications of both Westar and FreeState, determining that the legal descriptions included in both Applications are accurately depicted on the maps attached to each Application. Staff further confirms that the legal description provided

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

by the parties is not in conflict with the Commission's Certificate records. Concluding, Staff determines that the public convenience will be promoted by granting the requested territory exchange and recommends the Commission grant the Applications of both Westar and FreeState.<sup>2</sup>

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

6. The Commission adopts Staff's analysis and recommendation of April 27, 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 public convenience and necessity 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 Westar Energy, Inc. 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.

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. 2017 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.

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

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

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 05/10/2018

A handwritten signature in cursive script, reading "Lynn M. Retz", written in dark ink.

Lynn M. Retz  
Secretary to the Commission

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# STATE OF KANSAS



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GOVERNOR JEFF COLYER, M.D.

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:** April 27, 2018

**SUBJECT:** 18-WSEE-463-CCS  
In the Matter of the Application of Westar Energy, Inc. to Cease Transacting the Business of an Electric Public Utility, in portions of Section 25, Township 8 South, Range 21 East, in Leavenworth County, Kansas.

18-FSEE-466-COC  
In the Matter of the Application of FreeState Electric Cooperative, Inc. for a Certificate of Convenience and Authority to transact the business of an Electric Public Utility in the State of Kansas. Leavenworth County.

### **EXECUTIVE SUMMARY:**

In Docket 18-WSEE-463-CCS, Westar Energy, Inc. (Westar) is seeking approval of the Commission to cease operating as an electric utility in a small tract of certified territory in Leavenworth County. In Docket 18-FSEE-466-COC, FreeState Electric Cooperative, Inc. (FreeState) is requesting a Certificate for this tract of certified territory.

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

## **BACKGROUND:**

On April 24, 2018, Westar filed the above-captioned Application to Cease in Docket No. 18-WSEE-463-CCS. On April 25, 2018, FreeState filed a Companion Application for a Certificate in Docket No. 18-FSEE-466-COC.<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.

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.<sup>2</sup>

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.<sup>3</sup>

## **ANALYSIS:**

FreeState was contacted by a residential customer requesting service to a new house and barn. The barn, which has already been constructed, is located on the dividing territory line in-between FreeState and Westar. Because the location of the house will be in FreeStates territory, Westar has agreed to release the West 300 feet of the East 1/2 of the Southwest 1/4, and the West 300 feet of the Southeast 1/4 of the Northwest 1/4 of Section 25, Township 8 South, Range 21 East, in Leavenworth County, Kansas.

Staff has reviewed both Applications and has confirmed the legal descriptions included in both Applications is 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.

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

The Commission action date is October 22, 2018.

## **RECOMMENDATION:**

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

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<sup>1</sup> EL #39396

<sup>2</sup> K.S.A. 66-131.

<sup>3</sup> K.S.A. 66-131.

## CERTIFICATE OF SERVICE

18-WSEE-463-CCS

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of  
05/11/2018  
first class mail/hand delivered on \_\_\_\_\_.

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MATTHEW MAGILL, ENGINEERING MANAGER  
FREESTATE ELECTRIC COOPERATIVE, INC.  
WEST DISTRICT  
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JEFFREY L. MARTIN, VICE PRESIDENT, REGULATORY  
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\*\*\*Hand Delivered\*\*\*

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe