

RECEIVED

NOV 02 2011

PUBLIC SERVICE
COMMISSION

MATHIS, RIGGS & PRATHER, P.S.C.
ATTORNEYS AT LAW
500 MAIN STREET, SUITE 5
SHELBYVILLE, KENTUCKY 40065

C. LEWIS MATHIS, JR.
T. SHERMAN RIGGS
DONALD. T. PRATHER
NATHAN T. RIGGS

TELEPHONE: (502) 633-5220
FAX: (502) 633-0667

E-MAIL: mrp@iglou.com

November 1, 2011

Mr. Jeff Derouen
Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: Shelby Energy Cooperative PSC Case No. 2011-00403

Dear Mr. Derouen:

Please find enclosed for filing with the Commission in the above-referenced case an original and ten copies of Shelby Energy Cooperative, Inc.'s Response to Order.


Please file the original to the record of this action and return the file-stamped copy to me in the enclosed self-addressed, stamped envelope.

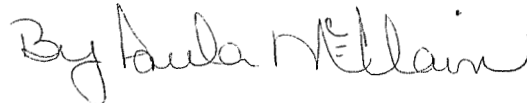
Thank you for your attention to this matter.

Very truly yours,

MATHIS, RIGGS & PRATHER, P.S.C.

By:


Donald T. Prather



DTP/pm
Enclosures

RECEIVED

NOV 02 2011

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SHELBY ENERGY COOPERATIVE, INC.	}	
ALLEGED FAILURE TO COMPLY WITH	}	CASE NO. 2011-00403
KRS 278.020(1)	}	
	}	

SHELBY ENERGY COOPERATIVE, INC'S RESPONSE TO ORDER

Comes Shelby Energy Cooperative, Inc. ("Shelby Energy"), by counsel, in response to the Commission's Order dated October 10, 2011 in the above-styled case, and admits it violated KRS 278.020 by failing to obtain a Certificate of Public Convenience and Necessity ("CPCN") prior to beginning of construction of Shelby Energy's AMI project.

Shelby Energy acknowledges that a jurisdictional utility must obtain Commission approval by filing an application for a CPCN when it undertakes the construction of physical facilities pursuant to KRS 278.020 and 807 KAR 5:001, Section 9(3) with two exceptions. The first is if the facilities being constructed are for "retail electric suppliers for service connections to electric-consuming facilities located within its certified territory". The second is for "ordinary extensions of existing systems in the usual course of business". The Commission has already concluded in its August 3, 2011 Order entered in the Work

Plan Case No. 2010-00244 that construction of the AMI project does not fit within either of these two exceptions.

Shelby Energy has requested an Informal Conference with Commission Staff to discuss issues related to this case, including clarifications on the exceptions contained KRS 278.020(1) and the need to file for work necessitated by unforeseen events occurring after approval of a Work Plan. Shelby Energy has not been able to find any documentation relating to expenditure caps or limits on "ordinary service extensions" for the purpose of either appropriately filing applications for amendments to an approved Work Plan or new CPCN application.

In making any determination relating to this investigation, Shelby Energy would ask that the Commission consider the following factors:

1. Shelby Energy has requested PSC approval of its past work plans. It has never before been cited for beginning any work requiring a CPCN prior to receiving PSC approval.

2. While the request for a CPCN for the AMI project was not filed prior to beginning construction, the failure to file was not a willful disregard of the statute or Commission Order, but was merely an oversight.

3. Shelby Energy has adopted clear job descriptions and a detailed process schedule for preparation of work plans to insure that all required filings are handled in an appropriate and timely manner in the future. Copies of excerpts from the

applicable job descriptions and the process schedule are attached to this response with the new job description language circled.

4. The time frame in question during which Shelby Energy's oversight occurred, namely from Shelby Energy's Board approval of the AMI project on December 17, 2009 through the commencement of the AMI system installation on October 24, 2010, took place during a period of unusual transition at Shelby Energy.

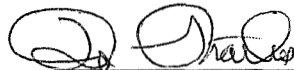
The Commission staff is aware, first hand, of the many challenges that Shelby Energy has faced before, during and after the period of time above along with the factions and elements that promoted and contributed to a majority of the issues. Shelby Energy does not use this as an excuse but rather an explanation of why activities concerning the construction work plan did not proceed in the normal manner.

Shelby Energy does not feel it can provide an answer that would be acceptable to the Commission as to why the engineering team and consulting engineer at that time, with seventy-plus years of experience in engineering and preparing work plans between the team members, failed to realize a CPCN was needed for the AMI system and didn't follow the regular and timely process that has been followed in the past.

Shelby Energy acknowledges that it failed to include the AMI system in its July 23, 2010 work plan filing in Case No. 2010-00244, and that it began installation work on the AMI system

on October 4, 2010 without obtaining a CPCN. The lack of filing was not willful in nature, nor was it an intentional disregard of KRS 278.020 or the reference in the Commission's July 27, 2010 Order in Case No. 2009-00410. Shelby Energy respects the position of the Commission, and intends to comply with all Commission orders, as well as with all applicable statutes.

Respectfully submitted,



Donald T. Prather
Mathis, Riggs & Prather, P.S.C.
500 Main Street, Suite 5
Shelbyville, Kentucky 40065
Phone: (502) 633-5220
Fax: (502) 633-0667
Attorney for Shelby Energy
Cooperative, Inc.

CERTIFICATE OF SERVICE

I, Donald T. Prather, certify that on November 1, 2011 the original and 10 copies of the foregoing Response to Order were sent by Federal Express to:

Jeff Derouen, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602



Donald T. Prather

**SHELBY ENERGY COOPERATIVE
POSITION DESCRIPTION**

JOB TITLE: Manager of Engineering **LOCATION:** Engineering
FLSA STATUS: Exempt **EEO CODE:** 01-A
REPORTS TO: VP of Operations & Engineering **NRECA JOB CODE:** 16C

GENERAL SUMMARY:

Under general supervision of the VP of Operations & Engineering, the primary responsibility is to manage, direct, coordinate and control the design and quality of the distribution facilities necessary to provide the safest and most efficient and reliable delivery of service consistent with sound engineering practices. This includes providing reliable metering services that take in testing, installation and other various functions.

ESSENTIAL DUTIES AND TASKS:

1. Manage and direct an engineering and technical support staff, addressing conflicts and issues as they occur.
2. Manage and direct information technology functions and staff.
3. With assistance of engineering and other employees accountable for preparing multi-year construction work plans. Work directly with system engineer and assist with appropriate filings to obtain RUS approval and the Kentucky Public Service Commission Certificate of Public Convenience and Necessity (CPCN) prior to construction of plant. Preparation of the CWP will require Financial Forecasting coordination with the accounting and finance department of the Cooperative.
4. Learn and remain current about the Cooperative's service territory, facilities and system design.
5. Learn and remain current about Kentucky Public Service Commission (PSC) rules and regulations along with those of the Cooperative including established policies and procedures.
6. Learn and remain current about RUS standards and bulletins relating to engineering, loans, contracts, construction work plan coding and other requirements.
7. Monitor construction projects to assure compliance with NEC, NESC, RUS and Cooperative requirements.

**SHELBY ENERGY COOPERATIVE
POSITION DESCRIPTION**

JOB TITLE: Vice President of Operations & Engineering **LOCATION:** Operations & Engineering
FLSA STATUS: Exempt **EEO CODE:** 01-A
REPORTS TO: President & CEO **NRECA JOB CODE:** 16A

GENERAL SUMMARY:

Direct engineering, operations, safety, and maintenance functions and department personnel, in the design of the optimum electric system consistent with RUS requirements, safe practices, current regulations, codes, and sound engineering, construction, and maintenance principals that produce quality, effective and efficient electric service to our customers. Maintain and enhance key accounts program. Supervise and direct engineering and construction personnel and provide overall direction and control.

Provide leadership and direction which will prompt high morale, job satisfaction, and team effort. Maintain excellent communications and cooperative behavior with all departments and areas of the Cooperative.

Keep President & CEO informed of what is happening in assigned areas of responsibility with routine updates. To inform the President & CEO of concerns, emergencies, and /or cooperative news while the CEO is away from the office.

ESSENTIAL DUTIES AND TASKS:**A. Electric System Planning:**

1. Direct preparation of a Long-Range Plan for the orderly development of the electric system while analyzing various alternatives to determine the best possible plan.
2. Assist East Kentucky Power Cooperative in the preparation of Power Requirement Studies.
3. Develop system protection studies to optimize protection of the system, customers, and minimize outages. Prepare and maintain outage analysis reports.
4. Accountable for directing the timely preparation of Construction Work Plans. Responsible for verifying appropriate filings are prepared to obtain RUS approval and the Kentucky Public Service Commission Certificate of Public Convenience and Necessity (CPCN) prior to construction of plant. Preparation of the CWP will require Financial Forecasting coordination with the accounting and finance department of the Cooperative.
5. Develop and administer a comprehensive Right of Way plan for the cooperative. This plan should also consider the use of herbicides and other alternative solutions.

SHELBY ENERGY COOPERATIVE

KY 30 Shelby

Shelbyville, Kentucky

YYYY ~ YYYY Construction Work Plan

Date: _____

Process Schedule for Preparation of Construction Work Plan

Step	Process	Employee Responsible for Process *	Projected Completion **	Date Complete	Employee Certification (Initial)
1	Meet with CEO and Staff to Discuss Plan Outline		Week 01		
2	Meet with RUS GFR to Discuss Plan Details / Guidelines		Week 01		
3	Gather County and Other Agency Comprehensive Plans		Week 02		
4	Discuss Specific System Issues w / Operations		Week 04		
5	Develop and Run Engineering Models per Current Load Forecast		Week 08		
6	Examine CWP Engineering Analysis Results for Validity		Week 09		
7	Develop CWP Recommendations		Week 13		
8	Submit "Letter of Intent to File" for CWP CPCN to PSC		Week 14		
9	Prepare Historical and Projected Cost Data		Week 15		
10	Meet with RUS GFR to Discuss Historical / CWP Costs		Week 15		
11	CEO and Staff Final CWP Budget Consideration		Week 17		
12	Review / Obtain Final Approval for CWP with RUS GFR		Week 17		
13	Prepare Board of Directors CWP Exec Summary		Week 18		
14	Board Presentation / Approval Resolution		Week 19		
15	Develop / File Application for CPCN with the KY PSC		Week 20		
16	Submit CWP to RUS Washington, D.C. (Inc. BER)		Week 20		
17	Await Final RUS Washington Comments on CWP / BER et al.		Target		
18	Submit Final RUS Washington CWP Approval to PSC		Target		
19	Await Order on CWP CPCN from PSC		Target		
Final	Begin Construction Upon Receipt of PSC Order for CWP CPCN				

RUS: Rural Utilities Service

GFR: General Field Representative for RUS

BER: RUS-Required "Borrowers Environmental Reports" that Certifies CWP will have minimum impact

CWP: Construction Work Plan

CPCN: Certificate of Public Convenience and Necessity

notes:

(*) Employee responsibilities will be assigned prior to beginning the CWP

(**) The above schedule is subject to change based on the flow of work after beginning the CWP