

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF SHELBY)	
ENERGY COOPERATIVE, INC. FOR A GENERAL)	CASE NO.
ADJUSTMENT OF RATES PURSUANT TO)	2023-00213
STREAMLINED PROCEDURE PILOT PROGRAM)	
ESTABLISHED IN CASE NO. 2018-00407)	

ORDER

On November 6, 2023, Shelby Energy Cooperative Inc. (Shelby Energy) filed a motion, pursuant to KRS 278.400 requesting rehearing of several different issues, more fully described below, contained in the Order entered October 17, 2023. The Attorney General of the Commonwealth of Kentucky, through the Office of Rate Intervention, the only intervenor in the matter, filed no response to the motion.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearing, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”¹

¹ *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

An order can only be unlawful if it violates a state or federal statute or constitutional provision.²

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

MOTION FOR REHEARING

Shelby Energy requested rehearing on the following issues addressed in the Commission's October 17, 2023:

Interest Expense

Shelby Energy requested rehearing for exclusion of known and measurable changes in interest expense, specifically interest on two advances from Rural Utility Service (RUS) of long-term debt from May 2023-August 2023, short-term lines of credit from 2023, and consumer deposits. Shelby Energy argued that the Commission's reason for disallowing known and measurable changes to interest expense was because they "were determined well after the end of the test-year and should not be included." However, Shelby Energy cited to a case where the Commission had allowed long-term RUS debt to be recovered even though it occurred outside the test year.³

² *Public Service Comm'n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm'n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

³ Case No. 2021-00358, *In the Matter of: Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment of Rates and Other General Relief*.

Material Errors in Calculations

Shelby Energy requested rehearing on what it characterized as material errors in the calculation of the interest expense that was excluded from Shelby Energy's rates only if the previous request for rehearing to include the interest expense is denied. Shelby Energy stated that increases in interest expense on long-term debt and increases in consumer deposit interest expense were not considered.

TIER vs. OTIER

Shelby Energy requested rehearing on the revenue requirement increase being based on a 2.0 Times Interest Earned Ratio (TIER) instead of the 1.85 Operating Times Interest Earned Ratio (OTIER) as established in the streamlined procedures. Shelby Energy argued that no mention of the maximum TIER is made in the streamline procedures, that the change costs the cooperative and its members a significant amount of money while also increasing uncertainty and unpredictability of the entire streamlined process, which could have a chilling effect on other cooperatives considering the streamlined process. Shelby Energy also noted that non-utility income amounts are not included in an OTIER calculation.

Insurance Premium Adjustments

Shelby Energy requested rehearing on the adjustments made to the medical insurance premiums of all employees to the Bureau of Labor Statistics (BLS) levels based on the argument that the union employees pay at least 12 percent of the medical premiums, and pursuant to the Order in Case No. 2018-00407, Appendix A, Item 2, an

adjustment is only required if the employee health care insurance premium contribution is zero.⁴

DISCUSSION AND FINDINGS

Interest Expense

Having reviewed the relevant record, the rehearing pleadings, and being otherwise sufficiently advised, the Commission finds that Shelby Energy's request for a rehearing on the issue of interest expense should be granted to further develop the record regarding the appropriate amount of interest expense. The Commission notes that Shelby Energy stated that it included long-term RUS debt of \$4,700,000 in May 2023 and \$2,800,000 in September 2023 because it drew the May 2023 note and intended to draw an additional \$3,000,000 in early September 2023. Shelby Energy's application and rehearing exhibits do not disaggregate long-term debt and the application did not explain how the long-term debt interest amount was determined, only listing "2023" as the pro forma adjustment. The Commission finds that rehearing should be granted to consider the allowance of interest expense for the May 2023 note, as it was executed and the amount known before the application was filed. The Commission further finds that rehearing regarding the September 2023 note should be granted to gather additional information because Shelby Energy has not specified the issuance date, amount of the note, or interest rate. The Commission also finds that rehearing should be granted regarding adjustments to increase interest expenses for the line of credit for rate and principal increases in 2023, to determine the correct amount of long-term interest expense and whether to include the

⁴ Case No. 2018-00407, *A Review of the Rate Case Procedure for Electric Distribution Cooperatives* (Ky. PSC Dec. 20, 2019).

line of credit, because the line of credit was not included in the rehearing exhibits. Shelby Energy referenced that a line of credit was refinanced with long-term debt but did not specify the date of the transaction or the specific note that used for the refinancing.

Material Errors in Calculations

Having reviewed the relevant record, the rehearing pleadings, and being otherwise sufficiently advised, the Commission finds that Shelby Energy's request for a rehearing on the issue of material errors in calculation of the interest expense should be granted to gather more information. The adjustment in the final order inadvertently excluded the line of credit and consumer deposits, which improperly decreased interest expense. However, as discussed above, the appropriate amount of interest expense for the line of credit is unknown.

TIER vs. OTIER

Having reviewed the relevant record, the rehearing pleadings, and being otherwise sufficiently advised, the Commission finds that Shelby Energy's request for a rehearing on the issue of the requested increase being based on a 2.0 TIER should be denied. The streamline procedure only limits the requested increase to a 1.85 OTIER, it does not require the Commission to grant any specific OTIER or TIER amount. The Commission notes that in its last rate case,⁵ Shelby Energy requested rates that would result in a TIER of 1.88.⁶ The margins Shelby Energy will have from a 2.0 TIER are sufficient to operate.

⁵ Case No. 2016-00434, *Application of Shelby Energy Cooperative, Inc. for an Increase in Its Retail Rates* (Ky. PSC July 31, 2017).

⁶ Case No. 2016-00434, Direct Testimony of Debra J. Martin (filed Feb. 1, 2017) at 2.

Insurance Premium Adjustments

Having reviewed the relevant record, the rehearing pleadings, and being otherwise sufficiently advised, the Commission finds that Shelby Energy's request for a rehearing on the issue of adjustments made to the medical insurance premiums of all employees to BLS levels should be granted in part and denied in part. The Commission will grant rehearing in part because the adjustment included union employees, who pay at least 12 percent of their insurance premiums. For the adjustment to non-union employees' premium contributions, the Commission finds that rehearing should be denied. The streamline procedure requires cooperatives to include an adjustment to the BLS average if employee contribution rates are zero, but it does not prohibit the Commission from making further adjustments.


IT IS THEREFORE ORDERED that:

1. Shelby Energy's motion for rehearing is granted in part and denied in part.
2. Shelby Energy's motion for rehearing regarding interest expense is granted.
3. Shelby Energy's request for a rehearing on the issue of material errors in calculation of the interest expense is granted.
4. Shelby Energy's request for a rehearing on the issue of the requested increase being based on a 2.0 TIER is denied.
5. Shelby Energy's request for a rehearing on the issue of adjustments made to the medical insurance premiums of all employees to BLS levels is granted with regard to union employees and denied with regard to non-union employees.
6. A procedural schedule Order to be issued at a later date shall be followed for the processing of this matter on rehearing.


7. The remainder of the October 17, 2023 Order not in conflict with this Order remains in effect.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
NOV 22 2023 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

*L. Allyson Honaker
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 6202
Lexington, KENTUCKY 40509

*Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Michael Moriarty
Shelby Energy Cooperative, Inc.
620 Old Finchville Road
Shelbyville, KY 40065

*Brittany H. Koenig
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 6202
Lexington, KENTUCKY 40509

*Shelby Energy Cooperative, Inc.
620 Old Finchville Road
Shelbyville, KY 40065

*Gregory B Ladd
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Jack Bragg, Jr.
Shelby Energy Cooperative, Inc.
620 Old Finchville Road
Shelbyville, KY 40065

*John Horne
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204