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Governor

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Environmental and Public
Protection Cabinet

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David L. Armstrong
Chairman

John W. Clay
Vice Chairman

June 3, 2008

PARTIES OF RECORD

Re: Case No. 2008-00069
Shelby Energy Cooperative, Inc.

Attached is a copy of the memorandum which is being filed in the record of the above-referenced case. If you wish to file any comments regarding the contents of the memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact Rick Bertelson at 502/564-3940, Extension 260.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Stumbo".

Stephanie Stumbo
Executive Director

RB:v

INTRA-AGENCY MEMORANDUM
KENTUCKY PUBLIC SERVICE COMMISSION

TO: File: Case No. 2008-00069

FROM: Rick Bertelson, Team Leader

DATE: June 2, 2008

RE: Shelby Energy Cooperative, Inc.
Alleged Failure to Comply with KRS 278.042

Pursuant to the Commission's May 23, 2008 Order, an informal conference was held in this matter on May 29, 2008. A copy of the conference attendance list is attached. In addition to Commission Staff, representatives and counsel for Shelby Energy Cooperative, Inc. ("Shelby Energy") were in attendance. There were no representatives of Shelby Energy's contractor, Dobson Power Line Construction Co. ("Dobson Construction"), in attendance.

The purpose of the conference was to discuss issues related to the show cause Order issued by the Commission on March 7, 2008, and the show cause Order issued by the Commission on April 30, 2008 in Case No. 2008-00147.¹ In the March 7 Order, the Commission named four violations of the National Electrical Safety Code ("NESC") stemming from an accident on November 12, 2007 in which Cosby Carroll, a lineman with Dobson Construction, was fatally injured. In the April 30 Order, the Commission named two violations of the NESC documented by Commission Staff on November 13, 2007 in an inspection of Dobson Construction following Staff's investigation of the Cosby Carroll accident site that day.

The conference began with a review of actions taken by Shelby Energy since the November 12, 2007 accident. Shelby Energy has taken a number of actions to improve oversight of its company and contract construction work crews. Among the actions are partnering with another cooperative, Owen Electric Cooperative, to do independent safety audits of Shelby Energy and its contract construction crews on a monthly basis. Shelby Energy has also hired a full-time Safety and Loss Control Coordinator. After receiving additional training, the Safety and Loss Control Coordinator will be in charge of all future safety reviews and safety training for Shelby Energy. The Safety and Loss Control Coordinator position will report directly to the CEO of Shelby Energy.

In the course of discussion, Shelby Energy stated that it expected the Commission to assess the maximum \$2,500 civil penalty for each of the six NESC

¹ Case No. 2008-00147 was consolidated with Case No. 2008-00069 pursuant to the Commission's May 21, 2008 Order.

violations (a total of \$15,000). Shelby Energy stated that the civil penalties will be passed through to Dobson Construction through a provision in their contract.

Commission Staff asked a number of additional questions of Shelby Energy. Specifically, Commission Staff inquired about Shelby Energy's interpretation of its November 21, 2006 Rural Utility Service ("RUS") with Dobson Construction. Shelby Energy believes that the contract does not have a specific "termination clause," and, therefore, it cannot terminate the contract, even after the fatal accident and the subsequent discovery of other safety violations on the day after the accident. Commission Staff explained that they interpret Article II, Section 6(b), of the RUS contract to allow Shelby Energy to dismiss any member of the Dobson Construction crew for safety reasons, including, if necessary, the entire Dobson Construction crew. Commission Staff stated that they will recommend that the Commission make a finding in the settlement agreement adopting this interpretation of the RUS contract.

With regard to the status of Dobson Construction, Shelby Energy informed Commission Staff that it is preparing a letter informing Dobson Construction that, due to financial considerations, it is delaying all further construction on all remaining projects under the November 21, 2006 RUS contract. Shelby Energy further stated that it does not intend to hire Dobson Construction again after their contract expires in November 2008.

Commission Staff also stated to Shelby Energy that they will recommend to the Commission that a focused management audit of Shelby Energy be performed pursuant to KRS 278.230. Shelby Energy stated that it would cooperate if an audit is ordered by the Commission.

The informal conference continued with negotiations between the parties as to remedial measures to be instituted by Shelby Energy. The parties reached a verbal agreement, which will be memorialized in a joint stipulation of facts and settlement agreement. Commission Staff stated that the Commission must approve all settlement agreements. Commission Staff will draft the proposed agreement and will send it to Shelby Energy's counsel for review. Once a final version is completed and signed, the agreement will be sent to the Commission for review. If approved by the Commission, a final Order will be issued stating that the Commission adopts the settlement agreement.

The conference was then adjourned.

cc: Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

SHELBY ENERGY COOPERATIVE, INC.)
_____))
ALLEGED FAILURE TO COMPLY)
WITH KRS 278.042)

CASE NO. 2008-00069

and

SHELBY ENERGY COOPERATIVE, INC.)
_____))
ALLEGED FAILURE TO COMPLY)
WITH KRS 278.042)

CASE NO. 2008-00147

=====
May 29, 2008 Informal Conference
=====

Please sign in:
NAME

REPRESENTING

Rick Beftelson

PSC - Legal

STEVE KINGSOLVER

PSC - ENG.

Jeffrey C Moore

PSC - Eng.

Jason GINN

Shelby Energy / Safety & Loss Control

Gay Tennill

Shelby Energy - Exec + Admin. Asst.

R. WAYNE ANDERSON

SHELBY ENERGY V-P & ENGR. MGR.

Don Prather

Shelby Energy - Attorney

Debbie Martin

Shelby Energy - Pres + CEO

DAVID MARTIN

Shelby Energy - OPERATIONS MANAGER

JOHN SHUPP

PSC - ENGINEERING

