

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of the Application of Kansas Gas)
and Electric Company, Doing Business as)
Westar Energy for Authority to Cease)
Transacting the Business of an Electric Utility) Docket No. 20-KG&E-150-CCS
specifically, in portions of Section 3,)
Township 30 South, Range 1 East, in Sumner)
County, Kansas.)

**ORDER GRANTING APPLICATION TO CEASE TRANSACTING
THE BUSINESS OF AN ELECTRIC PUBLIC UTILITY**

The above captioned matter comes before the State Corporation Commission of the State of Kansas. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On September 30, 2019, Kansas Gas and Electric Company, Inc., n/k/a Evergy Kansas South, Inc. d/b/a Evergy Kansas Central (Evergy Central) filed an Application requesting to cease transacting the business of an electric public utility in territory situated within Sumner County, Kansas. Evergy Central is an electric public utility as defined in K.S.A. 2018 Supp. 66-104. A public hearing was neither requested nor held on Westar's Application.

2. Evergy Central requests the Commission issue an Order granting it authority to cease transacting the business of an electric public utility in the following described territory, to wit:

SUMNER COUNTY, KANSAS

Beginning at a point 395.300' east of the NW 1/4 of the NE 1/4 of Section 3, T30S, R1E, thence on a platted bearing S88-55-13E along East 119th Street a distance of 1303.801'; thence continuing S1-4-38E 746.091', thence S44-42-30E a distance of 471.772'; thence N88-46-22W a distance of 678.918' to the center of the NE 1/4 of Section 3, T30S, R1E; thence N2-36-39W a distance of 806.627'; thence N88-52-15W a distance of 925.41'; thence N1-52-33W a distance of 267.392 to the POB.

Beginning at a point 925.436' south of the NE of the NE Corner of Section 3, T30S, R1E, thence S3-4-3E a distance of 153.545' to the SE 1/4 of the NE 1/4 of the NE 1/4; thence N88-46-23W a distance of 409.839'; thence N2-24-9W a distance of 144.615'; thence N89-59-29E a distance of 407.591' to the POB.

3. On June 28, 2019, Sumner-Cowley Electric, Inc. (Sumner-County) filed an Application with the Commission in Docket No. 19-SMCE-526-COC seeking to serve the area proposed to be ceded by Evergy Central in paragraph no. 2 above. The Evergy Central Application indicates Evergy Central and Sumner-Cowley are in agreement regarding service to the area and the benefit of serving customers by Sumner-Cowley, which has territory adjacent to the area being ceded and serves customers affected by the Application.

4. On November 18, 2019, the Commission Staff (Staff) submitted its Report and Recommendation dated November 14, 2019, to the Commission, recommending Evergy Central's Application be granted and its request to cease operating as an electric public utility in the territory described in paragraph 2 above be approved. Staff notes there are five customers being served by Sumner-Cowley that would be able to maintain service in the area to be ceded by Evergy Central.

5. Pursuant to K.S.A. 2018 Supp. 66-131, the Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas. K.S.A. 66-1,170 et seq., the Retail Electric Suppliers Act (RESA), requires the State of Kansas to be divided into electric service territories in which only one retail electric supplier is established for a given territory. Notwithstanding the mandated single electric provider service territories, RESA also

provides that retail electric suppliers may enter into agreements to amend boundaries between their facilities. The agreements are subject to Commission approval, and if so approved, the Commission shall issue a certificate accordingly.¹

6. Staff states that it has reviewed the Application of Evergy Central and determines that the legal description and map provided with these filings are accurate and not in conflict with the Commission's Certificate records. Staff recommends the Commission grant Evergy Central's Application and find that the public convenience will be promoted by this transaction. Upon approval, the updated territory description will be reflected in the Commission's certified territory map.²

7. The Commission adopts Staff's analysis and recommendation of November 14, 2019, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Evergy Central's Application should be granted, and that the public convenience will be promoted by issuing an Order authorizing Evergy Central to cease transacting the business of an electric public utility in the territory described in paragraph 2 above.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application of Kansas Gas and Electric Company, Inc., n/k/a Evergy Kansas South, Inc. d/b/a Evergy Kansas Central is hereby granted and Evergy Central is authorized to cease transacting the business of an electric public utility in the territory described in paragraph 2 above.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).³

¹ K.S.A. 66-1,175.

² Report and Recommendation at 3 (October 9, 2019).

³ K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

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.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 11/26/2019



Lynn M. Retz
Executive Director

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Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Dwight D. Keen
Commissioner Shari Feist Albrecht
Commissioner Susan K. Duffy

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

DATE: November 14, 2019

SUBJECT: 20-KG&E-150-CCS
In the Matter of the Application of Kansas Gas and Electric Company, Doing Business as Westar Energy for Authority to Cease Transacting the Business of an Electric Public Utility specifically, in portions of Section 3 Township 30 South, Range 1 East, in Sumner County, Kansas.

19-SMCE-526-COC
In the Matter of the Application of Sumner Cowley Electric Cooperative, Inc. for a Certificate of Public Convenience and Authority to Transact the Business of an Electric Public Cooperative/Utility in the State of Kansas.

EXECUTIVE SUMMARY:

In Docket 20-KG&E-150-CCS, Kansas Gas and Electric, Inc. (KG&E) is seeking approval of the Commission to cease operating as an electric utility in a small tract of certified territory in Sumner County. In Docket 19-SMCE-526-COC, Sumner-Cowley Electric Cooperative, Inc. (Sumner Cowley) is requesting a Certificate for this tract of certified territory.

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

BACKGROUND:

On June 28, 2019, Sumner-Cowley filed the above-captioned Application requesting a Certificate in Docket 19-SMCE-526-COC. On September 30, 2019, KG&E filed the companion Application to Cease in Docket 20-KG&E-150-CCS.

Sumner Cowley and KG&E are requesting to clean up their certified territory in a residential area near the city of Mulvane in Sumner County.

Sumner-Cowley held the original Certificate for Section 3, Township 30 South, Range 1 East. In 1980, Docket 123,798-U and 123,368-U, Sumner Cowley ceased and KG&E was granted a Certificate in a small portion of land in Section 3, Township 30 South, Range 1 East.

Unbeknownst to Sumner Cowley, they served five customers in the tract of land and continue to serve those same customers.¹

KG&E and Sumner Cowley have mutually agreed, subject to the Commission's approval, that Sumner Cowley should continue to serve as the electric public utility for the territory described in Attachment A.²

K.S.A. 66-1,170 et seq., the Retail Electric Suppliers Act (RESA), requires the state of Kansas to be divided into electric service territories in which only one retail electric supplier is established for a given territory.

The Commission has authority to grant a Certificate of Convenience and Necessity to any public utility seeking to transact business in the State of Kansas.³

ANALYSIS:

Staff has reviewed both Applications and has confirmed the legal descriptions included in both Applications are accurately depicted on the map attached to each Application. Staff also confirmed the legal description is not in conflict with the Commission's Certificate records.

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

The Commission action date is December 24, 2019.

RECOMMENDATION:

Staff recommends that the Commission grant these Applications and find that public convenience will be promoted by this transaction. Upon approval, the updated territory descriptions will be reflected in the Commission's certified territory map.

¹ 66-1,172

² 66-1,175

³ K.S.A. 66-131

ATTACHMENT A
Legal Description of Territory Trade Between
Kansas Gas and Electric Company and Sumner Cowley Electric Cooperative, Inc.
Docket No. 20-WSEE-145-CCS and 19-SMCE-526-COC

SUMNER COUNTY, KANSAS

Beginning at a point 395.300' east of the NW 1/4 of the NE 1/4 of Section 3, T30S, R1E, thence on a platted bearing S88-55-13E along East 119th Street a distance of 1303.801'; thence continuing S1-4-38E 746.091', thence S44-42-30E a distance of 471.772'; thence N88-46-22W a distance of 678.918' to the center of the NE 1/4 of Section 3, T30S, R1E; thence N2-36-39W a distance of 806.627'; thence N88-52-15W a distance of 925.41'; thence N1-52-33W a distance of 267.392 to the POB.

Beginning at a point 925.436' south of the NE of the NE Corner of Section 3, T30S, R1E, thence S3-4-3E a distance of 153.545' to the SE 1/4 of the NE 1/4 of the NE 1/4; thence N88-46-23W a distance of 409.839'; thence N2-24-9W a distance of 144.615'; thence N89-59-29E a distance of 407.591' to the POB.

CERTIFICATE OF SERVICE

20-KG&E-150-CCS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 11/26/2019.

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/S/ DeeAnn Shupe

DeeAnn Shupe