

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1285E

IN THE MATTER OF THE APPLICATION OF MOUNTAIN VIEW ELECTRIC ASSOCIATION, INC. AND K.C. ELECTRIC ASSOCIATION TO EXCHANGE CERTAIN AREAS IN LINCOLN COUNTY, COLORADO, HEREIN DESCRIBED, IN THEIR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, AND TO AMEND SAID CERTIFICATES.

**DECISION GRANTING APPLICATION
TO TRANSFER PART OF CERTIFICATES
OF PUBLIC CONVENIENCE AND NECESSITY**

Mailed Date: January 17, 2014
Adopted Date: January 15, 2014

I. BY THE COMMISSION

A. Statement

1. On December 6, 2013, Mountain View Electric Association, Inc. (Mountain View) and K.C. Electric Association (K.C.) (collectively Joint Applicants or Parties) filed a joint application for transfer to K.C., a portion of the certified service territory of Mountain View pursuant to 4 *Code of Colorado Regulations* (CCR) 723-1-1303 of the Commission's Rules of Practice and Procedure and Rule 4 CCR 723-3-3002(a)(V) of the Rules Regulating Electric Utilities. Accordingly, the proposed transfer will remove specified territory in Lincoln County, Colorado from the certificated territory of Applicant Mountain View and add the same specified territory to the certificated territory of Applicant K.C. The proposed transfer will also, remove specified territory in Lincoln County, Colorado from the certificated territory of Applicant K.C. and add the same specified territory to the certificated territory of Applicant Mountain View.

2. On December 16, 2013, Mountain View and K.C. filed an amendment to the Application to clarify Paragraph 24 of the Application.

3. The Commission issued notice of the Application to all interested persons, firms, and corporations on December 9, 2013. Mountain View and K.C. noticed this Application by publication in *The Limon Leader*, a newspaper circulated within areas that would be impacted by the Application, on December 12, 2013. No petition to intervene or notice of intervention has been filed, and thus the Application is uncontested. Accordingly, the Application will be determined without a formal hearing in accordance with § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1.

B. Finding and Conclusions

4. Mountain View is a Colorado cooperative corporation engaged in the business of transmission and distribution of electrical energy to customers in its Colorado service territory. Mountain View is a public utility, and is subject to the territorial jurisdiction of this Commission: Mountain View has been granted Certificates of Public Convenience and Necessity (CPCNs) from time to time, commencing with Decision No. 49651, issued February 18, 1958 in Application No. 15811. A copy of Mountain View's Restated Articles of Incorporation is attached to the Application.

5. K.C. is a Colorado cooperative corporation engaged in the business of transmission and distribution of electrical energy to customers in its Colorado service territory. K.C. is a public utility, and is subject to the territorial jurisdiction of this Commission: K.C. has been granted CPCNs from time to time, commencing with Decision No. 31119, issued August 31, 1948 in Application No. 9448-Transfer. A copy of K.C.'s Articles of Incorporation, and every amendment to date, is attached to the Application.

6. The requirement to provide a feasibility study as set forth in Rule 4100(b)(VI) of the Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4 can be satisfied by alternatively utilizing Mountain View's and K.C.'s most recent balance sheets, income statements, and statements of retained earnings filed with the Application. Accordingly, the Commission will grant the request that the financial statements submitted as part of this Application be accepted in lieu of a feasibility study.

7. The portion of the Mountain View certificated territory in Lincoln County that the Joint Applicants seek to have transferred to K.C. is described generally as follows:

- 12.1. All of Townships 10 South, 11 South and 12 South, Range 52 West of the 6th P.M.
- 12.2. All of Townships 10 South and 11 South, Range 53 West of the 6th P.M.
- 12.3. All of Sections 1-6, 10-15 and 23-25 Township 12 South, Range 53 West of the 6th P.M.
- 12.4. Those portions of Sections 16, 22, 26 and 36 in Township 12 South, Range 53 West of the 6th P.M. lying East of the Westerly right-of-way line of the Union Pacific Railroad.
- 12.5. The north half plus that portion of the South half lying East of the Westerly right-of-way line of the Union Pacific Railroad in Section 9, Township 12 South, Range 53 West of the 6th P.M.
- 12.6. The north half of Section 7 and 8, Township 12 South, Range 53 West of the 6th P.M.
- 12.7. All of Sections 1-6 and the North half of Sections 7-12, Township 12 South, Range 54 West of the 6th P.M.
- 12.8. The East half of Section 1 and the Northeast Quarter of Section 12, Township 12 South, Range 55 West of the 6th P.M.

8. The portion of the K.C. certificated territory in Lincoln County that the Joint Applicants seek to have transferred to Mountain View is described generally as follows:

- 11.1. All of sections 1-5, 8-12, 13-17, 20-24, 25-29 and 32-36, in Township 8 South, Range 54 West of the 6th P.M.;

- 11.2. Those portions of sections 1-5 in Township 9 South, Range 54 West of the 6th P.M. north of a line 500 feet south of the Centerline of Lincoln County Road 3H.
- 11.3. Those portions of Sections 8-12, in Township 9 South, Range 54 West of the 6th P.M., north of a line 500 feet south of the Centerline of Lincoln County Road 3H.
- 11.4. All of sections 1-36 in Township 8 South, Range 53 West of the 6th P.M.
- 11.5. All of 2-6 in Township 9 South, Range 53 West of the 6th P.M., north of a line 500 feet south of the Centerline of Lincoln County Road 3H.
- 11.6. Those portions of Sections 7-11 in Township 9 South, Range 53 West of the 6th P.M. north of a line 500 feet south of the Centerline of Lincoln County Road 3H.
- 11.7. The west 500 feet of the north 500 feet Section 12, Township 9 South, Range 53 West of the 6th P.M.
- 11.8. The north half and the west 500 feet of the south half of Section 1, Township 9 South, Range 53 West of the 6th P.M.
- 11.9. The north half of Sections 2-6, Township 9 South, Range 52 West of the 6th P.M.
- 11.10. All of Sections 1-24 and 26-35, Township 8 South, Range 52 West of the 6th P.M.
- 11.11. All of Sections 15-22 and 26-35, Township 11 South, Range 55 West of the 6th P.M.
- 11.12. The Southwest quarter of Section 24, and the West half of Sections 25 and 36, and the South half of Section 23, Township 11 South, Range 55 West of the 6th P.M.
- 11.13. The South 500 feet of Sections 7-10, Township 11 South, Range West of the 6th P.M.

9. K.C. is in a position to be able to serve portions of its certificated territory that have previously been served by Mountain View, and the Parties have reached an agreement, through mediation, to exchange certain portions of their certificated territories and certain facilities in order to provide for more orderly planning and operation of their respective systems

and to eliminate the possibility of future duplication of facilities. Mountain View and K.C. both believe that this mediated agreement is in the public interest.

10. The Joint Applicants filed an amendment on December 16, 2013 clarifying that Mountain View will continue to operate its facilities and serve its existing electric customers in the certified area of the Town of Fountain as provided by Decision No. 59159 on August 28, 1962 in Application No. 19197, but will not extend facilities to serve new or additional customers.

11. In reaching the agreement, maintaining Mountain View's ability to reliably continue to serve areas beyond K.C.'s certificated territory was a primary concern. The Parties then agreed that portions of K.C.'s territory, where Mountain View was the primary electric service provider, and which were necessary to meet the primary concern stated above, should transfer to Mountain View, and the CPCNs of the Parties should be amended accordingly. Mountain View should turn over all rights to serve in the remainder of K.C.'s territory where it had historically served, and Mountain View's facilities and loads in those areas should transfer to K.C. Then the Certificate for certain portions of Mountain View's certificated territory that would then be isolated should transfer to K.C., along with the consumers and facilities in those areas. Finally, K.C. would reimburse Mountain View for the cost of building a new approximately three-mile long single phase tie line in Mountain View's certificated territory to reintegrate Mountain View's system.

12. Pursuant to the Agreement between the Parties, K.C. will pay Mountain View the cost of acquisition of right-of-way and construction of an approximately three-mile long single-phase line to be constructed along Lincoln County Road 20 in Township 13 South, Range 53 West of the 6th P.M. to reintegrate Mountain View's system and

restore reasonable loop service. No other money will change hands pursuant to the Agreement for the exchange of territory, consumers, and facilities.

13. It is anticipated that the exchange will be completed approximately one month after completion of construction of, and payment for, the tie-line described above. Depending on weather and any potential disaster restoration efforts, it is anticipated that this construction will start as soon as possible after approval of the transfer by the Commission; and construction should be completed by July 1, 2014.

14. Mountain View and K.C. state in the joint application that approval of the proposed transfer is not contrary to the public interest. No other person or entity affiliated with either Mountain View or K.C. holds duplicating authority with respect to the proposed service territory transfer area and no other public utilities provide similar service in or near the area involved in the Application.

15. We find that both Mountain View and K.C. have the financial ability and are qualified and competent to conduct the utility operations sought under its Application.

16. The granting of the requested transfer of service territory requested by K.C.'s and Mountain View's CPCNs are in the public interest, and the transfers are therefore granted.

II. ORDER

A. The Commission Orders That:

1. The Application for Transfer of the portions of Mountain View Electric Association, Inc. (Mountain View) and K.C. Electric Association (K.C.) Certificates of Public Convenience and Necessity (CPCNs) pursuant to Commission Rule 4 *Code of Colorado Regulations* (CCR) 723-3-3002(a)(V), is deemed complete.

2. Mountain View and K.C. are authorized to transfer the portions of their CPCNs as legally described in the application, and the adjustment to the respective utility's CPCNs, in certain portions of Lincoln County, Colorado, for transmission and distribution of electrical energy in that area is granted.

3. The request by Mountain View and K.C. to substitute the submitted financial statements as proof of sufficient financial ability to continue to provide utility service as prescribed, in lieu of a feasibility study, as permitted by Rule 3100(b)(VI), 4 CCR 723-3, is granted.

4. The Commission shall retain jurisdiction of this proceeding to the end that it may take such action and enter such orders as may appear necessary to fully effectuate this Decision.

5. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 15, 2014.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners