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David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

February 17, 2012

Mr. Jeff Derouen
Executive Director
Public Service Commission
P. O. Box 615
Frankfort, KY 40602

Re: Shelby Energy Cooperative, Inc.
Case No. 2011-00403

Dear Mr. Derouen:

Attached hereto is the Stipulation of Facts and Settlement Agreement entered into by Shelby Energy Cooperative and Staff. Please bring this document to the Commission's attention for its review and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Richard G. Raff".

Richard G. Raff
Assistant General Counsel

RGR/kar
Enclosure

cc: Donald T. Prather, Esquire

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated October 10, 2011, the Commission initiated this proceeding to determine whether Shelby Energy Cooperative, Inc. ("Shelby Energy") should be subject to the penalties prescribed in KRS 278.990 for allegedly violating KRS 278.020(1) by beginning construction of Advanced Metering Infrastructure ("AMI"), which was a project included as an amendment to its 2010-2014 Construction Work Plan ("CWP"), without first obtaining a Certificate of Public Convenience and Necessity ("CPCN").

On November 2, 2011, Shelby Energy filed a response to the Commission's October 10, 2011 Order. Shelby Energy acknowledged that it commenced construction of its AMI project before obtaining a CPCN, but noted that it has historically requested approval of work plans and has not previously been cited for beginning construction of work plan projects prior to receiving a CPCN. Further, Shelby Energy maintained that its violation was not willful in nature and was not an intentional disregard of KRS

278.020 or the Commission's July 27, 2010 Order in Shelby Energy's last rate case, Case No. 2009-00410¹.

Shelby Energy also filed a request for an informal conference, which was subsequently held at the Commission's offices on November 15, 2011. Discussions during the informal conference between Shelby Energy and Commission Staff resulted in the following Stipulation of Facts and Settlement Agreement ("Stipulation"), which is submitted for the Commission's consideration in rendering its decision:

1. Shelby Energy acknowledges that a CPCN should have been obtained, but was not, before beginning construction of its AMI, which was one of the projects contained in its 2010-2014 CWP.

2. Shelby Energy has recently developed and adopted internal procedures to ensure that future construction work plans will be filed with the Commission in a timely manner and that construction does not begin on projects before the Commission issues a CPCN. These procedures include the establishment of a detailed checklist for preparing construction work plans, filing for a CPCN, and receiving a CPCN before construction begins. In addition, Shelby Energy has supplemented the job descriptions in its employee manual to include specific responsibilities for its engineering personnel relating to the development of construction work plans and obtaining necessary regulatory approvals. Shelby Energy's new checklist for processing construction work plans and its revised employee job descriptions were attached to its response filed on November 2, 2011, and are attached hereto as Exhibit A.

¹ Case No. 2009-00410, Application of Shelby Energy Cooperative, Inc. for an Adjustment of Rates (Ky. PSC Jul. 27, 2010).

3. Shelby Energy agrees to pay the amount of \$2,000.00 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's October 10, 2011 Order as to whether Shelby Energy should be assessed penalties under KRS 278.990 for a willful violation of KRS 278.020. The Commission's acceptance of this Stipulation shall not be construed as a finding of a willful violation of any Commission statute or order.

4. In the event that the Commission does not accept this Stipulation in its entirety, Shelby Energy and Commission Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions contained herein shall be binding upon the parties thereto, used as an admission by Shelby Energy of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the October 10, 2011 Order, or otherwise used as an admission by either party.

5. This Stipulation is for use only in Commission Case No. 2011-00403, and neither party hereto shall be bound by any part of this Stipulation in any other proceeding, except that this Stipulation may be used in any proceeding by the Commission to enforce the terms of this Stipulation or to conduct a further investigation of Shelby Energy's service, and Shelby Energy shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. Shelby Energy and Commission Staff agree that the foregoing Stipulation is reasonable for the purpose of resolving all issues in Commission Case No. 2011-00403, is in the public interest, and should be adopted in its entirety by the Commission.

If so adopted by the Commission, Shelby Energy agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures this 13 th day of February, 2012.

Shelby Energy Cooperative, Inc.


Title President & CEO

Kentucky Public Service Commission


Richard G. Raff