

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

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

In the Matter of the Application of Wheatland      )  
Electric Cooperative, Inc. for Permission to      )  
Cease Operating as an Electric Utility in      )      Docket No. 18-WHLE-256-CCS  
the State of Kansas. The NW¼ of the NE¼      )  
of Sec 25-T33S-R6W, in Harper County, KS.      )

**ORDER GRANTING AUTHORITY 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 December 18, 2017, Wheatland Electric Cooperative, Inc. (Wheatland) filed an Application requesting to cease transacting the business of an electric public utility in a portion of Harper County, Kansas. Wheatland is an electric public utility as defined in K.S.A. 2016 Supp. 66-104. A public hearing was neither requested nor held on Wheatland's Application.

2.      Wheatland requests the Commission issue an Order granting it the authority to cease operating as an electric public utility in the following described territory to wit:

The NW¼ of the NE¼ of Section 25, Township 33 South, Range 6 West, in Harper County, Kansas.

3.      On February 19, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated February 13, 2018, recommending the Commission grant Wheatland'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. 2016 Supp. 66-131, the Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas. K.S.A. 66-1,170 et seq., the Retail Electric Suppliers Act (RESA), requires the State of Kansas to be divided into electric service territories in which only one retail electric supplier is established for a given territory. Notwithstanding the mandated single electric provider service territories, RESA also provides that retail electric suppliers may enter into agreements to amend boundaries between their facilities. The agreements are subject to Commission approval, and if so approved, the Commission shall issue a certificate accordingly.<sup>1</sup>

5. According to Staff, Wheatland and the City of Anthony, Kansas (“City” or “Anthony”) propose a transfer of the electric service territory described in paragraph 2 above in order to permit the City to continue serving a gas pipeline installation situated in what is now Wheatland’s service territory. Staff indicates that the City has been serving the pipeline installation customer and the service territory transfer will resolve this violation of K.S.A. 66-1,173. Also, on December 18, 2017, the City filed a companion Application in Docket No. 18-ANYE-257-COC requesting a Certificate of Convenience and Authority (Certificate) which will authorize Anthony to continue providing electric service in the subject territory. Staff indicates that it has reviewed the Applications of both Wheatland and the City, determining that the legal descriptions and maps provided with the Applications are accurate. Staff also confirms that the legal descriptions provided by the parties are not in conflict with the Commission’s Certificate records. Concluding, Staff determines that the public convenience will be promoted by the

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

requested territory transfer and recommends the Commission grant the Applications of both Wheatland and the City.<sup>2</sup>

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

6. The Commission adopts Staff's analysis and recommendation of February 13, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Wheatland's Application should be granted, and that public convenience and necessity will be promoted by issuing an Order authorizing Wheatland to cease operating as an electric public utility in the territory described in paragraph 2 above.

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

A. The Application of Wheatland Electric Cooperative, Inc. filed December 18, 2017, is hereby granted and Wheatland 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. 2016 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.

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

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: Feb. 27, 2018



Lynn M. Retz  
Secretary to the Commission

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<sup>2</sup> Report and Recommendation, pages 1 and 2.

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chair Shari Feist Albrecht  
Commissioner Jay Scott Emler  
Commissioner Pat Apple

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

**DATE:** February 13, 2018

**SUBJECT:** 18-WHLE-256-CCS  
In the Matter of the Application of Wheatland Electric Cooperative, Inc. for Permission to Cease Operating as an Electric Utility in the State of Kansas. The NW1/4 of the NE1/4 of Sec 25-T33S-R6W, in Harper County, KS.

18-ANYE-257-COC  
In the Matter of the Application of City of Anthony for a Certificate of Convenience and Authority to Transact the Business of an Electric Utility in the State of Kansas. The NW1/4 of the NE1/4 of Sec 25-T33S-R6W in Harper County, KS.

18-ANYE-262-CCS  
In the Matter of the Application of City of Anthony for Permission to Cease Operating as an Electric Utility in the State of Kansas. The NE1/4 of the NE1/4 of Sec. 32, T34S-R5W in Harper County, Kansas

18-WHLE-263-COC  
In the Matter of the Application of Wheatland Electric Cooperative for Certificate of Convenience and Authority to Transact the Business of an Electric Utility in the State of Kansas. The NE1/4 of the NE1/4 of Sec 32, T34S-R5W in Harper County, KS.

**EXECUTIVE SUMMARY:**

Wheatland Electric Cooperative, Inc. (Wheatland) and the City of Anthony (Anthony) have agreed to exchange electric territory in order to adjust and update their electric boundary. One customer is involved, however, this territory trade will place the customer in the boundary of Anthony, who has been providing service.

**BACKGROUND:**

On December 18, 2017, Wheatland filed an Application to release its Certificate of Convenience and Authority (COC) for a portion of its service territory in Docket 18-WHLE-256-CCS. Concurrent with this filing, Anthony filed an Application in Docket 18-ANYE-257-COC, for a COC in the NW1/4 of the NE1/4 of Section 25, T33S-R6W in Harper County, Kansas.

On December 19, 2017, Anthony filed an Application in Docket 18-ANYE-262-CCS to release a portion of its COC. Concurrent with this filing, Wheatland filed an Application in Docket 18-WHLE-263-COC, for a COC in the NE1/4 of the NE1/4 of Section 32, T34S-R5W in Harper County, Kansas.

In S25-T33S-R6W, Anthony currently serves a gas pipeline installation in Wheatland's service territory. Wheatland desires to release its COC for this portion of its territory in order to allow Anthony to continue serving this location.

In S32-T34S-R5W, Wheatland desires to serve backup power to a new 138kV switching station owned by Mid-Kansas Electric (Sunflower) and currently receiving service from Anthony. Anthony has agreed to cease operating at this location in order for Wheatland to be granted a COC.

Pursuant to K.S.A. 2016 Supp. 66-131, the Commission has jurisdiction to grant a certificate to a public utility seeking to transact business in the State of Kansas. K.S.A. 66-1,170 et seq. the Retail Electric Suppliers Act (RESA) requires each and every retail electric supplier to obtain a certificate from the Commission.

The statutory standard of review in this matter is whether the "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 in this state." K.S.A. 2016 Supp. 66-131. Further, single electric certification shall be the standard in Kansas under K.S.A. 66-1,170 et seq.

**ANALYSIS:**

Based on the Applications, it appears Anthony has been serving a customer not located within its certificated service territory. The proposed service territory exchange will resolve this violation of K.S.A. 66-1,173 and allow Anthony to continue service to the retail customer. In exchange for surrendering its right to serve the retail customer presently served by Anthony, Wheatland will obtain the right to serve a current customer of Anthony. The customer to be served by Wheatland, Mid-Kansas Electric Cooperative, does not object to receiving service from Wheatland. Staff views the proposed territory exchange as a reasonable means of resolving this certificated territory boundary issue. Staff has reviewed the Applications and determined that the legal descriptions and maps provided with the Applications are accurate. Staff has also confirmed that the legal descriptions are not in conflict with the Commission's Certificate records. The proposed revision to the affected territories' legal description is included as Attachment 1 to this Report and Recommendation.

The Commission action date is June 16, 2018.



**RECOMMENDATION:**

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

ATTACHMENT 1  
Legal Description of Double Territory Trade between  
Wheatland Electric Cooperative, Inc. and the City of Anthony, Kansas  
18-WHLE-256-CCS and 18-ANYE-257-COC  
Transferred between Wheatland and Anthony

HARPER COUNTY

Territory to be transferred to the Certificate of Convenience of City of Anthony, Kansas:

The NW 1/4 of the NE 1/4 of Section 25, Township 33 South, Range 6 West.

HARPER COUNTY

Territory to be transferred to the Certificate of Convenience of the Wheatland Electric Cooperative, Inc.:

The NE 1/4 of the NE 1/4 Section 32, Township 34 South, Range 5 West.

## CERTIFICATE OF SERVICE

18-WHLE-256-CCS

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on Feb. 27, 2018.

GREG CLEVELAND, MAYOR  
CITY OF ANTHONY  
124 SOUTH BLUFF  
PO BOX 504  
ANTHONY, KS 67003

BRUCE W. MUELLER, GENERAL MANAGER  
WHEATLAND ELECTRIC COOPERATIVE, INC.  
101 MAIN ST  
PO BOX 230  
SCOTT CITY, KS 67871  
Fax: 620-872-7170  
bmueeller@weci.net

OTTO NEWTON, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
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\*\*\*Hand Delivered\*\*\*

/S/ DeeAnn Shupe  
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DeeAnn Shupe