

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of the Notice of Annexation of)
Territory and Selection of Retail Electric) Docket No. 25-GDCE-344-MIS
Service by the City of Garden City, Kansas.)

ORDER ACKNOWLEDGING ANNEXATION AND CLOSING DOCKET

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and determination. Having examined its files and records, the Commission finds and concludes:

I. Background

1. On March 6, 2025, the City of Garden City, Kansas (“Garden City”) filed a Notice of Annexation of Territory and Selection of Retail Electric Supplier for annexed territory, effective on August 15, 2024 (“Notice”).¹ The parcel of annexed territory is described below as follows:

A tract of land located in Northeast Corner of Section 9, Township 24 South, Range 32 West of the Sixth Principal Meridian, Finney County Kansas, described as follows:

Commencing at the Northeast Corner of Section 9, Township 24S, Range 32W; Thence N88°21’23”W along the North line of said section 805.64 feet more-or-less to a point on a curve of Ordinance No. 2711-2015, City of Garden City Kansas recorded in Book 322 Page 886 Finney County Kansas Register of Deeds, point being the POINT OF BEGINNING; Thence continuing westerly along the north line of said section 876.73 feet more-or-less to the northwest corner of a tract of land recorded in Book 292 Page 262 Finney County Kansas Register of Deeds; Thence S01°38’37”W along the west line of said tract 397.8 feet more-or-less to the southwest corner of said tract; Thence S88°21’23”E along the south line of said tract 111.95 feet more or less to the northeast corner Lot 1 Block 1 of Prairie Crossing North Addition No. 1, Garden City, Kansas; Thence S45°15’36” E along the northeast line of said Lot 1 500.00’ feet more-or-less to a line of Ordinance No.

¹ City of Garden City Notice of Annexation of Territory and Selection of Retail Electric Supplier (Mar. 28, 2024) (“Notice”), p. 2.

2264-2004, City of Garden City, Kansas recorded in Book 261 Page 844 Finney County Kansas Register of Deeds; Thence N44°44'24"E along a line of said Ordinance 150.00 feet more-or-less to a corner of said Ordinance; Thence S45°15'36"E along a northeasterly line of said Ordinance 75.08 feet more-or-less to the north right-of-way line of Highway K-156, line also being the northwest line of Ordinance 2712-2015 recorded in Book 322 Page 885 Finney County Register of Deeds. Thence N44°46'34"E along said north right-of-way line of Highway K-156 a distance of 603.47 feet more-or-less to the south corner of a tract recorded in Book 266 Page 211 Finney County Kansas Register of Deeds; Thence N44°46'34"E along the southeast line of said tract 110.00' to the east corner of said tract; Thence S89°46'34"W along a northeasterly line of said tract 21.21 feet; Thence N45°13'26"W along a northeasterly line of said tract 80.86 feet to a point of curvature along said tract; Thence northwesterly along a tangent curve having a length of 128.56 feet, a central angle of 13°38'03" and a radius of 540.00 feet to the northeast corner of said tract; Thence continuing on an extension of said curve for a distance 68.85 feet more-or-less to the POINT OF BEGINNING.²

2. The above-described territory was previously within the certificated retail territory of Wheatland Electric Cooperative, Inc. ("WECI").³ Garden City asserted that it provided notice and negotiated for a franchise with WECI and attached such notice to its Notice of Annexation filing with the Commission.⁴ Ultimately, Garden City selected the Garden City Electric Department as the retail electric service provider for the annexed territory.⁵

II. Legal Standards

3. K.S.A. 66-1,176(a)(2) states that the annexing city shall make the selection of which supplier receives a franchise to operate within the annexed area. Under K.S.A. 66-1,174, a municipally owned and operated retail electric supplier, located within the city's corporate limits, is not required to be certified by the Commission and is exempt from the Commission's jurisdiction unless it is located or provides service outside of the city's limits.⁶

² *Id.*, Exhibit B, pp. 1–2.

³ *Id.*, Exhibit A, p. 1.

⁴ *Id.*, p. 1.

⁵ *Id.*, Exhibit A, p. 1.

⁶ K.S.A. 66-1,170 *et seq.* See *Lyon-Coffey Elec. Co-op, Inc. v. State Corp. Com'n*, 31.P.3d 962, 966 (Kan. App. 2001) (hereinafter *Lyon-Coffey*).

4. When an area is annexed by a city, it is then within the city's corporate limits and neither K.S.A. 66-131, K.S.A. 66-1,171, nor K.S.A. 66-1,176 require the Commission to make a finding of public convenience in order to grant a certificate to such municipally owned or operated utility.⁷

5. K.S.A. 66-1,176(a)(1) dictates that, if the city chooses a different retail electric service provider to serve its annexed territory, all rights of an existing retail electric supplier to provide electric service in an area annexed by a city shall terminate 180 days from the date of annexation.

III. Analysis

6. Garden City is a municipal retail electric supplier that is not subject to the jurisdiction of the Commission for services provided within its corporate limits, as provided in K.S.A. 66-1,174. Further, Garden City affirmed in its Notice its ability to select the retail electric service provider for the annexed territory pursuant to K.S.A. 66-1,176.

7. At the time of filing its Notice, Garden City reported that the 180-day period under K.S.A. 66-1,176(a)(1) ran on February 11, 2025, for the annexed territory, at which time WEIC's rights to serve the Annexed Territory terminated and by mutual agreement of the Garden City Electric Department and WEIC, the former began serving the annexed property on September 30, 2024.⁸

8. A copy of the Notice provided to the Commission was provided to WEIC's General Manager and its General Counsel at the time of filing with the Commission.⁹ No filing is needed to enact the cessation of service, as K.S.A. 66-1,176(a)(1) dictates that WEIC's rights to the

⁷ See *Lyon-Coffey* 31 P. 3d 968.

⁸ Notice, p. 3.

⁹ *Id.*

territory annexed by Garden City terminated 180 days after the annexation, it demonstrates that WECI was amenable to the transfer of territory.

9. As prescribed in K.S.A. 66-1,174, the Commission does not have jurisdiction over a municipal retail electric supplier that provides services within its corporate limits; as such, there is no statutory process or requirement for Commission authorization regarding a city exercising its option to choose its retail electric supplier. The Commission regards Garden City's Notice as an appropriate method for Garden City to inform the Commission of its annexation of the above-detailed land parcels.

10. The Commission considers the Notice in the instant matter to only apply to the parcels of land identified in the filing. Garden City should continue to update the Commission as to any future annexations so the Commission may maintain updated records of retail electric service territories.

11. The Commission will update its records to include the Annexed Territory within Garden City's retail electric service territory. Because there is no process in Kansas statutes or regulations for Commission action regarding Garden City's Notice under K.S.A. 66-1,170 *et seq.*, this docket will be closed without action by the Commission.

THEREFORE, THE COMMISSION ORDERS:

A. The Commission acknowledges Garden City's Notice of Annexation and will update its maps to reflect the annexation of the two parcels of land described in Garden City's Notice.

B. This docket shall be closed.

C. 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).¹⁰

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 03/13/2025



Abigail D. Emery
Acting Secretary to the Commission

BWB

¹⁰ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

25-GDCE-344-MIS

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 03/13/2025.

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