

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

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

In the Matter of the Application of Bluestem	)	
Electric Cooperative, Inc. for a Certificate of	)	
Convenience and Authority to transact the	)	
business of a Public Utility in the State of	)	Docket No. 18-BECE-210-COC
Kansas. A Portion of Section 3, Township	)	
10 South, Range 10 East in Pottawatomie	)	
County, Kansas	)	

**ORDER GRANTING CERTIFICATE OF CONVENIENCE AND AUTHORITY**

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

**I. BACKGROUND**

1.      On November 16, 2017, Bluestem Electric Cooperative, Inc. (Bluestem) filed an Application requesting a Certificate of Convenience and Authority (Certificate) to transact the business of an electric public utility in a portion of Section 3, Township 10 South, Range 10 East, Pottawatomie County, Kansas. Earlier, on November 14, 2017, The City of Wamego, Kansas ("City" or "Wamego") made a companion filing in Docket No. 18-WAME-200-CCS requesting to cease transacting the business of an electric public utility in the territory sought for certification by Bluestem. Wamego desires to retain transmission rights only, within a 25-foot-wide utilities easement located along the northerly property line of the subject tract of land depicted and legally described on Exhibits A and B of Bluestem's Application. Bluestem is an electric public utility as

defined in K.S.A. 2016 Supp. 66-104. A public hearing was neither requested nor held on Bluestem's Application.

3. On December 13, 2017, the Commission Staff (Staff) submitted its Report and Recommendation dated December 6, 2017, recommending the Commission grant Bluestem's Application and issue an Order granting Bluestem a Certificate to transact the business of an electric public utility in the territory depicted and described on Exhibits A and B to Bluestem's Application.

## **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, Bluestem owns the tract of territory made the subject of this Application and plans to build a new headquarters on the site. The property is located along the eastern boundary of the Wamego Industrial Park. Although Wamego has electric service available in the area, service to this tract by Bluestem is not expected to diminish the orderly development of electric service for the remainder of the industrial park or the adjacent Bluestem territory. Staff states that it has reviewed the Applications of both parties and determines that the legal

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

descriptions and maps provided with the Applications are accurate. Staff also confirms that the legal descriptions provided are not in conflict with the Commission's Certificate records. The proposed revision to the affected territories' legal descriptions is included as Attachment 1 to Staff's Report and Recommendation. Inasmuch as both parties are agreeing to the transfer of service territory, Staff recommends the Commission find that the public interest will be promoted by this transaction and grant the instant Application, as well as Wamego's Application filed in Docket No. 18-WAME-200-CCS.<sup>2</sup>

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

6. The Commission adopts Staff's analysis and recommendation of December 6, 2017, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference. The Commission finds that Bluestem's Application should be granted, and that the public convenience and necessity will be promoted by issuing Bluestem the requested Certificate authorizing Bluestem to transact the business of an electric public utility in the territory described in Exhibit B to Bluestem's Application and repeated in Attachment 1 to Staff's Report and Recommendation.

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

A. The Application filed by Bluestem Electric Cooperative, Inc. for a Certificate of Convenience and Authority to transact the business of an electric public utility in the territory described in Exhibit B to Bluestem's Application and repeated in Attachment 1 to Staff's Report and Recommendation is hereby granted, except that the City of Wamego retains "Transmission Rights Only" to construct and maintain an electric utility line along the northerly 25' of Lot 1,

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

Wamego Industrial Park, Unit Six, as depicted and described on Exhibits A and B to Bluestem's Application.

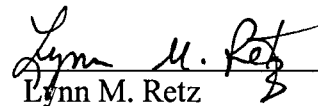
B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served, in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2016 Supp. 77-529(a)(1).

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 AND CERTIFICATED.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner .

Dated: DEC 19 2017

  
Lynn M. Retz  
Secretary to the Commission

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Order Mailed Date

DEC 20 2017

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

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

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

**DATE:** 12/06/2017

**SUBJECT:** 18-WAME-200-CCS  
In the Matter of the Application of the City of Wamego for permission to Cease Operating as an Electric Public Utility in the State of Kansas. City of Wamego.

18-BECE-210-COC  
In the Matter of the Application of Bluestem Electric Cooperative, Inc. for a Certificate of Convenience and Authority to transact the business of a Public Utility in the State of Kansas.  
A Portion of Section 3, Township 10 South, Range 10 East in Pottawatomie County, Kansas.

**EXECUTIVE SUMMARY**

In Docket 18-WAME-200-CCS, the City of Wamego, Kansas (Wamego), is seeking the approval of the Commission to cease operating as an electric utility in a small tract of electric territory located in Wamego, Kansas. In 18-BECE-210-COC, Bluestem Electric Cooperative, Inc. (Bluestem) is requesting a Certificate in the tract located in the Wamego Industrial Park. The tract is owned by Bluestem and is the future location of the Bluestem headquarters office.

Wamego desires to retain transmission rights only, within a 25-foot wide utilities easement located along the northerly property line of the tract of land legally described in Attachment 1 and shown on the map attached to the Application.

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

### **BACKGROUND:**

On November 14, 2017, Wamego filed an Application to Cease in Docket No. 18-WAME-200-CCS. On November 16, 2017, Bluestem filed a Companion Application for a Certificate in Docket No. 18-BECE-210-COC.

The Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas.<sup>1</sup> K.S.A. 66-1,170 et seq. the Retail Electric Suppliers Act (RESA) requires the State of Kansas to be divided into electric service territories in which only one retail electric supplier is established for a given territory. Notwithstanding the mandated single electric provider service territories, RESA also provides that retail electric suppliers can enter into agreements to amend boundaries between their facilities. The agreements are filed in the form of Certificates and, if approved by the Commission, Certificates to amend territory are issued.

### **ANALYSIS:**

Wamego is requesting authority to Cease and Bluestem is requesting a Certificate for a small tract of electric territory located in Wamego, Kansas. Bluestem owns this tract of land and is planning to build a new headquarters on this site. The property is located along the eastern boundary of the Wamego Industrial Business Park. Although Wamego has electric service available in the area, service to this tract by Bluestem is not expected to diminish the orderly development of electric service for the remainder of the industrial park or the adjacent Bluestem territory. Because both parties are agreeing to the transfer of service territory, Staff recommends Commission approval of the subject Dockets.

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.

### **RECOMMENDATION:**

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

The Commission action date is May 13, 2018.

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<sup>1</sup> K.S.A. 66-131

ATTACHMENT 1  
Legal Description Territory Trade Between  
City of Wamego, Kansas and Bluestem Electric Cooperative, Inc.  
18-WAME-200-CCS and 18-BECE-210-COC

ATTACHMENT 1

Lot 1, Wamego Industrial Park Unit Six, described as follows:

"All of Lots 34-38, Wamego Industrial Park Unit Three and Lot 39, Wamego Industrial Park Unit Four and vacated right-of-way of Shanote Lane and a parcel of land located in the Southeast Quarter of Section 3, Township 10 South, Range 10 East of the 6th Principal Meridian, Pottawatomie County, Kansas, being more particularly described as follows:

Beginning at the Southeast Corner of Lot 34, Wamego Industrial Park Unit Three, an Addition in the City of Wamego, Kansas; thence on a platted bearing of N03°54'10"W along the East line of Lots 34-37, a distance of 770.72 feet to the Northeast Corner of said Lot 37; thence continuing N03°54'10"W along the East right-of-way line of Shanote Lane, as depicted on the Final Plat of Wamego Industrial Park, Unit Three, and vacated by the Wamego Governing Body on 12/20/16, by Ordinance 1670, a distance of 60.00 feet to a point on the South line of Lot 39, Wamego Industrial Park Unit Four, an Addition in the City of Wamego, Kansas; thence N86°05'50"E along said South line, a distance of 129.68 feet to the Southeast Corner of said Lot 39; thence S03°54'10"E a distance of 830.72 feet to a point on the South line of a tract of land as recorded in Deed Book 306, Page 75 in the Register of Deeds Office, Pottawatomie County, Kansas; thence S86°05'50"W along said South line, a distance of 129.68 feet to the Point of Beginning. Said parcel contains 2.47 acres, more or less.

The above described tract contains 515,418 square feet, 11.83 acres, more or less,

LESS, the southerly 80' of the above described tract, depicted as 'Shanote Lane' upon the Final Plat of Wamego Industrial Park Unit Six."

Said Lot 1 contains 481,444 square feet, 11.05 acres, more or less.

The City of Wamego reserves and Bluestem Electric Cooperative, Inc. grants to the City of Wamego "Transmission Rights Only" to construct and maintain an electric utility line along the northerly 25' of said Lot 1, depicted as a "Utility Easement" upon the Final Plat of Wamego Industrial Park Unit Six.

## CERTIFICATE OF SERVICE

18-BECE-210-COC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on DEC 19 2017.

WILLIAM E. DITTO, MAYOR  
CITY OF WAMEGO  
CITY HALL 428 LINCOLN  
PO BOX 86  
WAMEGO, KS 66547

KENNETH J. MAGINLEY, GENERAL MANAGER  
BLUESTEM ELECTRIC COOPERATIVE, INC.  
614 E US HWY 24  
WAMEGO, KS 66547-0005  
Fax: 785-456-2003  
kenm@bluestemelectric.com

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

/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

DEC 20 2017