



Ernie Fletcher
Governor

Mark David Goss
Chairman

LaJuana S. Wilcher, Secretary
Environmental and Public
Protection Cabinet

Christopher L. Lilly
Commissioner
Department of Public Protection

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Teresa J. Hill
Vice Chairman

September 13, 2006


Ms. Beth O'Donnell
Executive Director
Public Service Commission
Post Office Box 615
Frankfort, KY 40602

Re: Shelby Energy Cooperative, Inc.
Case No. 2006-00098

Dear Ms. O'Donnell:

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

Sincerely yours,


Richard G. Raff
Staff Attorney

RGR/v
Enclosure

cc: Mr. Donald T. Prather
Mathis, Riggs & Prather, P.S.C.
500 Main Street, Suite 5
Shelbyville, KY 40065

Dudley Bottom, Jr.
Shelby Energy Cooperative, Inc.
620 Old Finchville Road
Shelbyville, KY 40065

Honorable Donald T. Prather
Attorney At Law
Mathis, Riggs & Prather, P.S.C.
Attorneys at Law
P. O. Box 1059
500 Main Street, Suite 5
Shelbyville, KY 40066-1059

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SHELBY ENERGY COOPERATIVE, INC.)	
_____)	CASE NO. 2006-00098
)	
ALLEGED FAILURE TO COMPLY)	
WITH KRS 278.042)	

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order June 8, 2006, 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 eight probable violations of KRS 278.420, which requires an electric utility to construct and maintain its plant and facilities in accordance with the most recent edition of the National Electrical Safety Code, which is the 2002 Edition ("NESC"). The eight probable violations cited by the Commission's June 8, 2006 Order are as follows:

1. NESC, Section 42, Rule 420.C.4, by the employees' failure while working in the vicinity of energized lines to consider all the effects of their actions and to take into account their own safety, the safety of other employees, the property of others, and the public in general;
2. NESC, Section 42, Rule 420.D, by the employees' failure to consider electric supply lines to be energized, unless they are positively known to be de-energized, by failing to perform preliminary tests to determine existing conditions, and by failing to know the operating voltages of lines before working on or in the vicinity of energized parts;
3. NESC, Section 42, Rule 420.H, by the employee's failure to use the personal protective equipment,

protective devices, and the special tools provided for the work;

4. NESC, Section 42, Rule 422.C.5, by the employees' failure, while working on or in the vicinity of equipment or lines exposed to voltages higher than those guarded against by the safety appliances provided, to take steps to be assured that the equipment or lines on which the employees are working are free from dangerous leakage or induction or have been effectively grounded;

5. NESC, Section 44, Rule 441.A.1, by the employees' failure to maintain the minimum distance to exposed parts that operate at the voltages listed in NESC Table 441-1 or Table 441-4, when the line or part is not de-energized and grounded in accordance with NESC, Rule 444.D;

6. NESC, Section 44, Rule 444.D, by the employee's failure to make protective grounds or verify that adequate grounds have been applied on the disconnected lines, and by the failure to place grounds at each side of, or at, the work location;

7. NESC, Section 44, Rule 444.E.1, by the employee proceeding to work on the lines before first de-energizing the lines and placing grounds as required by NESC Rule 444.D; and

8. NESC, Section 44, Rule 445.A.3, by the employee's failure to test for voltage the previously energized parts that are to be grounded, and by the employee's failure to keep every part of the body at the required distance by using insulating handles of proper length or other suitable devices.

The Commission's Order arose out of an incident which occurred on February 8, 2006 when an employee of Dobson Power Line Construction, Inc. ("Dobson"), a contractor hired by Shelby Energy to perform maintenance work on Shelby Energy's electric plant and facilities, was working on a pole preparing to cut a dead end on an old line near 4505 Peck Pike in Trimble County, Kentucky. The line was thought to be de-energized but, in fact, was not and a Dobson employee was fatally injured.

On July 6, 2006, Shelby Energy filed a response to the Commission's June 8, 2006 Order. Shelby Energy's response denied four of the NESC violations cited by the

Commission. Shelby Energy admitted the other four NESC violations, but claimed that the cited violations were duplicative since they arose under overlapping NESC rules and that there were really only a total of two NESC violations. In response to Shelby Energy's request for an informal conference, the Commission suspended the hearing that had been set for August 9, 2006 and scheduled an informal conference in its place.

As a result of discussions held during the informal conference, Shelby Energy and the Commission Staff submit the following Stipulation of Facts and Settlement Agreement ("Stipulation") for the Commission's consideration in rendering its decision in this proceeding:

1. Shelby Energy agrees that the Staff's Incident Investigation Report ("Report"), Appendix A to the Commission's June 8, 2006 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.

2. Shelby Energy agrees to perform safety audits once a month on each Shelby Energy crew and each contractor crew. Written summaries of each audit shall be maintained by Shelby Energy, and one Shelby Energy employee shall be designated as responsible for ensuring that the monthly audits are performed and that the written records are maintained. Shelby Energy has also submitted a copy of a memo issued by Dobson to all of its employees emphasizing the need to work on all conductors as if they were energized if they are not grounded and providing that violations of this rule will result in an employee's dismissal on the first offense.

3. Shelby Energy agrees to pay a civil penalty in the amount of \$5,000 in full settlement of this proceeding. The scope of this proceeding is limited by the

Commission's June 8, 2006 Order to whether Shelby Energy should be assessed penalties under KRS 278.990 for willful violations of the NESC rules as made applicable under KRS 278.042. Neither the payment of the civil penalty, nor any other agreement contained in this Stipulation, shall be construed as an admission by Shelby Energy of a willful violation of any Commission regulation or NESC rule, nor shall it be construed as an admission by Shelby Energy of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, nor shall the Commission's acceptance of this Stipulation be construed as a finding of a willful violation of any Commission regulation or NESC rule.

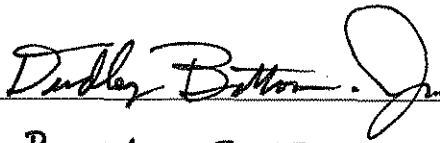
4. In the event that the Commission does not accept this Stipulation in its entirety, Shelby Energy and Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions contained herein shall be binding upon the parties hereto, 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 Report, or otherwise used as an admission by either party.

5. This Stipulation is for use in Commission Case No. 2006-00098, 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 Staff agree that the foregoing Stipulation is reasonable, 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.

Dated this 6th day of September, 2006.

SHELBY ENERGY COOPERATIVE, INC.

BY 
Title President & CEO

STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION

BY 
Richard G. Raff, Staff Attorney