

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

Before Commissioners: Shari Feist Albrecht
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Application of FreeState)
Electric Cooperative, Inc. for a Certificate of)
Convenience and Authority to Transact the) Docket No. 18-FSEE-466-COC
Business of an Electric Public Utility in the)
State of Kansas, Leavenworth County.)

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 April 25, 2018, FreeState Electric Cooperative, Inc. (FreeState) filed an Application requesting a Certificate of Convenience and Authority (Certificate) to transact the business of an electric public utility in Leavenworth County, Kansas. FreeState is an electric public utility as defined in K.S.A. 2017 Supp. 66-104. A public hearing was neither requested nor held on FreeState's Application.

2. FreeState requests that it be certificated as an electric public utility for the purpose of providing electric public utility service in the following described territory to wit:

A tract of land described as the West 300 feet of the East ½ of the Southwest ¼, and the West 300 feet of the Southeast ¼ of the Northwest ¼ of Section 25, Township 8 South, Range 21 East in Leavenworth County, Kansas, as detailed on the map marked Exhibit A attached to the Application.

3. On May 2, 2018, the Commission Staff (Staff) submitted its Report and

Recommendation dated April 27, 2018, recommending the Commission grant FreeState's Application and issue the company a Certificate to transact the business of an electric public utility in the territory described in paragraph 2 above.

II. LEGAL STANDARDS AND DISCUSSION

4. Pursuant to K.S.A. 2017 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

5. According to Staff, FreeState and Westar Energy, Inc. (Westar) propose exchanging the tract of territory described in paragraph 2 above located in Leavenworth County in order to accommodate a residential customer requesting service to a new house and barn. Staff states that the barn, already in existence, is located on the dividing territory line between FreeState and Westar. Because the customer's house will be in FreeState's territory, Westar has agreed to release the territory described in paragraph 2 above. Consequently, Westar, on April 24, 2018, filed an Application in Docket No. 18-WSEE-463-CCS requesting to cease transacting the business of an electric public utility in the subject territory. Staff indicates that it has reviewed the Applications of both FreeState and Westar, determining that the legal descriptions included in both Applications are accurately depicted on the maps attached to each Application. Staff further

¹ K.S.A. 66-1,175.

confirms that the legal description provided by the parties is not in conflict with the Commission's Certificate records. Concluding, Staff determines that the public convenience will be promoted by granting the requested territory exchange and recommends the Commission grant the Applications of both FreeState and Westar.²

III. FINDING AND CONCLUSION

6. The Commission adopts Staff's analysis and recommendation of April 27, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that FreeState's Application should be granted, and that the public convenience and necessity will be promoted by issuing FreeState the requested Certificate.

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

A. The Application filed by FreeState Electric Cooperative, Inc. on April 25, 2018 is hereby granted and a Certificate of Convenience and Authority to transact the business of an electric public utility in the territory described in paragraph 2 above is hereby issued.

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. 2017 Supp. 77-529(a)(1).

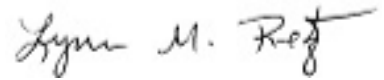
C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders, as it may deem necessary.

² Report and Recommendation, page 2.

BY THE COMMISSION IT IS SO ORDERED AND CERTIFICATED.

Albrecht, Commissioner; Emler, Commissioner; Keen Commissioner

Dated: 05/10/2018

A handwritten signature in cursive script, reading "Lynn M. Retz", written in dark ink.

Lynn M. Retz
Secretary to the Commission

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STATE OF KANSAS



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SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

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

DATE: April 27, 2018

SUBJECT: 18-WSEE-463-CCS
In the Matter of the Application of Westar Energy, Inc. to Cease Transacting the Business of an Electric Public Utility, in portions of Section 25, Township 8 South, Range 21 East, in Leavenworth County, Kansas.

18-FSEE-466-COC
In the Matter of the Application of FreeState Electric Cooperative, Inc. for a Certificate of Convenience and Authority to transact the business of an Electric Public Utility in the State of Kansas. Leavenworth County.

EXECUTIVE SUMMARY:

In Docket 18-WSEE-463-CCS, Westar Energy, Inc. (Westar) is seeking approval of the Commission to cease operating as an electric utility in a small tract of certified territory in Leavenworth County. In Docket 18-FSEE-466-COC, FreeState Electric Cooperative, Inc. (FreeState) 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 April 24, 2018, Westar filed the above-captioned Application to Cease in Docket No. 18-WSEE-463-CCS. On April 25, 2018, FreeState filed a Companion Application for a Certificate in Docket No. 18-FSEE-466-COC.¹

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.²

The statutory standard of review in this matter is whether the public convenience will be promoted by the transaction of the proposed project and by permitting the applicants to transact the business of a common carrier or public utility.³

ANALYSIS:

FreeState was contacted by a residential customer requesting service to a new house and barn. The barn, which has already been constructed, is located on the dividing territory line in-between FreeState and Westar. Because the location of the house will be in FreeStates territory, Westar has agreed to release the West 300 feet of the East 1/2 of the Southwest 1/4, and the West 300 feet of the Southeast 1/4 of the Northwest 1/4 of Section 25, Township 8 South, Range 21 East, in Leavenworth County, Kansas.

Staff has reviewed both Applications and has confirmed the legal descriptions included in both Applications is 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 October 22, 2018.

RECOMMENDATION:

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

¹ EL #39396

² K.S.A. 66-131.

³ K.S.A. 66-131.

CERTIFICATE OF SERVICE

18-FSEE-466-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 05/11/2018.

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Hand Delivered

/s/ DeeAnn Shupe

DeeAnn Shupe