

**Appendix C**

**Transmission Rights Only Certificate of Public Convenience**

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

Before Commissioners: Susan K. Duffy, Chair  
Dwight D. Keen  
Andrew J. French

In the Matter of the Application of The Empire )  
District Electric Company for a Certificate of )  
Public Convenience and Authority to Transact ) Docket No. 20-EPDE-503-COC  
the Business of an Electric Public Utility )  
(Transmission Rights Only) in Portions of )  
Neosho County, Kansas. )

**ORDER GRANTING APPLICATION**

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and records, the Commission makes the following findings:

**I. Background**

1. On September 19, 2019, Neosho Ridge Wind, LLC (Neosho Wind) filed a Notice of Exemption informing the Commission of its choice to opt-out of public utility regulation as allowed by K.S.A. 66-104(e).<sup>1</sup> Neosho Wind built eight miles of 345kV generator lead line to connect the Neosho County Wind Farm to the electric grid. Because Neosho Wind opted out of public utility regulation, the facilities associated with the wind farm are not included as public utility assets. As such, Neosho Wind was not required to file an Electric Line Extension (EL) for the 345kV line with the Commission.

2. On June 1, 2020, The Empire District Electric Company (Liberty-Empire) submitted an Application for a Certificate of Public Convenience and Authority for Transmission

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<sup>1</sup> See Application for Neosho Ridge Wind, LLC, Docket No. 20-NRWE-137-WND, (Sep. 19, 2019) (20-137 Docket). See also Letter and Memorandum Regarding Neosho Ridge Wind, LLC Opt-Out, 20-137 Docket (Sep. 27, 2019).

Rights Only to operate the eight mile 345 kV transmission line built by Neosho Wind.<sup>2</sup> This territory is currently in Twin Valley Electric Co-op, Inc. and Evergy Kansas Central, Inc.’s certificated territories. Liberty-Empire served a copy of its Application upon both Twin Valley Electric Co-op, Inc. and Evergy Kansas Central, Inc.<sup>3</sup> Neither Twin Valley Electric Co-op, Inc. or Evergy Kansas Central, Inc. filed an objection to Liberty-Empire’s request.

3. The legal description of Liberty-Empire’s requested territory for a Transmission Rights Only Certificate is as follows:

NEOSHO COUNTY, KANSAS

TRANSMISSION RIGHTS ONLY:

Liberty-Empire request transmission rights only to operate an approximately eight (8) mile 345kV transmission line that interconnects the Neosho Ridge Wind Farm located in Neosho County, Kansas (Wind Farm) to the electric transmission grid with the origination point at the Wind Farm’s substation located in the S/2 SE/4 of Section 36, Township 29 South, Range 18 East and traversing in a South and East direction through Section 1, Township 30 South, Range 18 East; Section 12, Township 30 South, Range 18 East; Section 7, Township 30 South, Range 19 East; Section 18, Township 30 South, Range 19 East; Section 19, Township 30 South, Range 19 East; Section 30, Township 30 South, Range 19 East; and with a termination point at a substation connected to Evergy Kansas Central, Inc.’s Neosho-to-Caney River 345kV transmission line located in the E/2 SE/4 of Section 31, Township 30 South, Range 19 East, all of the route of the transmission line being located in Neosho County, Kansas.

4. On November 10, 2020, the Commission Staff (“Staff”) submitted a Report and Recommendation (R&R) dated November 6, 2020, recommending the Commission grant Liberty-Empire’s request for a Certificate of Convenience and Authority for Transmission Rights Only in Twin Valley Electric Co-op, Inc. and Evergy Kansas Central, Inc.’s certified territory described in

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<sup>2</sup> Application of Liberty-Empire (Jun. 1, 2020) (Application).

<sup>3</sup> *Id.* at 2.

paragraph 3 above.<sup>4</sup> Staff's R&R is attached hereto as Attachment A and is incorporated into this Order by reference.

## II. Legal Standards and Discussion

5. Pursuant to K.S.A. 66-131, the Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas. The standard for granting a certificate under K.S.A. 66-131 is whether the transaction of the proposed project will promote public convenience.

6. 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. If a retail electric supplier receives Commission approval, RESA allows it to extend distribution or transmission facilities through the territory of another supplier, if such extension is necessary for such supplier to connect with any of its facilities or those of others to serve customers within its own certified territory.<sup>5</sup>

7. Staff reviewed Liberty-Empire's Application and confirmed the legal description included in the Application is accurately depicted on the map attached to the Application.<sup>6</sup> Staff received an electronic map from Liberty-Empire, which shows the path of the proposed line. That map is attached hereto as Attachment B. Staff also confirmed the legal description does not conflict with the Commission's Certificate Records.<sup>7</sup>

8. Based on the foregoing information, and the absence of any objection, the Commission finds that granting Liberty-Empire's Application will promote the public convenience.

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<sup>4</sup> Staff's Report and Recommendation (Nov. 6, 2020) (R&R).

<sup>5</sup> K.S.A. 66-1,173.

<sup>6</sup> *Id.* at 2.

<sup>7</sup> *Id.*

**THEREFORE, THE COMMISSION ORDERS:**

- A. Liberty-Empire's Application is granted pursuant to K.S.A. 66-131.
- B. An updated territory description should be reflected in the Commission's certified territory map upon the issuance of this Order.
- 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).<sup>8</sup>

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

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 11/17/2020



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Lynn M. Retz  
Executive Director

CRM

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<sup>8</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**ATTACHMENT A**

**TO:** Chair Susan K. Duffy  
Commissioner Dwight D. Keen  
Commissioner Andrew J. French

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

**DATE:** November 6, 2020

**SUBJECT:** 20-EPDE-503-COC  
In the Matter of the Application of The Empire District Electric Company for a Certificate of Public Convenience and Authority to Transact the Business of an Electric Public Utility (Transmission Rights Only) in Portions of Neosho County, Kansas.

**EXECUTIVE SUMMARY:**

In Docket 20-EPDE-503-COC, The Empire District Electric Company (Liberty-Empire) requests a Certificate for Transmission Rights Only (TRO). Empire proposes to acquire approximately eight miles of 345kV Transmission Line through the certified territory of Twin Valley Electric Cooperative, Inc. (Twin Valley).

**BACKGROUND:**

On September 19, 2019, Neosho Ridge Wind, LLC (Neosho Wind) filed a Notice of Exemption with the Commission of their decision to opt-out of public utility regulation pursuant to K.S.A. 66-104(e).<sup>1</sup>

As part of the wind farm project, Neosho Wind built eight miles of 345kV generator lead line connecting the Neosho County Wind Farm to the electric grid. Because of Neosho Wind's electing to not include facilities associated with the wind farm as public utility assets, the company was not required to file an Electric Line Extension (EL) for the 345kV generator lead line with the Commission.

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<sup>1</sup> 20-NRWE-137-WND

Neosho Wind has confirmed that Liberty-Empire will assume the operation of the 345kV transmission line on January 12, 2021. At that time, Staff believes the transmission line will become a public utility asset that will need a certificate of convenience.

On June 1, 2020, Liberty-Empire filed the above-captioned Application requesting a Certificate for TRO through a portion of the certified territory of Twin Valley.

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. If a retail electric supplier receives Commission approval, RESA allows it to extend distribution or transmission facilities through the territory of another supplier provided the supplier building through the territory only uses the proposed line to serve its own certificated customers.<sup>2</sup>

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.<sup>3</sup>

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.<sup>4</sup>

### **ANALYSIS:**

Staff has reviewed Liberty-Empire's Application and has confirmed the legal description included in the Application is accurately depicted on the map attached to the Application. Staff contacted Liberty-Empire requesting an electronic map showing the path of the proposed line, which staff received on June 29, 2020.

Staff also confirmed the legal description is not in conflict with the Commission's Certificate records. The legal description is included as Attachment A to this Report and Recommendation.

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

The Commission action date is November 27, 2020.

### **RECOMMENDATION:**

Staff is recommending Liberty-Empire's Application for Certificate in 20-EPDE-503-COC be granted for Transmission Rights Only.

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<sup>2</sup> K.S.A. 66-1,173.

<sup>3</sup> K.S.A. 66-131.

<sup>4</sup> K.S.A. 66-131.

ATTACHMENT A  
Legal Description of Proposed Transmission Line Route  
20-EPDE-503-COC

NEOSHO COUNTY, KANSAS

TRANSMISSION RIGHTS ONLY:

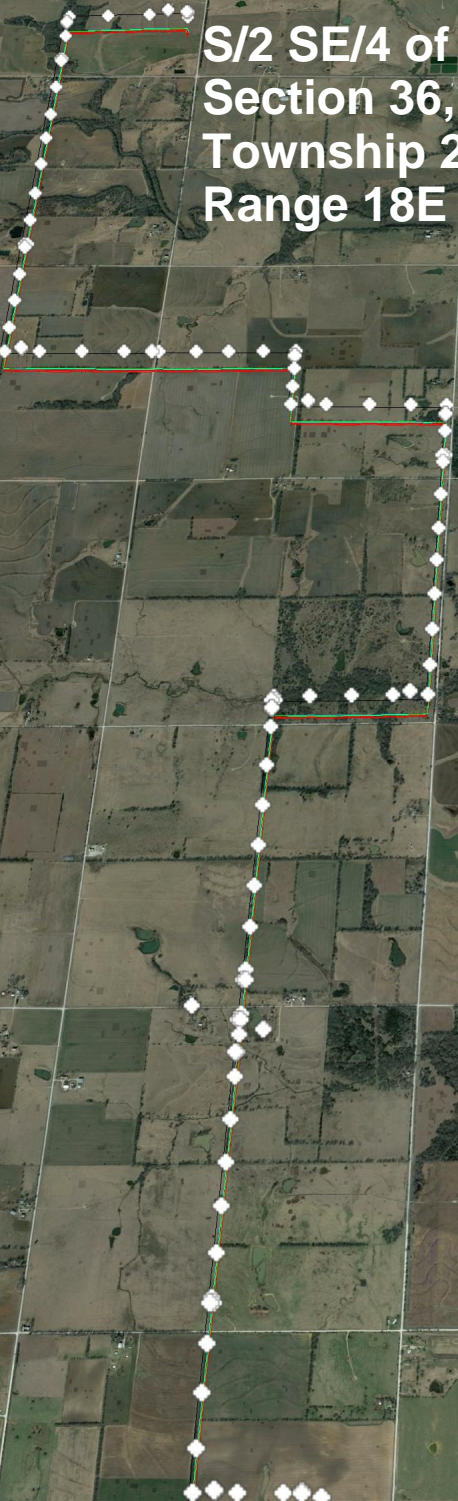
Liberty-Empire request transmission rights only to operate an approximately eight (8) mile 345kV transmission line that interconnects the Neosho Ridge Wind Farm located in Neosho County, Kansas (Wind Farm) to the electric transmission grid with the origination point at the Wind Farm's substation located in the S/2 SE/4 of Section 36, Township 29 South, Range 18 East and traversing in a South and East direction through Section 1, Township 30 South, Range 18 East; Section 12, Township 30 South, Range 18 East; Section 7, Township 30 South, Range 19 East; Section 18, Township 30 South, Range 19 East; Section 19, Township 30 South, Range 19 East; Section 30, Township 30 South, Range 19 East; and with a termination point at a substation connected to Evergy Kansas Central, Inc.'s Neosho-to-Caney River 345kV transmission line located in the E/2 SE/4 of Section 31, Township 30 South, Range 19 East, all of the route of the transmission line being located in Neosho County, Kansas.



Neosho Ridge Wind Farm Substation

S/2 SE/4 of  
Section 36,  
Township 29S,  
Range 18E

Galesburg



Energy Kansas Central, Inc.'s 345 kV Transmission Line  
E/2 SE/4 of Section 31, Township 30S, Range 19E





**CERTIFICATE OF SERVICE**

20-EPDE-503-COC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of

11/17/2020

electronic service on \_\_\_\_\_.

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/S/ DeeAnn Shupe

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DeeAnn Shupe