

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF SHELBY ENERGY	)	
COOPERATIVE, INC., FOR AUTHORIZATION	)	
TO EXECUTE MORTGAGE AND SECURITY	)	
AGREEMENT TO USA RURAL UTILITIES	)	CASE NO.
SERVICE AND NATIONAL RURAL UTILITIES	)	2018-00093
COOPERATIVE FINANCE CORPORATION TO	)	
SECURE DEBT FOR \$22,319,000.00 FROM THE	)	
FEDERAL FINANCING BANK	)	

ORDER

On March 7, 2018, Shelby Energy Cooperative, Inc. (“Shelby Energy”) tendered an application seeking Commission approval to execute notes to the Rural Utilities Service (“RUS”) and the National Rural Utilities Cooperative Finance Corporation (“CFC”) with a maximum debt limit of \$200 million. By letter dated March 20, 2018, Shelby Energy was notified that its application was rejected due to certain filing deficiencies. After filing an amended application, the deficiencies were cured and Shelby Energy’s amended application was deemed filed on March 21, 2018.

Shelby Energy intends to borrow \$22,319,000 from the Federal Financing Bank (“FFB”) at a variable rate of interest for a term of 35 years.<sup>1</sup> The funds will be used to finance construction of the projects contained in Shelby Energy’s 2018-2021 Construction Work Plan.<sup>2</sup> Shelby Energy is requesting authority to execute a Restated Mortgage and

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<sup>1</sup> Application at 2.

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

Security Agreement (“Restated Mortgage”),<sup>3</sup> and a Uniform Commercial Code Financing Agreement (“UCC Financing Statement”)<sup>4</sup> between Shelby Energy, RUS, and CFC.

Shelby Energy must also execute a mortgage note<sup>5</sup> and loan contract<sup>6</sup> with RUS, but explained that Shelby Energy is not requesting authorization to execute the promissory note and loan contract because RUS is an agency of the federal government with supervisory authority over evidences of indebtedness. Pursuant to KRS 278.300(10) any evidences of indebtedness that are subject to the supervisory authority of a federal agency are exempt from Commission approval. Shelby Energy further explained that it is requesting approval of the Restated Mortgage and UCC Financing Statement because CFC is a party to those documents. CFC is neither controlled by, nor an agency of, the federal government and, consequently, the exemption set forth in KRS 278.300(10) is not applicable to CFC.

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. RUS is an agency of the federal government with supervisory authority over evidences of indebtedness and, under KRS 278.300(10), the RUS promissory note and loan contract with RUS are exempt from Commission approval.

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<sup>3</sup> Application Exhibit 6.

<sup>4</sup> *Id.* Exhibit 8.

<sup>5</sup> *Id.* Exhibit 2.

<sup>6</sup> *Id.* Exhibit 3.

2. The Restated Mortgage reflects existing debt Shelby Energy owes CFC that was previously approved by the Commission<sup>7</sup> and does not involve the issuance of new debt by Shelby Energy to CFC.

3. The Restated Mortgage and UCC Financing Agreement in favor of RUS and CFC are for a lawful object within the corporate purposes of Shelby Energy, are necessary and appropriate for and consistent with the proper performance by the utility of its service to the public, will not impair its ability to perform that service, are reasonable, necessary, and appropriate for such purposes, and should be approved.

IT IS THEREFORE ORDERED that:

1. Shelby Energy is authorized to execute the Restated Mortgage and UCC Financing Agreement in favor of RUS and CFC in accordance with the terms and conditions described in Shelby Energy's application as amended.

2. Within ten days of the execution of the Restated Mortgage and UCC Financing Agreement, Shelby Energy shall file with the Commission one copy in paper medium and an electronic version of each document.

3. Any documents filed in the future pursuant to ordering paragraph 2 shall reference this case number and be retained in the utility's general correspondence file.

4. Nothing contained herein shall be deemed a warranty or finding of value of securities or financing authorized herein on the part of the Commonwealth of Kentucky or any agency thereof.

5. This case is closed and removed from the Commission's docket.

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<sup>7</sup> Application, Exhibit 9 at 2.

By the Commission



ATTEST:

  
Executive Director

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