

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

In the Matter of a General Investigation)
Updating the Certificates of Convenience and)
Necessity Issued to Kansas Gas Service, a)
Division of ONE Gas, Inc. and Black) Docket No. 25-GIMG-114-GIG
Hills/Kansas Gas Utility Company, LLC d/b/a)
Black Hills Energy in Cowley, Sedgwick,)
Sumner, Reno, and Rice Counties to Provide)
Retail Natural Gas Service.)

**REPLY COMMENTS OF KANSAS GAS SERVICE
ON TERRITORY ANNEXED IN 2009 BY GODDARD, KANSAS**

Kansas Gas Service, a division of ONE Gas, Inc. (“Kansas Gas Service”) respectfully files its Reply Comments to address service issues associated with Goddard, Kansas’ 2009 annexation in Sedgwick County, Kansas. In support thereof, Kansas Gas Service states the following to the State Corporation Commission of the State of Kansas (“Commission”):

Since 1961 and continuing through today, Kansas Gas Service has held the sole certificate of convenience and necessity to serve Goddard. As the city has grown, so too has Kansas Gas Service’s obligation to provide sufficient and efficient service to the municipality. To resolve the issue of which public utility should serve territory annexed by Goddard in 2009, the Commission should reaffirm its decades-old certificates and hold that Kansas Gas Service has the sole authority to serve the annexed territory. The history behind certificates of convenience and necessity, plain text of relevant certificates, and context all support Kansas Gas Service serving Goddard’s annexations.

I. History of Certificates of Convenience and Necessity

1. K.S.A. 66-131 requires public utilities to obtain a certificate of convenience and necessity from the Commission to serve a particular area.¹ Earlier in the 20th century, public

¹ Also often referred to as a certificate of convenience and authority.

utilities made generic requests. Relevant here, Kansas Gas Service's predecessor requested to serve cities, towns, and communities while Black Hills' predecessor requested to serve counties. Certificate boundaries were not necessarily well defined and often allowed utilities to serve "in the vicinity of" a city.²

2. In the 1980s, the Commission issued an order requiring certificate requests to be based on metes and bounds descriptions. On November 12, 1987, the Commission issued its decision in Consolidated Docket Nos. 153,240-U, 154,990-U, and 155,339-U, attached hereto as **Exhibit A**. The case stemmed from requests made by Kansas Public Service Company, which had been a single-city utility exempt from Commission jurisdiction that had merged with UtiliCorp United, Inc. As a result of the merger, Kansas Public Service Company requested to serve portions of Douglas County where other public utilities were providing gas service. One portion was a non-contiguous area east of Lawrence the city had recently annexed and was to be used as an industrial park. Commission Staff ("Staff") testified that this area would automatically become dually certified since Kansas Public Service Company's certificate to serve within the City of Lawrence (granted in the same proceeding) would automatically extend into the annexed area. Recognizing the dual certification issues this could create, the Commission rejected Staff's recommendation:

The Commission has sole authority to issue certificates pursuant to K.S.A. 66-131 and rejects the theory automatic dual certification occurs as a result of annexation. Henceforth, all certificates for public utilities to operate within the city limits of a city shall be based on a metes and bounds description of the area **rather than allowing such rights to follow expansion of the city limits.** Certificate and Order, Docket No. 153-240-U *et al.*, p. 12 (Nov. 12, 1987) (Emphasis added).

² See, Kansas Gas Service's Certificate issued on November 15, 1935, in Docket No. 16,177 (**Exhibit B**).

3. The Commission’s choice of words is telling. Public utilities could no longer make generic requests to serve a city, which would result in service territory growing through annexations. Going forward, metes and bounds descriptions would need to accompany certificate requests. However, nothing in the Commission’s decision affected or limited previously issued certificates. The Commission did not hold certificated service territory could not grow with municipal annexations. Rather, the Commission stopped the practice of granting certificates that *could* grow with municipal annexations. Since Kansas Gas Service and Black Hills’ certificates predate this decision, the scope of these certificates must be based on the language used and context present when they were issued.

II. Explicit Language of Certificates

4. Since the certificates relevant to Goddard predate the requirement to use a metes and bounds description, the Commission should look to capture the intent of its prior certificates. To do so, the Commission should deploy traditional rules of statutory interpretation. After all, public utility regulation is a legislative function. See, Citizens' Util. Ratepayer Bd. v. State Corp. Comm'n of State, 47 Kan. App. 2d 1112, 1123, 284 P.3d 348, 356 (2012). “The fundamental rule regarding statutory construction is that the intent of the legislature governs, where it can be ascertained.” Heritage Tractor, Inc. v. Evergy Kansas Cent., Inc., 64 Kan. App. 2d 511, 523, 552 P.3d 1266, 1277 (2024). Prior Commission orders make clear Kansas Gas Service had the obligation to serve Goddard as it grew, including areas annexed in 2009. Not only do these orders explicitly authorize Kansas Gas Service to serve the city, but they also restrict Black Hills’ from providing service to Goddard.

5. Only Kansas Gas Service has received a certificate of convenience and necessity to serve Goddard. On February 1, 1961, in Docket No. 64,714-U, the Commission issued a certificate

of convenience and necessity to Kansas Gas Service “to serve in the City of Goddard.” Certificate and Order, Docket No. 64-714-U, p. 2 (Feb. 1, 1961) (**Exhibit C**). Kansas Gas Service requested to serve multiple sections in Sedgwick County certificated to the Arkansas Louisiana Gas Company, which overlapped with Goddard’s city limits. The Commission granted in part and denied in part Kansas Gas Service’s request. The Commission authorized Kansas Gas Service to “serve in the City of Goddard,” as well as a 500-foot corridor between Goddard and Kansas Gas Service’s infrastructure in Wichita.

6. Shortly thereafter, on October 28, 1964, in Docket No. 75,015-U, the Commission expanded Kansas Gas Service’s certificate. Kansas Gas Service had received requests for service from customers located close to, but beyond, the 500-foot corridor approved in 1961. Kansas Gas Service asserted it would be in the public interest to serve this additional territory and the Commission agreed. The Commission noted Kansas Gas Service was granted a certificate “to serve in the City of Goddard,” and like before, the Commission noted this area also had been certificated to the Arkansas Louisiana Gas Company. Certificate and Order, Docket No. 75-015-U, pp. 2 – 3 (Oct. 28, 1964) (**Exhibit D**). Finding the public convenience would be promoted by expanding Kansas Gas Service’s certificate, the Commission approved Kansas Gas Service’s request.

7. Contrast Kansas Gas Service’s authority with Black Hills’. On November 27, 1935, in Docket No. 16,167, the Commission authorized Black Hills’ predecessor Consolidated Gas Utilities Corporation to serve nine Kansas counties. Critically, Black Hills’ county-wide certificates exclude the municipalities within them *unless* they are explicitly included. When the Commission authorized Consolidated Gas Utilities Corporation to serve Sedgwick County, the Commission expressly limited the scope of the certificate:

PROVIDED that said applicant corporation shall not be authorized to transact such business other than the wholesale sale of gas in any incorporated cities in said counties, except in the following cities and vicinities thereof: Lyons, Nickerson, Sterling and Wichita (industrial, commercial and domestic) and industrial gas only in the city of Hutchinson, Kansas and the vicinity thereof. Certificate, Docket No. 16,167, p. 1 (Nov. 27, 1935) (**Exhibit E**)

8. When Consolidated Gas Utilities Corporation merged with the Arkansas Louisiana Gas Company in 1960, the Commission retained a similar exclusion.³

9. “When performing exercises in statutory interpretation, ordinary terms should be assigned ordinary meanings.” Heritage Tractor, Inc. v. Evergy Kansas Cent., Inc., 64 Kan. App. 2d 511, 525, 552 P.3d 1266, 1278 (2024). The plain language of the certificates issued in Docket Nos. 64,714-U and 75,015-U authorize Kansas Gas Service to serve Goddard in general, and places no restriction on this obligation. Likewise, the plain language of the certificate issued in Docket No. 16,167 excludes Goddard from Black Hills’ service territory. Thus, these certificates cannot be given their effect if Black Hills provides service within Goddard.

III. Context Behind Service Territory Growth

10. Kansas Gas Service had the responsibility and obligation to serve Goddard as it grew. After all, Kansas Gas Service’s 1961 certificate authorized it to serve in the City of Goddard, and did not place any limits on this obligation. Allowing Kansas Gas Service to serve the city as it grew is the most reasonable interpretation of the Commission’s prior certificates.

11. “A statute should never be given a construction that leads to uncertainty, injustice, or confusion, or that would lead to an absurd result.” State v. Roudybush, 235 Kan. 834, 846, 686 P.2d 100, 109 (1984). This rule flows from the presumption that

³ See also, Certificate and Order, Docket No. 62,953-U, pp. 2-3 (March 30, 1960) (**Exhibit F**) (authorizing the merger of Consolidated Gas Utilities Corporation with the Arkansas Louisiana Gas Company; incorporating a similar exclusion).

“the legislature is presumed to intend that a statute be given a reasonable construction, so as to avoid unreasonable or absurd results.” Todd v. Kelly, 251 Kan. 512, 520, 837 P.2d 381, 387 (1992). Since public utility regulation is a legislative function, the Commission should interpret its certificates in a way that prevents injustice or leads to an absurd result. Having Kansas Gas Service provide natural gas service to Goddard as it grows naturally flows from the plain text of its certificates.

12. Restricting Kansas Gas Service from serving the growing city would lead to an absurd result. Compare Goddard’s city limits shown in Kansas Gas Service’s 1961 certificate and 1964 request.⁴ Between these filings Goddard grew, and Kansas Gas Service’s distribution system grew with it. While Kansas Gas Service’s 1964 certificate included area around and outside of Goddard, it did not restrict or limit Kansas Gas Service’s obligation to continue to “serve in the city,” regardless of whether it grew.

13. As another example, compare Kansas Gas Service’s certificate from 1964 to Goddard’s city limits today. As was the case in the 1960s, so too has Goddard grown and with it Kansas Gas Service’s responsibility to “serve in the city.” This is particularly noteworthy north and south of the city, where Kansas Gas Service has built out infrastructure to meet its obligations to Goddard. In fact, the Commission’s own certification maps recognize Kansas Gas Service has the authority to serve Goddard. The most recent versions of certificate maps available to Kansas Gas Service, attached hereto as **Exhibit H**, show Kansas Gas Service serving Goddard’s city limits (in particular west and south) even though this territory falls beyond Kansas Gas Service’s expanded certificate of 1964.

⁴ Compare Exhibit C, p. 4, with Application for Certificate, Docket No. 75-015-U, p. 4 (Oct. 22, 1964) (**Exhibit G**).

14. Kansas Gas Service's certificates clearly show the Commission intended for Kansas Gas Service to serve "in the City of Goddard" as it grew. If this wasn't the case, some of Goddard's residents would be faced with a public utility paradox. Between 1961 and 1964, a resident of Goddard residing within Goddard's city limits would have been unable to obtain natural gas service if they lived outside the city limits as they existed in 1961. This would be the case even though Kansas Gas Service held a certificate to "serve in the City of Goddard" and had received a franchise from the municipality "to provide natural gas service to the city's inhabitants." The same issue persisted after Kansas Gas Service's 1964 certificate was granted. If a resident of Goddard lived within city limits, but outside Kansas Gas Service's expanded territory, they would have been unable to obtain natural gas service from the public utility explicitly authorized to serve them. Nothing within the Commission's orders requires such an absurd or unreasonable result to be reached. It is likely for this reason no party has ever asserted it was improper for Kansas Gas Service to provide service within Goddard even as its city limits grew beyond the additional service territory approved in 1964.

15. The Commission's certificate authority is independent of a municipal franchise, and a municipal franchise does not override the requirement a public utility receive a certificate from the Commission to serve an area. See, City of New Strawn v. State Corp. Comm'n, 5 Kan. App. 2d 630, 635, 622 P.2d 149, 154 (1981). Still, it's worth taking a moment to recognize only Kansas Gas Service had a franchise with Goddard when the city annexed territory in 2009. Had customers in this area requested service earlier, Kansas Gas Service would have met this need as it has with Goddard's other annexations. The fact that this need has only recently materialized does not diminish the exclusive nature of Kansas Gas Service's certificate to serve Goddard. Kansas Gas Service has facilities directly across the street from the proposed subdivision and is ready to serve.

IV. Conclusion

16. Kansas Gas Service has consistently held the sole certificate of convenience and necessity to serve the City of Goddard since 1961. The history of certificates of convenience and necessity, explicit language of relevant certificates, and context behind how they have operated in Goddard clearly support Kansas Gas Service serving the annexed territory. Any other result would lead to the unnecessary and wasteful duplication of facilities, which the Commission has long sought to avoid. The Commission should reaffirm Kansas Gas Service's exclusive right to serve the annexed areas of Goddard, Kansas in accordance with its long-standing certificates.

WHEREFORE, Kansas Gas Service respectfully submits its Reply Comments, requests the Commission hold it has the sole authority to serve Goddard's 2009 annexation, and for any other relief the Commission deems just and reasonable.

Respectfully submitted,

/s/ Robert Elliott Vincent

Robert Elliott Vincent, KS Bar #26028

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ATTORNEY FOR

KANSAS GAS SERVICE

A DIVISION OF ONE GAS, INC.

VERIFICATION

STATE OF KANSAS)
)
COUNTY OF JOHNSON)

I, Robert Elliott Vincent, of lawful age, being first duly sworn upon oath, states as follows: I am a Managing Attorney for Kansas Gas Service, a Division of ONE Gas, Inc. I have read the above *Reply Comments* and all the statements therein are true to the best of my knowledge, information, and belief.



Robert Elliott Vincent

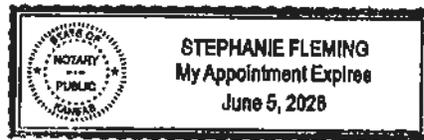
Affiant

SUBSCRIBED AND SWORN to before me on 12/19/24.


Notary public

My Appointment Expires:

6/5/26



THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

BEFORE COMMISSIONERS: Keith R. Henley, Chairman
Rich Kowalewski
Margalee Wright

In the Matter of the Application of Kansas Public Service Company, Division of UtiliCorp United, Inc., for a Certificate of Public Convenience to transact the business of a natural gas public utility in the state of Kansas in portions of Douglas County, Kansas.) Docket No.) 153,240-U) 87-KPSG-217-C)))

In the Matter of the Application of the Kansas Power & Light Company, for a Certificate of Convenience and Authority to transact the business of a natural gas public utility in a certain described area of Douglas County, Kansas.) Docket No.) 154,990-U) 87-KPLG-370-C)))

In the Matter of the Application of Union Gas System, Inc., for a Certificate of Public Convenience to transact the business of a natural gas public utility in the state of Kansas in portions of Douglas County, Kansas.) Docket No.) 155,339-U) 87-UNIG-394-C)))

CERTIFICATE AND ORDER

The applications of Kansas Public Service Company (KPS), Kansas Power and Light Company (KPL) and Union Gas System, Inc. (Union) for certificates of convenience and necessity in portions of Douglas County, Kansas, come for consideration and final determination by the State Corporation Commission of the State of Kansas (Commission).

After hearing and reviewing all the evidence, considering arguments of counsel, and being fully advised in all matters of record, the Commission finds:

I. APPEARANCES

1. The parties appeared and were represented by the following counsel:

For Kansas Public Service Company (KPS), Division of UtiliCorp, Inc.

Mr. James L. Grimes
Mr. Bruce Woner
Cosgrove, Webb and Oman
534 Kansas Avenue
Topeka, Kansas 66603

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UTILITIES DIVISION



For Kansas Power and Light Company (KPL),

Mr. Roger K. Weatherby
Kansas Power and Light Company
818 Kansas Avenue
Topeka, Kansas 66601

For Union Gas System, Inc. (Union),

Mr. Bob W. Storey
5863 S.W. 29th
Topeka, Kansas 66614

Mr. William H. Reeder
Union Gas System, Inc.
122 W. Myrtle
Independence, Kansas

For Greeley Gas Company (Greeley),

Mr. James G. Flaherty
Anderson, Byrd & Richeson
P.O. Box 7
Ottawa, Kansas 66067

For the Kansas Corporation Commission staff and the public generally,

Mr. Kirby A. Vernon
Kansas Corporation Commission
Docking State Office Building, 4th Floor
Topeka, Kansas 66612

II. INTRODUCTION

1. On November 17, 1986, KPS, Division of UtiliCorp United, Inc., filed its application for a Certificate of Public Convenience requesting authorization to transact the business of a natural gas public utility in portions of Douglas County, Kansas.

KPS had previously been a single city utility exempt from Commission jurisdiction under K.S.A. 66-104. However, because KPS recently merged with UtiliCorp United, Inc., a utility which operates in more than one city in Kansas, KPS became subject to the Commission's jurisdiction. Thereafter, KPS sought a certificate of public convenience to transact the business of a natural gas public utility in portions of Douglas County. KPL, Union and Greeley currently have authority to serve in portions of Douglas County, Kansas. KPS requests authority to serve territory currently certificated to KPL, Union and Greeley.

2. On December 17, 1986, Union petitioned for Leave to Intervene in Docket No. 153,240-U. Union's petition for Leave to Intervene was granted March 5, 1987 and March 16, 1987.

3. On December 23, 1986, KPS filed its First Amended Application requesting territory immediately surrounding the city of Lawrence and extending west to Shawnee County. This area was subsequently reduced to an area only extending partially west toward Shawnee County. See Exhibit #1 (R Vol. I, p. 82).

4. On January 9, 1987, KPL petitioned for Leave to Intervene. KPL's Petition for Leave to Intervene was granted January 14, 1987.

5. On January 14, 1987, Greeley petitioned for Leave to Intervene. Greeley's petition for Leave to Intervene was granted January 20, 1987.

6. On February 23, 1987, the Commission issued an order setting a hearing and procedural schedule. The hearing was scheduled to commence on April 1, 1987.

8. On March 12, 1987, Union and Greeley filed Motions for Extension of Time to file prefiled testimony. These motions were granted on March 16, 1987.

10. On March 17, 1987, KPL filed an application requesting a Certificate of Convenience and Authority to transact the business of a natural gas public utility in certain areas of Douglas County (Docket No. 154,990-U). KPL also filed a Motion to Consolidate Docket No. 154,990-U with Docket No. 153,240-U.

11. On April 1, 1987, the Commission granted KPL's Motion to Consolidate Docket No. 154,990-U with Docket No. 153,240-U. The Commission, on its own motion, also continued the April 1, 1987, hearing in order to permit KPL to publish notice of its application. The hearing was rescheduled for May 18 and 19, 1987.

12. On April 2, 1987, Union Gas filed an application requesting a Certificate of Public Convenience and Necessity to transact the business of a natural gas public utility in portions of Douglas County, Kansas. (Docket No. 155,339-U)

13. On April 6, 1987, Union Gas filed a Motion for Consolidation of Docket Nos. 155,339-U with 153,240-U and 154,990-U, which was granted on April 9, 1987.

14. On May 1, 1987, KPS filed a Motion for Extension of Time to file rebuttal testimony until May 5, 1987. The Commission issued an order granting this request on May 4, 1987.

15. On May 5, 1987, Union filed its First Amended Application deleting territory previously requested for certification because the territory was presently certified to Greeley. (Docket No. 155,339-U)

16. On May 8, 1987, KPL filed its Amended Application revising the territory requested to a non-exclusive corridor consistent with a memorandum agreement dated September 9, 1965, between Union and the Gas Service Company, now merged with KPL.

17. On May 14, 1987, KPS responded by mail to Data Request No. 1 of Union.

18. On May 15, 1987, Union filed its second amended application deleting territory previously requested for certification because the territory was presently certified to Greeley. Union also filed a Motion to Continue the hearing because it had not received a response to its Data Request from KPL. The Motion for Continuance was subsequently withdrawn by Union.

19. On May 18, 1987, all parties entered into a stipulation, subject to Commission approval, that territory described in KPL's first amended application in Docket No. 154,990-U be certificated to KPL as a non-exclusive corridor.

III. SUMMARY OF EVIDENCE

1. A public hearing was conducted on May 5, 1987, in Lawrence, Kansas. Five (5) members of the public appeared at this hearing: Mr. Bob Billings, Mr. Gary Toebben, Mr. Brian S. Kubota, Mr. Ralph Turner and Mr. Ernest Angino.

2. Pursuant to the Commission's order of April 1, 1987, a technical hearing was held in hearing room B, Fourth Floor, Docking State Office Building, Topeka, Kansas, commencing at 10:00 a.m. on May 18, 1987, before Mr. Rich Kowalewski and Ms. Margalee Wright, Commissioners.

3. The following public witness presented testimony: Tonya Reusch, Route 5 Box 271, Lawrence, Kansas.

4. Applicant, KPS, presented the testimony of the following witness: William C. Salome, III, 110 East Ninth, Lawrence, Kansas, President of KPS.

5. Applicant, KPL, presented the testimony of the following witness: T.A. Mindrup, 9th and Tennessee, Lawrence, Kansas, Manager of KPL, Lawrence District operations.

6. Applicant, Union, presented the testimony of the following witness: William H. Reeder, 122 W. Myrtle, Independence, Kansas, Senior Vice President and General Counsel for Union Gas System, Inc.

7. Intervenor, Greeley, presented the testimony of the following witness: D. Allen Spaur, 130 North Nettleton Avenue, Bonner Springs, Kansas, Assistant Vice President and Division Manager of KPS' Kaw Valley Division.

8. Commission staff presented the testimony of the following witness: Gary D. Dawdy, Docking State Office Building, Topeka, Kansas, Utility Engineer II.

IV. THE RELEVANT LAW

1. The applicable law was set out by this Commission in The Matter of the Application of Kansas Pipeline Company, L.P., Docket No. 143,683-U, order mailed January 14, 1985:

"16. The specific statute under which this proceeding was commenced was K.S.A. 66-131. It reads as follows:

' . . . no common carrier or public utility, including that portion of any municipally owned utility defined as a public utility by K.S.A. 66-104, governed by the provisions of the act shall transact business in the State of Kansas until it shall have obtained a certificate from the Corporation Commission that public convenience will be promoted by the transaction of said business and permitting said Applicants to transact the business of a common carrier or public utility . . . '

Under this statute, no entity is permitted to conduct business in Kansas as a public utility or common carrier unless and until the Commission has certified that conducting such business will serve the

convenience of the public. The purpose of this requirement was stated in Wycoff v. Quick Way Homes, 201 Kan. 442, 441 P.2d 886 (1968) at 890:

'The statutory requirement that a public utility procure a proper certificate from the Commission was enacted for the protection and welfare of the people. The whole scheme of our law relating to public utilities was for that purpose.'

Accord, see Central Kansas Power Co. v. State Corporation Commission, 206 Kan. 670, 482 P.2d 1 (1971).

17. Although Chapter 66 (Public Utilities Act), K.S.A. 66-101 et seq., does not define the term public convenience, Kansas case law does provide some standards. In Central Kansas Power Co. v. State Corporation Commission, 206 Kan. 670, 482 P.2d 1 (1971), the Supreme Court of Kansas stated:

'Public convenience means the convenience of the public, not the convenience of particular individuals. Public necessity does not necessarily mean there must be a showing of absolute need. As used, the word 'necessity' means a public need without which the public is inconvenienced to the extent of being handicapped'

(At 676; citation omitted; see also General Communications System, Inc. v. State Corporation Commission, 216 Kan. 410, 418, 532 P.2d 1341 (1975)).

18. In Atchison, Topeka & Santa Fe Railway Co. v. Public Service Commission, 130 Kan. 777, 288 P. 755 (1930), the court found "the generally accepted meaning of necessity, (is) not an absolute need for a few individuals, but a need of the public as well as a convenience of the public." (At 783). The court further observed:

'The word 'necessity' means a public need, without which the public is inconvenienced to the extent of being handicapped in the pursuit of business or wholesome pleasure or both -- without which the people generally of the community are denied, to their detriment, that which is enjoyed by other people generally, similarly situated.'

Id. (citations omitted).

19. In Kansas Gas & Electric Co. v. Public Service Commission, 122 Kan. 462, 466, 251 P. 1097 (1927), the Supreme Court of Kansas stated that:

'In determining whether (a) certificate of convenience should be granted, the public convenience ought to be the Commission's primary concern, the interest of public utility companies already serving the territory secondary, and the desires and solicitations of the Applicant a relatively minor consideration.'

In Kansas Gas & Electric Co. supra, the court also stated that the Commission should determine whether the proposed service is required by public convenience and necessity or whether the service would be wasteful and a useless burden to the community of the public.

20. Finally the Kansas Courts have found that public convenience and necessity is a relative term, and generally the granting or refusing of the application is one of fact depending on the circumstances of the individual case. In Atchison, Topeka and Santa Fe Railway Co., supra the Kansas Supreme Court observed that:

'The public convenience and necessity, or lack thereof, is established by proof of the conditions existing in the territory to be served, and it is the function of the Commission to draw its own conclusion and form its own opinion from the proof of the conditions in the territory, rather than from the consensus of opinions of witnesses upon the ultimate fact as to the existence or non-existence of the public necessity and convenience.' Id. citation omitted.

21. In The Matter of the Application of Kansas Pipeline Company, L.P., Docket No. 143,683-U, the Commission set forth certain standards to assure the convenience and necessity of the public will be served by the granting of a certificate. These standards were designed to secure that such service would be provided on a continuous and adequate basis. These standards include the applicant must show: 1) the facilities constructed are adequate from an engineering and pipeline safety standpoint; 2) the facilities are adequate to render a full, safe and complete public service in the territory proposed to be served; 3) the capacity of the facilities will meet the anticipated demand; and 4) the management has the technical background necessary to operate a natural gas pipeline company.

However, Kansas Pipeline and the similar case of In the Matter of the Application of Phenix Transmission Company, Docket No. 143,306-U involved circumstances in which Kansas Pipeline and Phenix modified and converted an existing liquids pipeline for natural gas service.

In the present case, the record indicates the three utilities seeking certification have a history operating in Kansas and seek to expand their geographical territories within this state.

The criteria set forth in Kansas Pipeline, although valid criteria, do not require the emphasis required in cases where companies initially request authority to do business in the state or dedicate property to service. Thus, when a certificated utility is seeking to expand its service area these criteria will be weighed with other existing conditions and facts of this case.

V. FINDINGS AND CONCLUSIONS

Jurisdiction and Notice

1. KPS is a corporation organized and existing under the laws of the State of Kansas with its principal place of business located at 110 East Ninth, Lawrence, Kansas. Upon losing its single city utility exemption from Commission jurisdiction under K.S.A. 66-104, KPS became a public utility within the meaning of K.S.A. 66-101 et seq. and is presently seeking certification from the Commission.

2. KPL is a corporation organized and existing under the laws of the State of Kansas with its principal place of business located at 818 Kansas Avenue, Topeka, Kansas. KPL is a natural gas public utility within the meaning of K.S.A. 66-101 et seq. and holds appropriate Certificates of Convenience and Necessity to engage in the business of the sale of natural gas at retail for domestic, commercial and industrial uses in the State of Kansas.

3. Union is a corporation organized and existing under the laws of the State of Kansas with its principal place of business located at 122 W. Myrtle, Independence, Kansas. Union is a natural gas public utility within the meaning of K.S.A. 66-101 et seq. and holds appropriate Certificates of Convenience and Necessity to engage in the business of the sale of natural gas at retail for domestic, commercial and industrial uses in the State of Kansas.

4. The Commission's files reflect Greeley is a corporation organized and existing under the laws of the State of Colorado and authorized to do business in the State of Kansas as a foreign corporation. Its principal place of business is located

at 1500 Grant Street, Denver, Colorado. Greeley is a natural gas public utility within the meaning of K.S.A. 66-101 et seq. and it holds appropriate Certificates of Convenience and Necessity to engage in the business of the sale of natural gas at retail for domestic, commercial and industrial uses in the State of Kansas. See In the Matter of the Application of . . . Greeley Gas Company for certification of convenience and authority to operate as a public utility in the State of Kansas. (Docket No. 55,906-U, Order and Certificate dated November 20, 1957)

5. KPS, KPL and Union were directed to publish notice of technical hearing and file proof of publication with the Commission. The notices appeared in the Lawrence Daily Journal-World, a newspaper of general, daily circulation in Douglas County, Kansas on February 27, 1987; April 10, 1987; and April 17, 1987.

6. Such notice being reasonable and proper, the Commission finds it has jurisdiction to hear the matter and make orders concerning Applicants' request for certificates of convenience and necessity. Pursuant to K.S.A. 66-101, et seq., the Commission finds it has jurisdiction of all issues presented by Applicants' filings, testimony and exhibits.

7. To reiterate the criteria used in determining whether a certificate of convenience should be granted the public convenience is the Commission's primary concern, the interest of the public utility already serving the territory secondary and the interest of the applicant a relatively minor consideration. Kansas Gas and Electric Co. v. Public Service Commission, 122 Kan. 462, 466, 251 p. 1097 (1927).

KANSAS PUBLIC SERVICE'S APPLICATION

Docket No. 153,240-U

8. KPS has requested a certificate of convenience and necessity to serve three areas which will be discussed separately. These areas include: 1) territory within the city limits of the City of Lawrence, Kansas; 2) territory in an

industrial park east of Lawrence; and 3) territory adjacent to the Lawrence city limits extending west of Lawrence.

I. KPS Application to Serve within Lawrence City Limits

At the hearing on the matter, KPS amended its requested territory to that recommended for certification by Commission staff except the area south of Lawrence, specifically the N 1/2 of Section 13, T13S, R19E and R20E where KPS was currently serving customers. There were no objections to the amendment. (R. Vol. I, pp. 82-83).

In support of KPS' application, William Salome, President of KPS testified KPS has been in existence and serving the City of Lawrence since 1926. (R. Vol. I, p. 69) KPS has seven taps or source points on Williams Natural Gas Company's system, which provides an excellent reliable source of supply with no curtailments since the late 1970's. (R. Vol. I, p. 72) The pipeline has been annually inspected by the Commission staff working in coordination with the federal Pipeline Safety program and KPS had always received good reports. (R. Vol. I, p. 73) Further, there are no competing facilities in the area KPS sought to certify. (R. Vol. I, p. 77)

The Commission concludes it is in the best interest of the public convenience that KPS continue serving within the city. The Commission finds KPS' application for a certificate, as amended at the hearing, to serve within the City of Lawrence should be granted.

II. KPS' Application to Serve Territory East of Lawrence

Greeley Gas Company has been certificated to serve portions of eastern Douglas County since 1957, including Sections 3 and 4, T13S, R20E. (R. Vol. II, p. 9) In August 1986, the City of Lawrence annexed portions of Douglas County including portions of Sections 3 and 4 to be used as an industrial park east of Lawrence. The annexed area is not contiguous with the City of Lawrence and does not presently contain any industrial development. As a franchisee within the City of Lawrence, KPS

sought certification to serve the area. KPS has a franchise, but no certificate. Greeley has a certificate, but no franchise.

KPS testimony in support of its application within the City of Lawrence is incorporated by reference from the preceding section.

Mr. D. Allen Spaur, Assistant Vice President and Division Manager of the Kaw Valley Division of Greeley Gas Company, testified in opposition to KPS' application to serve the industrial park. Mr. Spaur testified although Greeley is not currently serving any customers this area, the area had been certificated since 1957 and Greeley has facilities in the immediate vicinity which can be devoted to service if requested. (R. Vol. II, pp. 9-10) Greeley currently has a six-inch steel line that runs along 15th Street, which is the north line of Sections 3 and 4. This line is currently used to transport supply from a tap with Williams Natural Gas Company to the City of Eudora and can be used to provide natural gas service in the industrial park if service is requested. (R. Vol. II, p. 9) Further, Greeley would have to install a line 5,280 feet in length to serve any customer in the industrial park where KPS would have to install a line 7,000 feet in length. Therefore, Spaur thought it would be more economical for Greeley to serve the customers. (R. Vol. II, p. 12) Further, it was Spaur's opinion as an engineer, the six-inch line was of adequate capacity to serve the industrial park. (R. Vol. II, p. 39)

Mr. Spaur also testified KPS officials told the Commission at a January 9, 1987, meeting, long after KPS' application was filed, that KPS had constructed a line to serve the industrial park. Mr. Dawdy of the Commission staff informed all parties construction of new lines during the interim period would not insure certification. Actual construction of the line was not begun until January 8, 1987, and not completed until February 10, 1987. Therefore, KPS was aware it was building the pipe at its own risk. (R. Vol. II, p. 14)

Gary Dawdy, employed by the Kansas Corporation Commission as a Utilities Engineer II in the Compliance Section of the Utilities Division, testified in support of KPS' application with regard to the territory east of Lawrence. Mr. Dawdy testified the staff's general policy with respect to dual natural gas certification is to recommend the issuance of single certificates in instances where it is possible to do so. Single certification is preferable when: 1.) the territory in question is not currently certified to another natural gas supplier, or 2.) the certified supplier agrees to release the territory. Dual certification has been recommended by staff and allowed by the Commission in instances where: 1.) there is no objection to dual certification from other natural gas suppliers in a certified area, 2.) no significant duplication of facilities is likely to result and 3.) an existing natural gas pipeline is in place and operating within the Commission's jurisdiction which requires a certificate pursuant to state statutes. (R. Vol. II, p. 52)

Mr. Dawdy testified his recommendation for dual certification provides for adequate future expansion of KPS' systems to new customers in the industrial park, but leaves other existing natural gas certificates in place. (Vol. II, p. 55)

Finally, Mr. Dawdy testified that dual certification would occur automatically as a result of his recommendation to certify the City of Lawrence because the certificate would automatically extend into the annexed area. (R. Vol. II, p. 106).

The Commission rejects the theory that annexation by cities automatically creates and extends authority for public utilities where they have not previously been certificated by the Commission. The Commission has sole authority to issue certificates pursuant to K.S.A 66-131 and it rejects the theory automatic dual certification occurs as a result of annexation. Henceforth, all certificates for public utilities to operate within the city limits of a city shall be based on a metes and bounds description of the area rather than allowing such rights to follow expansion of the city limits.

The Commission believes that only extraordinary circumstances justify dual certification and such circumstances do not exist with regard to this application. Greeley has been certificated since 1957. Greeley has expanded and invested in assets to stand ready, willing and able to serve the customers and should be allowed to obtain the benefit of its investment. Although KPS also has a pipeline in the area, such pipeline was installed at KPS' own risk and to burden potential customers with the support of duplicate facilities is not in their best interest. The impact on KPS to deny certification would be equal to the cost of the line they installed after filing for certification, but that was a risk they took in building a line in an area they were not certified to serve.

The Commission concludes and finds KPS' application to serve the area east of Lawrence should be denied.

III. KPS' Application Regarding the Area West of Lawrence

Union is presently certificated to serve an area from the territory immediately surrounding Lawrence, west to the Shawnee County line. KPS originally requested certification from Lawrence, west to the Shawnee County line. KPS has subsequently amended its requested territory to that recommended for dual certification by the Commission staff. (R. Vol. I, p. 82) While KPS was exempt from Commission jurisdiction, it expanded its lines into Union's certificated territory and is presently serving residential customers in the vicinity of Clinton Reservoir. The Clinton Reservoir area has shown increased residential development in recent years.

A public witness, Tanya Reusch, testified at the beginning of the technical hearing regarding her attempts to become a natural gas customer. She compared the cost of connecting with both Union and KPS and indicated KPS had a much less expensive connection cost. (R. Vol. I, pp. 36-42)

Mr. Salome, of KPS, testified on behalf of KPS' request for dual certification.

Mr. Salome's testimony regarding KPS' history, supply and pipeline safety are not reiterated but are incorporated herein.

Mr. Salome explained the circumstances under which KPS extended gas service into Union's territory involving the Clinton Reservoir area. Some years back, both companies had received inquiries regarding service in the area and representatives held a public meeting at the city library. Mr. Saunders, a Union employee, agreed it would be best for the customers to get on the KPS system because it was less expensive at the time. (R. Vol. I, p. 191) Likewise, Union had not complained to KPS or the Commission about KPS' facilities outside the city limits prior to the proceedings in this docket.

KPS distribution lines on the west side of Lawrence are connected to a Williams Natural Gas pipeline. Although Williams pipeline is also available to Union, Union has no distribution lines in the area at the present time. (R. Vol. I, p. 91)

Mr. Salome was unaware of the number of customers in the area, but indicated some customers are concentrated and some are sparse because there are some large housing developments. (R. Vol. I, p. 109) He did not know of anyone in the area with requested, but unfulfilled natural gas service. (R. Vol. I, p. 131)

Although he had not checked the actual pressures in the area, it was his opinion they were adequate to meet present and future needs. (R. Vol. I, pp. 189, 193) Further, KPS had not received complaints from people in the area regarding their pressure. (R. Vol. I, p. 189).

Salome agreed Union may be ready willing and able to serve the area in that they may be able to put a pipe in the ground, but KPS presently had eight (8) servicemen that could be in the area to take care of problems within 12 to 15 minutes. Thus, KPS was already providing reliable service for people on their system. (R. Vol. I, p. 189)

Mr. Reeder, Vice President and General Counsel of Union, testified Union has been certified to serve the area in question since 1965. (R. Vol. I, pp. 229, 230)

Mr. Reeder agreed that at the time of the public meeting, Union felt it best if KPS served the customers because Union's main extension policy required asking for a \$19,000 gas deposit for running lines to connect with Williams Natural Gas Company while KPS was willing to run the extension at no cost to the customers. (R. Vol. I, p. 262)

In all requested instances, Union offered to serve the customers based on Union's extension policy, but Union did not extend mains in the area because customers preferred the lower initial cost of KPS' extension offer. Thus, they have never actually denied service. (R. Vol. I, pp. 232-235)

Mr. Dawdy, Commission staff, testified in support of KPS' application to serve a limited area west of Lawrence.

Mr. Dawdy testified when making his recommendation for dual certification, he tried to limit the overlapping of certificated areas as much as possible giving consideration to the fact there has to be adequate expansion of an existing system that is in place. (R. Vol. II, p. 79) Further, Dawdy testified the cost of tapping the Williams line would be approximately the same by either utility, but customers located close to KPS' existing facilities would be more efficiently served by the existing KPS facilities. (R. Vol. II, p. 81)

The Commission finds dual certification of Union and KPS in the area west of Lawrence appropriate because of the unusual facts in this case. In approximately 1980, Union originally acquiesced and allowed KPS to enter its territory for purposes of serving customers in the Clinton area. Relying on such acquiescence, KPS invested in the extension of its facilities in to the area. Because the area is becoming rapidly developed with housing developments, Union cannot now be heard to oppose KPS' presence.

Although Union can also develop lines and serve the area, customers already near the KPS extensions can be more economically

served by KPS and the public convenience is fostered by allowing KPS to remain in the area.

In reviewing the second criteria for granting certification is the "interest of the public utility companies already serving the territory." Although Union is certificated to serve the area, Union is not physically providing service to the area. However, KPS is physically serving the area. The Commission finds KPS would be impacted by the denial of its application in that KPS would lose the benefit of its investment in facilities in the area which had not been originally objected to by Union. Union would be also impacted in that if Union decided to physically serve the area, it would have a lower customer base because of KPS's overlapping service. However, because Union presently has no facilities or customers in the area they are in a better position to plan accordingly and would not be impacted as severely by the granting of KPS' application as KPS would be impacted by the denial of their application. It is reasonable and equitable to grant KPS' application.

Therefore, the Commission finds the application of KPS for a certificate of convenience and necessity to serve in the area west of Lawrence as recommended by Commission staff should be granted.

KPL'S APPLICATION

DOCKET NO. 154,990-U

9. At the technical hearing on May 18, 1987, KPL admitted into evidence a stipulation agreed to by all parties and subject to Commission approval. The parties stipulated the territory described by KPL in its amended application in Docket No. 154,990-U should be certified to KPL as a non-exclusive corridor. Attached to the stipulation was a memorandum agreement dated September 9, 1965, between the Gas Service Company, now merged with KPL, and Union in which the corridor was agreed to be certified to the Gas Service Company. Thereafter, KPL withdrew from further proceedings in the matter. (R. Vol. I, p. 4)

KPL's amended application in Docket No. 154,990-U consists of a non-exclusive corridor extending one-half mile on either side of the transmission lines of Williams Natural Gas Company. These pipelines generally extend from the west side of Lawrence, west to Shawnee County and from the Kansas River on the east side of Lawrence, northeasterly to Jefferson County. Also included are six (6) farm tap customers located south and east of Lawrence.

The evidence reflects and the Commission finds acceptance of the stipulation is reasonable.

UNION'S APPLICATION

DOCKET NO. 155,339-U

10. Union sought to expand their certificated area to include the area within and surrounding the Lawrence city limits. This area is adjacent to Union's present certificated area.

William Reeder testified in support of Union's application to serve the City of Lawrence.

Mr. Reeder testified the university is not presently purchasing gas from KPS because of the high cost compared to the fuel oil. Thus, there are customers in Lawrence not presently being served by KPS, which Union could serve. Further, because KPS is not presently serving the University of Kansas, KPS would not be affected and there would be no duplication of service. (R. Vol. I, p. 251)

Secondly, Reeder testified because the area Union is requesting to certify is not presently certified to KPS and portions are not presently served by KPS, there would be no duplication of services. (R. Vol. I, p. 251)

In rebuttal to Union's application, Salome testified Reeder's testimony was correct that the University of Kansas was not purchasing any gas from KPS at the present time, but the reason is because of the low cost of No. 6 fuel oil rather than the high cost of gas, as Union suggested. (R. Vol. I, p. 77) Likewise, KPS has previously served the university. (R. Vol. I, p. 76)

Further, KPS is awaiting the outcome of transportation proposals made by Williams Natural Gas to FERC order 436. KPS presently intends transportation service accommodating the University of Kansas when the University can obtain less expensive sources of gas than provided by KPS. (R. Vol. I, p. 79)

Gary Dawdy testified the issuance of a single certificate to KPS in the territory Union requested to serve, remained appropriate in view of KPS' existing facilities and long standing service in the area, especially in light of the fact Union has neither facilities nor a history of service in the area. (R. Vol. II, p. 60)

The evidence reflects and the Commission finds dually certifying the territory within and adjacent to the Lawrence city limits by granting Union's application would not serve the public necessity and convenience.

First, KPS is presently serving the area and no testimony indicated such service is inadequate. The transportation services Union desires to offer Kansas University can be passed through the existing KPS facilities.

Secondly, Union has no existing facilities in the Lawrence area. It is in the interest of the public utility already serving the area (KPS) and the public interest to avoid the wasteful duplication of facilities which would occur if Union's request were granted. Public utilities being a capital intensive industry, it is assumed KPS has made a significant financial investment in providing service to the City of Lawrence. Dual certification will deprive KPS of the benefits of its investment.

Thirdly, the denial of Union's application will not necessarily impact Union because they have made no investments in facilities to serve the area and still retain their existing certificated authority.

Aside from the three criteria it should be noted the Kansas Supreme Court interpreted a franchising statute in a previous case involving a territory dispute between Union and KPS. The court stated that if a city may receive revenue from patrons of a

utility located in a territory immediately adjoining the city, there exists an implied legislative intent that the utility be permitted to extend its lines into such territory. However, it did not specifically try to define "territory immediately adjoining such city." Kansas Public Service Co. v. Kansas Corporation Commission, 199 Kan. 736, 748, 433 P.2d 572 (1969).

The Commission concludes the application of Union in Docket No. 155,339-U should be denied.

11. The Commission adopts the following legal description of KPS' certificated territory:

DOUGLAS COUNTY

Beginning at a point 1/4 mile east of the southwest corner of Section 9, T12S, R20E; thence west 6 1/4 miles to the northwest corner of Section 16, T12S, R19E; thence south 2 miles; thence west 1 mile to the northwest corner of Section 29, T12S, R19E; thence south 1 mile; thence west 1 mile to the northwest corner of Section 31, T12S, R19E; thence south 2 miles to the southwest corner of Section 6, T13S, R19E; thence east 2 miles; thence south 1 mile to the northwest corner of Section 16, T13S, R19E; thence south along the west side of Section 16 approximately 1/4 mile to the center of the Wakarusa River; thence in an easterly direction, downstream, following the center line of said river to the intersection of the center line of said river and the west section line of Section 24 at a point approximately 1/4 mile south of the northwest corner of Section 24, T13S, R19E; thence north approximately 3/4 mile to the northwest corner of the southwest quarter of Section 13, T13S, R19E; thence east 2 miles to the northeast corner of the southeast quarter of Section 18, T13S, R20E; thence south along the east section line of Section 18 to its intersection with the center line of the Wakarusa River at a point near the southeast corner of Section 18, T13S, R20E; thence in an easterly direction, downstream, along the Wakarusa River to its intersection with the north/south center line of Section 16, at a point near the southeast corner of the southwest 1/4 of Section 16, T13S, R20E; thence north approximately 2 miles to the northeast corner of the northwest 1/4 of Section 9, T13S, R20E; thence west 1/2 mile to the southwest corner of Section 4, T13S, R20E; thence north 2 miles to the northwest corner of Section 33, T12S, R20E; thence east 1/4 mile; thence north 3 miles to the point of beginning.

In addition to the above-described territory, Kansas Public Service Company, Division of Utilicorp United, Inc., should be issued additional territory at three separate points as described as follows:

1. The Lawrence Municipal Airport, where the airport extends into the southwest 1/4 of Section 8, T12S, R20E, Douglas County.

2. Where the Kansas River Levee extends into Sections 2, 10 and 11, T12S, R19E, Douglas County.
3. Where the existing City Limits extends into the southwest 1/4 of Section 13, T13S, R19E, Douglas County.

DOUGLAS COUNTY
Transmission Rights Only for KPS

In and along the route of the Kansas Public Service Company pipeline starting at a tap on the Williams Natural Gas Company pipeline located near the center of the S 1/2 of Section 18, T13S, R20E, and extending north into Kansas Public Service Company's certified area.

21. The Commission also adopts the following legal description of KPL's certified territory in portions of Douglas County:

A stipulation agreement was reached by the parties that Kansas Power and Light Company should be granted additional territory in Douglas County as follows: A non-exclusive corridor in Douglas County, as described in its amended application with map, filed May 8, 1987, in Docket No. 154,990-U. Therefore, Kansas Power and Light Company should be certified as follows:

DOUGLAS COUNTY

A non-exclusive corridor extending one-half mile on either side of all transmission lines of Williams Natural Gas Company laying within the boundaries established by Docket No. 76,160-U which lays outside the existing corporate limits of Lawrence, Kansas, and a total of six (6) farm taps outside the boundary established by said docket, located near the city limits of Lawrence, Kansas, and denoted number 376, 416, 433, 434, 525 and 530 on Exhibit A attached to and made a part of the amended application herein, and located respectively in the following sections, township and range, to wit:

SW 1/4 SW 1/4	Section 28,	Township 12,	Range 20
SE 1/4 SE 1/4	Section 9,	Township 13,	Range 19
SE 1/4 SE 1/4	Section 8,	Township 13,	Range 20
SE 1/4 NE 1/4	Section 32,	Township 12,	Range 20
SE 1/4	Section 8,	Township 13,	Range 20
SE 1/4	Section 10,	Township 13,	Range 19

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

That the stipulation agreement for certificated territory filed by KPL under Docket No. 154,990-U, and agreed to by all parties is hereby granted.

That the application of Union filed under Docket No. 155,339-U is hereby denied.

That the application of KPS filed under Docket No. 153,240-U and then amended during the hearing, is granted-in-part and denied-in-part. KPS' application with respect to the area within Lawrence city limits is granted, KPS' certificate is hereby denied with respect to the industrial park located east of Lawrence and is hereby granted with respect to the amended application of KPS to follow staff's recommendation in the area to the west of Lawrence.

IT IS FURTHER BY THE COMMISSION ORDERED:

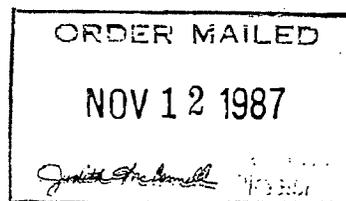
That KPS' rates, rules and regulations filed with the application be, and hereby are, approved with the exception that staff shall separately review KPS' transportation tariff and approach the Commission with recommendations on this matter. KPS shall also submit applicable contracts in accordance with Docket No. 106,850-U and all other relevant orders.

The Commission retains jurisdiction of the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS CERTIFIED AND ORDERED.

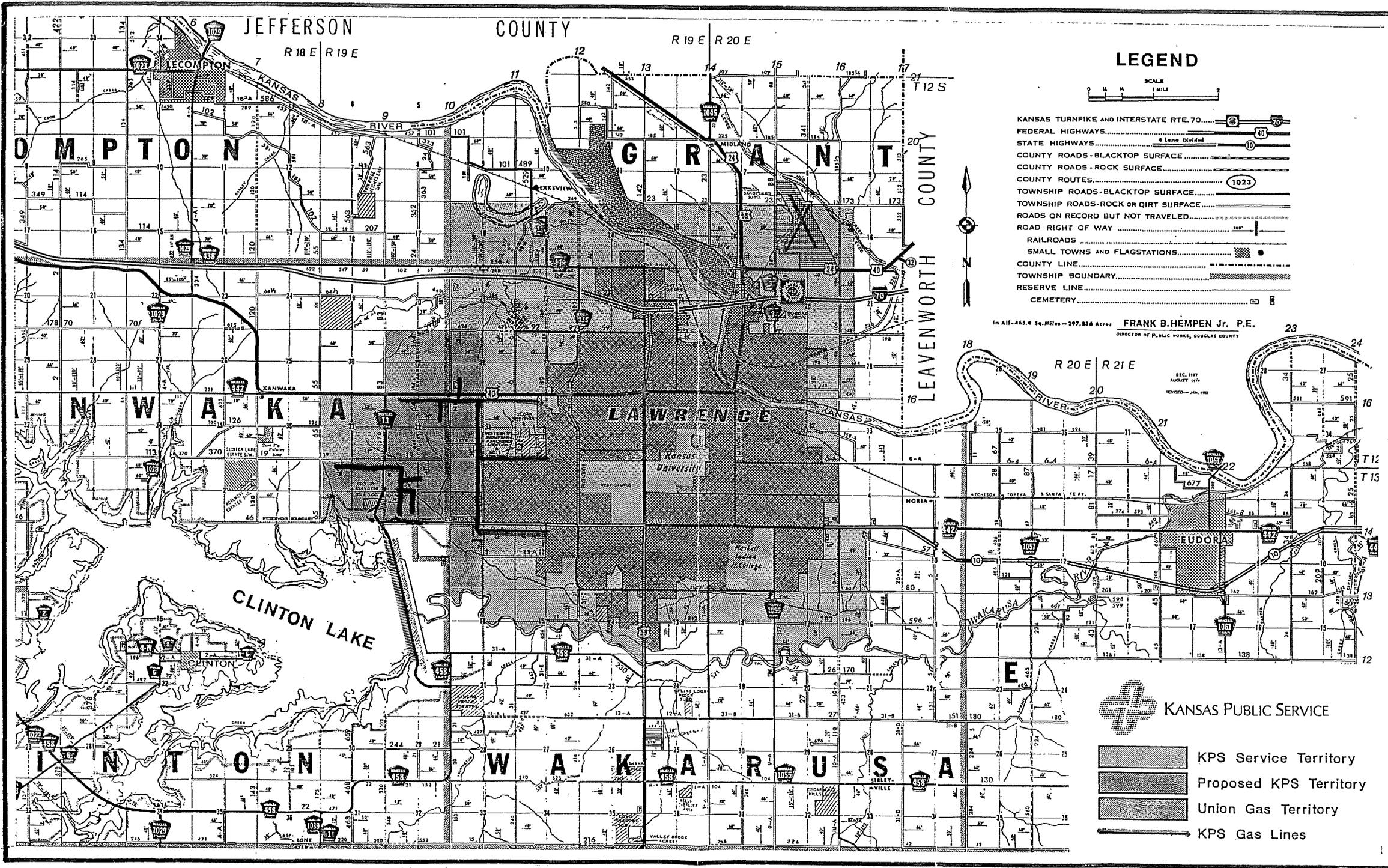
Dated: November 12, 1987

Henley, Chmn.; Kowalewski, Com.; Wright, Com.



Judith McConnell
Executive Director

DAB:ram



State Corporation Commission

STATE OF KANSAS



COMMISSIONERS

HOMER HOCH J. W. GREENLEAF
ERNEST E. BLINCOE

To all to Whom these Presents shall Come, Greeting:

I, C. H. BENSON, Secretary of the State Corporation Commission of the State of Kansas, do hereby certify that the following and hereto attached is a true copy of

CERTIFICATE

In the matter of the application of The Gas Service Company for a certificate of convenience and authority to transact the business of a gas utility in the State of Kansas, all cities and communities now served by The Gas Service Company subsidiaries except Wyandotte County Gas Co.

Docket No. 16,177.

LEGAL DEPT
FILE COPY

the original of which is now on file and a matter of record in this office.



In Testimony Whereof, I hereto set my hand and cause to be affixed the seal of the State Corporation Commission.

Done at the city of Topeka, this 16th day of November, A. D. 1935.

C. H. Benson
Secretary, State Corporation Commission.

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS.

In the matter of the application of The Gas Service Company for a certificate of convenience and authority to transact the business of a gas utility in the State of Kansas, all cities and communities now served by The Gas Service Company, subsidiaries except Wyandotte County Gas Co.

Docket No. 16,177.

C E R T I F I C A T E

BE IT REMEMBERED that on the 15th day of November, 1935, the above entitled matter comes on for final determination by the Commission, and the Commission having given due consideration to said application and the testimony introduced thereunder, and being fully advised in the premises, finds that public convenience will be promoted by the applicant company transacting the business of a gas utility in the following cities, towns and communities, and in the vicinities thereof, in the State of Kansas:

Arkansas City ✓
Atlanta ✓
Augusta ✓
Baldwin City ✓
Bernard ✓
Belle Plaine ✓
Beloit ? 5/15?
Bentley ✓
Benton ✓
Burden ✓
Burrton ✓
Cambridge
Cawker City
Chase
Cherryvale
Colony
Crestline
Crestline Gardens
Dennis
Derby
Dexter
Douglas
Downs
Edgerton
Eldorado
Ellsworth

Eaton
Everest
Fairview
Formosa
Fort Scott
Gardner
Geneseo
Girard
Glavin Tap
Glen Elder
Granthurst
Grantville
Grenola
Halestead
Hamlin
Haven
Hiawatha
Holton
Horton
Hutchinson
Huron
Jewell City
Kanopolis
Kickapoo
Lebanon
LeCompton

LaLoup
Lenexa
Lowell
Lincoln Center
Luray
Lucas
Madison
Mankato
Merriam
Minneapolis
Morrill
Mount Hope
Mulvane
New Salem
Newton
Olpe
Osawatomie
Osborne
Oskaloosa
Ottawa
Overland Park
Oxford
Osawkie
Paola
Parsons
Perry

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Pittsburg
 Princeton
 Bantou
 Reserve
 Richmond
 Riverton
 Rosedale View
 Rose Hill
 Sabetha
 Scipio

Sedgwick
 Shawnee
 Smith Center
 South Hutchinson
 South Ridge
 Sylvan Grove
 Tonganoxie
 Topeka
 Towanda
 Udall

Valley Center
 Valley Falls
 Vesper
 Weir
 Welda
 Wellsville
 Westport View
 Whiting
 Wichita

and that therefore a certificate of convenience should be issued to The Gas Service Company in accordance with the provisions of Section 66-131, Revised Statutes of Kansas, 1923.

IT IS THEREFORE BY THE COMMISSION CONSIDERED AND CERTIFIED: That public convenience will be promoted by The Gas Service Company transacting the business of a gas public utility in the State of Kansas, as set forth in the findings herein; that said applicant be, and is hereby, permitted to transact the business of a gas public utility in said cities, towns and communities and in the vicinities thereof, in the State of Kansas, as set forth in the findings herein.

BY THE COMMISSION IT IS SO CERTIFIED.

HOMER HOCH

ATTEST:

JESSE W. GREENLEAF

C. H. BENSON
 Secretary

ERNEST E. BLINCOE
 Commissioners

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the matter of the application of The Gas)	
Service Company for a Certificate of Convenience)	DOCKET NO.
and Authority to transact the business of a)	
natural gas public utility in the Community)	64,714-U
of Goddard, Kansas, and in a described area in)	
Sedgwick County, Kansas.)	

CERTIFICATE AND ORDER

Now on this 1st day of February, 1961, there comes on for consideration and determination by the State Corporation Commission (Harry G. Wiles, Chairman, J. Robert Wilson and Alvin F. Grauerholz, Commissioners) the application of The Gas Service Company for a Certificate of Convenience and Authority in the community of Goddard and in a described area in Sedgwick County Kansas, and after giving due consideration to the application and being fully advised in the premises, the Commission finds:

1. That The Gas Service Company (Applicant) is a public utility under the provisions of G. S. 1959, Supplement, 66-104.
2. That the application in the instant docket was filed with this Commission on the 7th day of December, 1960, and after proper notice to all interested parties a public hearing was held on January 10, 1961, in the Commission's Hearing Room, State Office Building, Topeka, Kansas.
3. That the City of Goddard, Kansas has granted to Applicant a twenty (20) year franchise to provide natural gas service to the inhabitants of said city.
4. That Applicant requests a Certificate to serve the following territory, which includes the City of Goddard:
T27S, R2W, Sections 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35.
5. That Applicant proposes to install in and along the center line of the area for which a Certificate is sought a line connecting its service area with the community of Goddard and that Applicant proposes to provide service to the inhabitants of the area for which a Certificate is sought under the terms of its Rules and Regulations on file with this Commission.

6. That the area for which Applicant is applying for a Certificate, exclusive of the City of Goddard, is certificated to Arkansas Louisiana Gas Company.

7. That the application herein should be granted in part and denied in part and that a Certificate should be granted to Applicant to serve in the City of Goddard and in the following territory:

SEDGWICK COUNTY

T27S. R2W. A corridor 500 feet wide, extending 250 feet on the north and south sides of the section lines dividing Sections 26, 27, 28, 29 and 30 from Sections 31, 32, 33, 34 and 35 and extending westward from Applicant's present service area as far as Applicant's transmission line is constructed to a point north of Goddard and including 250 feet on each side of the gas transmission line as it extends southward from this line to the City of Goddard.

8. That public convenience will be promoted by permitting Applicant to transact the business of a gas public utility in the territory described in Finding #7 herein and a Certificate should be granted in accordance with the provisions of G. S. 1949, 66-131.

9. That the construction of the connecting line and the distribution system will require an investment by Applicant substantially in excess of the investment Applicant would ordinarily make under its Rules and Regulations and that in order to serve the above-described area Applicant should be permitted to charge the inhabitants thereof a rate in excess of the rate now prevailing in other portions of Applicant's service area in the State of Kansas.

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

That the application in the instant docket be, and it hereby is, granted in part and denied in part and The Gas Service Company be, and it hereby is, permitted to transact the business of a gas public utility in the territory described in Finding #7 herein.

IT IS, THEREFORE, BY THE COMMISSION ORDERED:

That The Gas Service Company be, and it hereby is, ordered to file with the Commission on or before thirty (30) days prior to the date gas service is first made available in the area described in Finding #7 herein, schedules of rates applicable to this area.

The Commission retains jurisdiction of the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO CERTIFIED AND ORDERED.

Wiles, Chm.; Wilson, Com.; Grauerholz, Com.

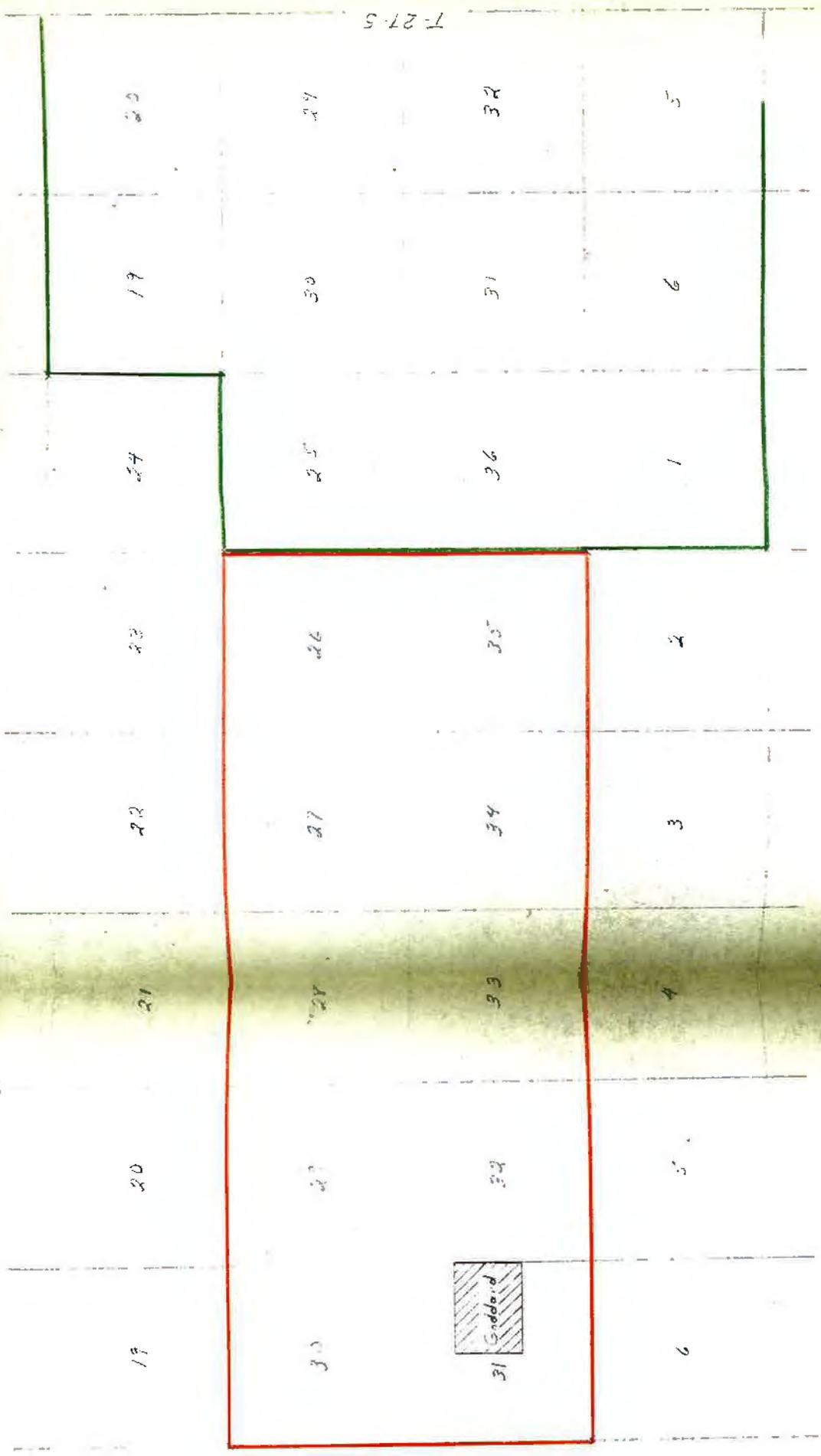
RAYMOND B. HARVEY, SECRETARY

Gilbert Cannon

Director of Public Utilities

SEAL

R-2-W



Area Surrounding
Goddard, Kan.

Area Being Applied For

Present G.S.Co. Service Area

EXHIBIT C

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: William L. Mitchell, Chairman;
John C. Apple and Henry C. Hill.

In the matter of the application of The Gas Service Company for a Certificate of Convenience and Authority to transact the business of a natural gas public utility in a described area in Sedgewick County, Kansas. } Docket No. 78,915-U

CERTIFICATE AND ORDER

Now on this 28th day of October, 1964, there comes on for consideration and determination by the State Corporation Commission, the application of The Gas Service Company for a Certificate of Convenience and Authority in a portion of Sedgewick County, and after giving due consideration to the application and being fully advised in the premises, the Commission finds:

1. That The Gas Service Company (Applicant) is a public utility under the provisions of G. S. 1961 Supp., 66-104.
2. That the application in the instant docket was filed with this Commission on the 22nd day of October, 1964.
3. That, in Docket No. 64,714-U, Applicant was granted a Certificate to serve in the City of Goddard, Kansas, and in the following territory:

Sedgewick County

T273, R2W, a corridor 500 feet wide, extending 250 feet on the north and south sides of the section lines dividing Sections 26, 27, 28, 29 and 30 from Sections 31, 32, 33, 34 and 35 and extending westward from Applicant's present service area as far as Applicant's transmission line is constructed to a point north of Goddard and including 250 feet on each side of the gas transmission line as it extends southward from this line to the City of Goddard.

4. That Applicant has received requests for gas service from potential customers located in close proximity to but beyond the boundaries of the corridor and that in order to serve these potential customers Applicant requests a Certificate to serve

in the following territory:

Federick County

T270, R3W, Sections 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, except the City of Goddard, Kansas and the territory described in Finding #3 herein.

5. That the territory described in Findings #3 and #4, exclusive of the City of Goddard, is certificated to Arkansas Louisiana Gas Company.

6. That applicant requests an order authorizing Applicant to file and place in effect for the area described in Finding #4 herein the same schedule or schedules of rates which are in effect for service within the City of Goddard.

7. That public convenience will be promoted by permitting Applicant to transact the business of a gas public utility in the territory described in Finding #4 herein and the application should be granted and a Certificate issued in accordance with the provisions of O. S. 1949, 66-151.

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

That the application in the instant docket be, and it hereby is, granted and The Gas Service Company be, and it hereby is, permitted to transact the business of a gas public utility in the territory described in Finding #4 herein.

IT IS, THEREFORE, BY THE COMMISSION ORDERED:

That The Gas Service Company be, and it hereby is, ordered to file with this Commission prior to the date gas service is first made available in the area described in Finding #4 herein, the same schedule or schedules of rates, made applicable to said area, which are in effect for service within the City of Goddard.

The Commission retains jurisdiction of the subject matter and

parties for the purpose of entering such further orders or orders
as it may deem necessary.

BY THE COMMISSION IT IS SO CERTIFIED AND ORDERED.

Mitchell, Clerk; Cook, Com.; Miles, Com.

~~RAYMOND A. ARVAY, SECRETARY~~

SEAL

COPIES

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the matter of the application of the Consolidated Gas Utilities Corporation, a corporation, for a certificate of convenience and authority to transact the business of a public utility in the State of Kansas.)
)
)
) Docket No. 16,167.
)
)

C E R T I F I C A T E

BE IT REMEMBERED That on the 27th day of November, 1935, the above entitled matter comes on for final determination by the Commission, and the Commission having given due consideration to said application and the amendment thereto, and the testimony introduced in support thereof, and being fully advised in the premises, finds that public convenience will be promoted by the applicant corporation transacting the business of a gas pipe line and gas distribution utility in the Counties of:

Allen	Rice	Sumner
Cowley	Neosho	Montgomery
Reno	Sedgwick	Wilson

PROVIDED that said applicant corporation shall not be authorized to transact such business other than the wholesale sale of gas in any incorporated cities in said counties, except in the following cities and vicinities thereof: Lyons, Nickerson, Sterling and Wichita (industrial, commercial and domestic) and industrial gas only in the city of Hutchinson, Kansas, and the vicinity thereof.

IT IS THEREFORE BY THE COMMISSION CONSIDERED AND CERTIFIED: That public convenience will be promoted by the Consolidated Gas Utilities Corporation transacting the business of a gas pipe line and gas distribution utility in the State

of Kansas, as set forth in the findings herein and subject to the provisions thereof and exceptions there to; that said applicant corporation be, and is hereby permitted to transact the business of a gas pipe line and gas distribution utility in said cities and the vicinities thereof, and in said counties, subject to the provisions thereof and the exceptions thereto, in the State of Kansas, as set forth in the findings herein.

BY THE COMMISSION IT IS SO CERTIFIED.

HOMER HOCH

JESSE W. GREENLEAF

ATTEST:

ERNEST E. BLINCOE
Commissioners

C. H. BENSON
Secretary

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the matter of the application of Arkansas Louisiana Gas Company for approval of a merger and for a Certificate of Convenience and Authority to transact the business of a natural gas public utility in Cowley, Sedgwick, Sumner, Reno and Rice Counties, Kansas; for approval of the transfer of certain franchises; and for permission to file certain rates, rules and regulations.

DOCKET NO.

62,953-U

CERTIFICATE AND ORDER

Now on this 30th day of March, 1960, there comes on for consideration and determination by the State Corporation Commission (Harry G. Wiles, Chairman, Marion Beatty and Richard C. Byrd, Commissioners) the application of Arkansas Louisiana Gas Company for a Certificate of Convenience and Authority in Cowley, Sedgwick, Sumner, Reno and Rice Counties, Kansas and for permission to file certain rates, rules and regulations, and after giving due consideration to the application and being fully advised in the premises, the Commission finds:

1. That Arkansas Louisiana Gas Company (Applicant) is a public utility under the provisions of 66-104, G. S. 1959, Supp.
2. That the application herein was filed on the 17th day of March, 1960, and after proper notice to all interested parties, a public hearing was held on March 28, 1960, in the Commission's Hearing Room, State Office Building, Topeka, Kansas.
3. That Applicant requests a Certificate of Convenience and Authority to transact the business of a gas public utility, including wholesale and retail sales of gas to domestic, commercial, industrial and other classes of customers, in all of Cowley, Sedgwick, Sumner, Reno and Rice Counties, Kansas, except Sections 5 and 6, T18S, R10W, Rice County, Kansas; provided that Applicant shall not be authorized to transact such business other than the wholesale sale of gas within the city limits of any incorporated city in said counties, except in the following incorporated cities:

Andale, Colwich, Gueda Springs, Hutchinson (commercial and industrial), Lyons, Maize, Nickerson, South Hutchinson (specifically for the Morton Salt Company plant and associated facilities which are located centrally in the NW 1/4 Section 23, T23S, R6W, Reno County, Kansas, within the city limits of South Hutchinson), Sterling and Wichita.

4. That the above-described territory is now being served by Consolidated Gas Utilities Corporation (Consolidated), which company has entered into a Merger Agreement with Applicant whereby the separate existence of Consolidated will cease and Applicant will succeed to all the rights, privileges, powers and immunities, and it will be subject to all duties, liabilities, obligations and disabilities, and will be vested with title to all property of Consolidated.

5. That Consolidated is the original grantee and present owner and holder of certain franchises in the Cities of Andale, Colwich, Hutchinson, Maize, Nickerson, South Hutchinson, Sterling, and Wichita, Kansas. Consolidated is likewise the owner of gas distribution systems and other facilities in said cities, and other gas utility property in the State of Kansas. Applicant proposes to become the successor to all of Consolidated's rights and obligations with respect to all of said franchises and properties.

6. As successor to Consolidated, Applicant proposes to assume and pay any lawful obligation of Consolidated for future refunding of certain increased rates collected under bond pursuant to Orders of this Commission in Docket Nos. 48,041-U, 60,827-U and 61,760-U.

7. That Applicant proposes to refile in its own name all gas tariffs, rules and regulations, contracts and other instruments of Consolidated filed with this Commission.

8. That public convenience will be promoted by permitting

Applicant to sell and distribute natural gas as described above. Therefore, the application should be granted with provisions and Applicant (1) should be issued a Certificate of Convenience and Authority to transact the business of a gas public utility as hereinbefore described and set forth in Finding #3, and (2) should be permitted and ordered to assume all the franchises, rights, privileges and powers and to assume all the duties, liabilities and obligations of Consolidated, subject to the provision that the Certificate of Convenience and Authority shall not become effective until Applicant has filed with the Commission journal entries reflecting the completion of the above-mentioned merger and has refiled in its own name all gas tariffs, rules and regulations, contracts and other instruments of Consolidated filed with this Commission.

9. That Applicant should be further required and ordered to assume and to pay any and all lawful obligations with respect to the future refunding of certain increased rates collected under bond as described in Finding #6.

10. That Consolidated is, this date, in Docket No. 62,951-U, being permitted to cease operating as a gas public utility in the State of Kansas, effective on the date the Certificate of Convenience and Authority to Applicant becomes effective.

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

That the application in the instant docket be, and the same hereby is, granted with provisions, and that Arkansas Louisiana Gas Company be, and it hereby is, permitted to transact the business of a gas public utility in the territory and to the extent hereinbefore described, subject to compliance with the provisions set forth in Finding #8 above.

IT IS, THEREFORE, BY THE COMMISSION ORDERED:

That Arkansas Louisiana Gas Company be, and it hereby is, permitted and ordered to assume all the franchises, rights, privileges and powers and to assume all the duties, liabilities and obligations of Consolidated Gas Utilities Corporation on and after the date the merger is consummated and the Certificate of Convenience and Authority becomes effective.

IT IS FURTHER BY THE COMMISSION ORDERED:

That on and after the effective date of the Certificate of Convenience and Authority, Arkansas Louisiana Gas Company be, and it hereby is, required and ordered to assume and to pay any and all lawful obligations with respect to the refunding of certain increased rates collected under bond as described in Finding #6.

The Commission retains jurisdiction of the subject matter and of the parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO CERTIFIED AND ORDERED.

Wiles, Chm.; Beatty, Com.; Byrd, Com.

RAYMOND B. HARVEY, SECRETARY

SEAL

5. That recently Applicant has received requests for natural gas service from potential customers located in close proximity to but beyond the boundaries of the certificated area authorized by the Commission in Docket No. 64,714-U.

6. That in order to supply natural gas service to said potential customers Applicant hereby applies for a certificate of convenience and authority authorizing Applicant to provide natural gas service in the area described as follows:

L. W. MORSE, of legal age, being first duly sworn, deposes
 All of Sections 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, and Range 2 W, Twp. 27 S in Sedgewick County, Kansas, except the City of Goddard, Kansas and a corridor 500 feet wide extending 250 feet on the north and south sides of the section line dividing Sections 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, Range 2 W, Twp. 27 S.

7. That the area described in Paragraph 6 hereof is shown in red on Exhibit A attached hereto.

8. That it is in the public interest that Applicant be authorized to provide service within the area described in Paragraph 6 hereof.

9. Subject to the approval of the Commission Applicant proposes to place in effect for the area for which a certificate is sought herein a schedule or schedules of rates which may from time to time be effective for service to the City of Goddard.

WHEREFORE, Applicant requests an Order of the Commission as follows:

1. Issuing to Applicant a certificate of convenience and authority granting the right to transact the business of a natural gas public utility in the area described in Paragraph 6 hereof and indicated in red upon the map attached hereto and marked "Exhibit A".

2. Authorizing Applicant to file and place in effect for said area the schedule or schedules of rates which may from time to time be effective for service within the City of Goddard, Kansas.

RICHARD C. BYRD
 THE GAS SERVICE COMPANY

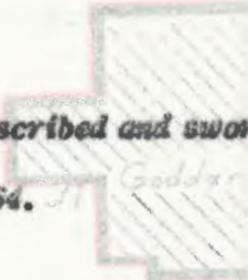
ERIK W. DALE
 By *[Signature]*
 President

STATE OF MISSOURI)
) SS.
COUNTY OF JACKSON)

I. W. McKEE, of lawful age, being first duly sworn, deposes and says that he is President of the within named applicant; that he has read the above and foregoing application; and that the statements therein contained are true.

I. W. McKee

Subscribed and sworn to before me this 22nd day of October, 1964.



Ruth C. Beaumont

My commission expires March 17, 1966.

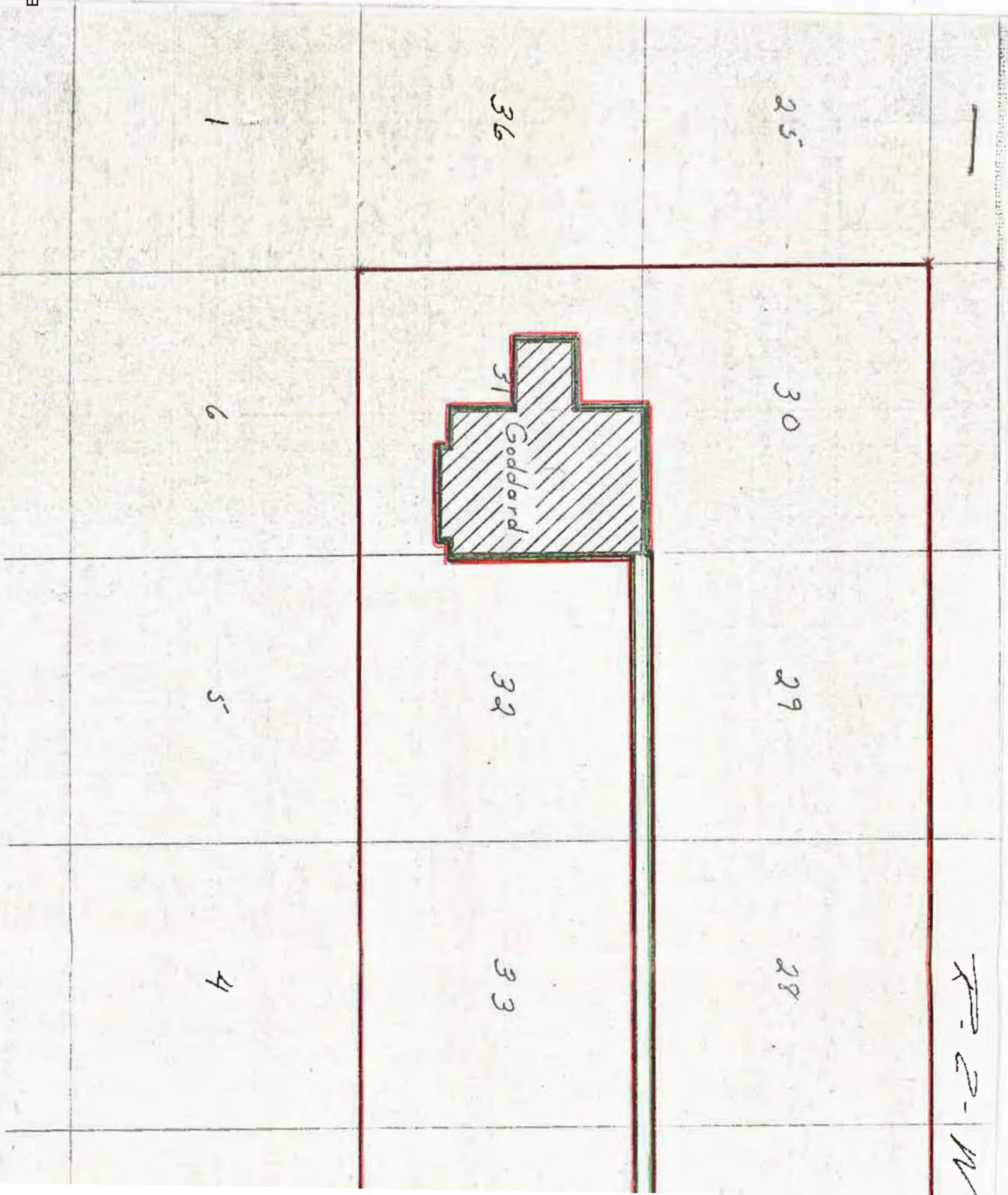
Notary Public
In and for Clay County, State of Missouri, a
county adjoining Jackson County, Missouri

JERRY T. DUGGAN
Kansas City, Missouri

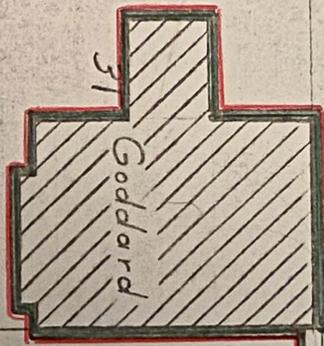
RICHARD C. BYRD
Ottawa, Kansas

KIRKE W. DALE
Arkansas City, Kansas

Attorneys for Applicant



2-2-W



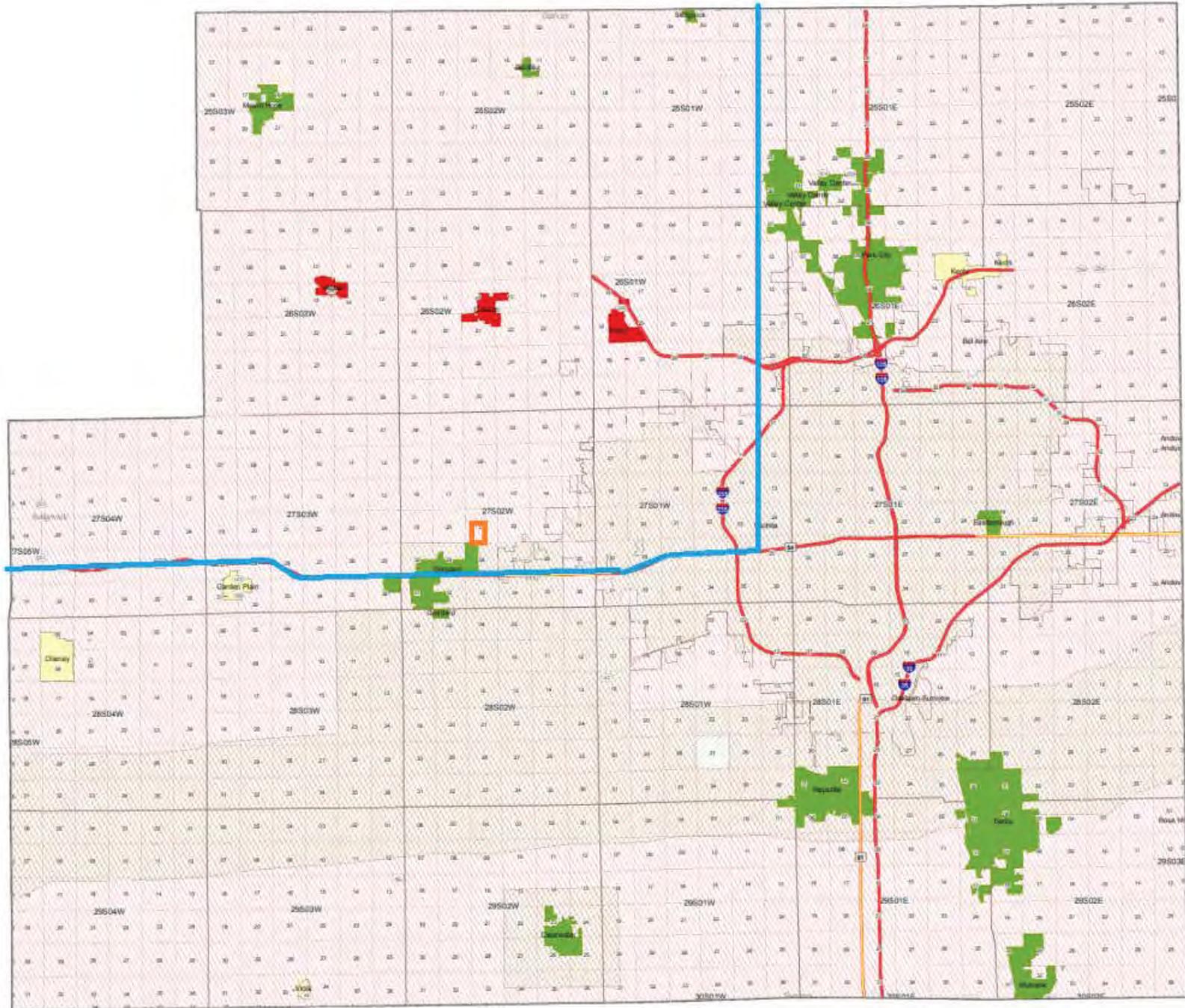
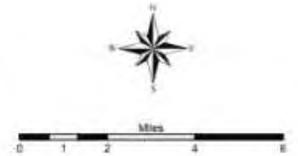
— Area Being Applied For
 — Present G.S. Co. Service Area

Area Surrounding
 Goddard, Kan.
 Sequoyia County

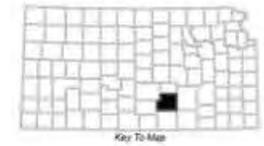
EXHIBIT A

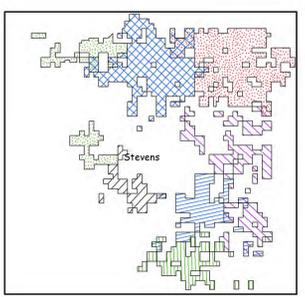
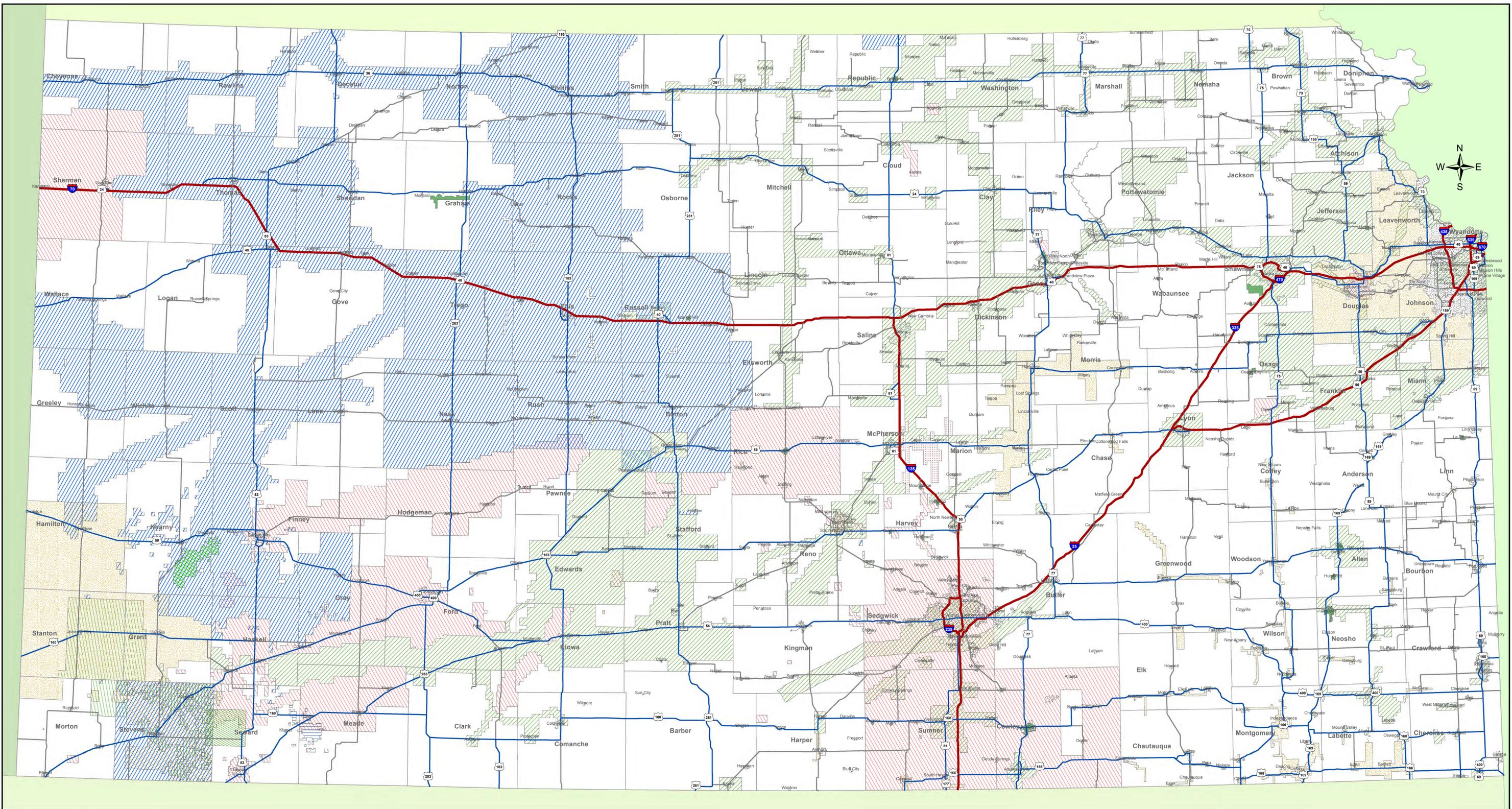
2-2-W

Gas Utility Service
SEDGWICK COUNTY
 In Kansas



- Gas Provider for City**
- Black Hills Energy
 - KGS
 - MUN
- Gas Certified Areas**
- BLACK HILLS ENERGY
 - KANSAS GAS SERVICE
 - MUNICIPAL OR OTHER SYSTEM
- Major Roads**
- Road Classification**
- Limited Access
 - Highways





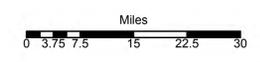
- STEVENS COUNTY SWKIs**
- SWKI SPIKES NORTH, INC.
 - SWKI STEVENS E.C., INC.
 - SWKI STEVENS HSW, INC.
 - SWKI STEVENS LOWER SOUTH EAST, INC.
 - SWKI STEVENS N.E., INC.
 - SWKI STEVENS NORTH, INC.
 - SWKI STEVENS SOUTH EAST, INC.

- Gas Company**
- 4 COUNTY ENERGY NPU, LLC
 - AMERICAN ENERGIES GAS SERVICE, LLC.
 - ARMILLO NATURAL GAS, INC.
 - Cities and Towns

- ATMOS ENERGY
- BLACK HILLS ENERGY
- KANSAS GAS SERVICE
- KEARNY COUNTY GAS IRRIGATORS ASSN.
- MIAMI PIPELINE COMPANY, INC.

- MIDWEST ENERGY, INC.
- MUNICIPAL OR OTHER SYSTEM
- PLAINS PRODUCERS ASSOCIATIONS, INC.
- SWKI SEWARD WEST CENTRAL, INC.
- SWKIs in STEVENS COUNTY

CERTIFIED AREAS OF NATURAL GAS PUBLIC UTILITIES IN KANSAS



CERTIFICATE OF SERVICE

I, Robert Elliott Vincent, hereby certify that a copy of the above and foregoing *Reply Comments* was forwarded this 23rd day of December 2024, addressed to:

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