

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Shelby Energy Cooperative, Inc.

Alleged Failure to Comply
with KRS 278.042

CASE NO. 2008-00069

**SHELBY ENERGY COOPERATIVE, INC.'S RESPONSE TO
COMMISSION STAFF'S ORDER DATED MARCH 7, 2008**

Comes Shelby Energy Cooperative, Inc. ("Shelby Energy"), by counsel, and for its Response to the Commission Staff's Order dated March 7, 2008 the "Order" states as follows:

1. Shelby Energy admits the factual allegations contained in the Electric Utility Personal Injury Accident Injury Report dated December 3, 2007, attached as Appendix A to the Order.

2. There is no evidence establishing that NESC § 42, Rule 420-C-4 was violated. No one knows or can prove what was in the mind of the deceased employee, Cosby Carroll ("Carroll") of Dobson Power Line Construction, Inc. ("Dobson"). No employee other than Carroll was involved in his decision whether or not to attach his safety harness to the bucket. Carroll knew or should have known his actions

did not comply with NESC § 42, Rule 420.K-1, K-4 and K-5. Considering the effects of his actions includes the conscious decision to take a chance, even though that is an ill-advised and deadly decision.

3. Carroll violated NESC § 44, Rule 420-K-1 because he did not attach himself by any fall protection system while at the work site in an aerial device.

4. Carroll violated NESC § 44, Rule 420-K-4 because Carroll did not attach the safety harness he was wearing to the aerial bucket in which he was working.

5. Carroll violated NESC § 44, Rule 420-K-5 because regardless of what was in his mind, he could not have determined that all components of his fall protection system were properly engaged, nor that he was secured in his safety harness by attachment of that harness to the aerial bucket in which he was working.

The governmental oversight agency having direct supervision of Dobson's employees, including Carroll, has apparently concluded there were no OSHA violations involved in the Carroll death situation. See Exhibit A attached hereto. Shelby Energy expects to obtain and file in the record of this case a copy of the full OSHA report. If in fact OSHA did not find any violation, then it appears the Commission's better course of action in this case would be

to involve OSHA and attempt to either change OSHA's regulations, the statutes governing OSHA, or OSHA's procedures to include requiring workers and their employers to follow the National Electric Safety Code.

Shelby Energy has diligently followed the requirements set forth in the Commission's order dated November 7, 2006 in case No. 2006-00098 by conducting safety audits at least once a month on each Shelby Energy crew and each contracted crew. Written records of those audits have been maintained. Copies of those inspection reports and written audits will be supplied upon request by the Commission. Those safety audits of both Shelby Energy's crew and each contractor's crew have disclosed no prior safety violations since these safety audits began.

After the Carroll accident, Shelby energy's new President and CEO, Debbie Martin, began a complete review of Shelby Energy's safety program. Her concerns were heightened by two additional matters involving Dobson. First was the violations of the NESC observed on November 13, 2007, the very next day after the Carroll fatal accident, by PSC inspector Jeff Moore. This was the subject of PSC Case No. SHELBYEC-F-111307. Shelby Energy's Response in that case is attached hereto as Exhibit B.

Second was an allegation by a member of the public, Ron Simmons, which came to the attention of Ms. Martin by chance. The allegations initially made by Mr. Simmons include the fact that a worker was working in the bucket standing on something, plus having one foot on the edge of the bucket, that the bucket truck was moved from one pole to another with the boom still extended fully upward and that there were no flagmen to allow vehicles to safely pass the work site on the narrow country road. An interview of Mr. Simmons was conducted on November 21, 2007. During that interview Mr. Simmons was much more vague and uncertain regarding what he had seen. He conceded he couldn't be sure whether the worker in the bucket was wearing a safety vest or not because he was not close enough to see if one was being worn beneath the worker's jacket, he admitted he did not or could not tell whether the bucket truck had traveled six feet or twenty feet, the bucket was not fully extended when he saw the truck move, but was also not completely down, that the worker was in the bucket at all times, and that there was a yellow light and strobe truck flashing prior to the beginning of the construction zone and that traffic tends to move slowly on that road. Based upon this interview, it was concluded there was insufficient evidence

to prove additional violations of the NESC; however, Ms. Martin provided written notice to Dobson that effective immediately all Dobson projects for Shelby Energy must be conducted in accordance with the NESC. A copy of Ms. Martin's letter dated November 27, 2007 is attached hereto as Exhibit C.

Ms. Martin's review has resulted in the following changes in Shelby Energy's safety program:

- In order to ensure the monthly safety audits are thorough and unbiased, since approximately January 1, 2008, special monthly safety audits of both Shelby Energy and outside contractor personnel have been conducted by Tony Dempsey of Owen Electric Company, in addition to the regular audits by the Operations Department of Shelby Energy.
- Additional quarterly safety audits of both Shelby Energy and outside contractor personnel are being conducted by Wayne Anderson, P.E., who is Vice President and Manager of Engineering. The audits were formerly conducted by persons in the Operations Department which directly supervises the Shelby Energy linemen. It was believed this would render these "internal" safety audits more thorough and unbiased.

- All Shelby Energy outside employees have been provided with a complete copy of both the current NESC and the NESC handbook.
- Since early January 2008, all Shelby Energy outside employees have been required to attend weekly training meetings, with one of the sessions each month being conducted by Jim Bridges, P.E., a contract employee, who selects and reviews various topics from the NESC.

Shelby Energy has taken all of the steps which it legally could take to ensure that Dobson employees abide by the National Electric Safety Code. Shelby Energy cannot directly supervise the day-to-day activities of independent contractor employees and still maintain the independent contractor status.

The contract by which Dobson Power was hired by Shelby Energy was the standard Rural Development contract. The RD form contract does not contain a termination for cause paragraph. Shelby Energy has already decided that all future contracts utilizing independent contractors will contain language expressly requiring compliance with the NESC and including a termination for cause provision. Shelby Energy has placed Dobson upon notice that the termination provisions which the contract does have will be invoked if Dobson is found to have any further significant

violations of any safety regulations. See letter dated December 20, 2007 to James D. Dobson of Dobson Power Line Construction Company, a copy of which is attached hereto as Exhibit D. It is highly unlikely Dobson will be allowed to perform services for Shelby Energy in the foreseeable future when its current contract expires.

This case illustrates a situation where no matter what PSC or OSHA does, it will make no difference. There is a point beyond which the employer's and Shelby Energy's practical ability to prevent accidents ends. This is such a case.

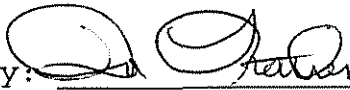
Carroll knew the safety rules. He was wearing his safety harness. He was up in a bucket where no one else could visually verify he had hooked the safety clip to the bucket. He made the decision not to follow a safety rule so basic that any thinking person would comply: when wearing a safety harness up high off the ground, clip it to an anchor. Carroll, perhaps more than any other person should have strictly adhered to all safety rules. He was the employee at the base of the pole in Case No. 2006-00098 and witnessed the electrocution of a co-worker.

In summary, KRS 278.990(1) does not mandate a penalty. No penalties should be imposed upon Shelby Energy where it is obvious the penalty will not have any practical effect.

This is such a case. Further, imposing a penalty in such a situation will unfairly punish Shelby Energy's members, who own it as a non-profit cooperation, where neither they, the Board of Directors, nor the management or employees of Shelby Energy had any fault.

Respectfully submitted,

Mathis, Riggs & Prather, P.S.C.

By: 

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

Division of Occupational Safety & Health Compliance
Closing Conference Checklist



Name of Company: Dobson Power Line Construction, Inc

Mark as appropriate


	Y	N	N/A
Were Violations Observed	()	(<input checked="" type="checkbox"/>)	()
Discussed Hazards Observed and Standards Allegedly Violated	(<input checked="" type="checkbox"/>)	()	()
Discussed Types of Violations	(<input checked="" type="checkbox"/>)	()	()
Discussed Penalties	(<input checked="" type="checkbox"/>)	()	()
Discussed Posting Requirements	(<input checked="" type="checkbox"/>)	()	()
Discussed Informal Conference	(<input checked="" type="checkbox"/>)	()	()
Discussed Employer Option to Contest Citations, etc	(<input checked="" type="checkbox"/>)	()	()
Discussed Filing for Extension	(<input checked="" type="checkbox"/>)	()	()
Discussed Follow-Up Inspections	(<input checked="" type="checkbox"/>)	()	()
Established and Discussed Abatement Periods	(<input checked="" type="checkbox"/>)	()	()
Discussed Additional Penalties for Failure to Abate Citations	(<input checked="" type="checkbox"/>)	()	()
Discussed Prohibition Concerning Discrimination Against Employees	(<input checked="" type="checkbox"/>)	()	()
Discussed Voluntary Compliance	(<input checked="" type="checkbox"/>)	()	()
Publication Request Form Provided to Employer	(<input checked="" type="checkbox"/>)	()	()
Publication Request Form Provided to Employee Representative	()	()	(<input checked="" type="checkbox"/>)
Copy of Closing Conference Checklist Provided to Employer	(<input checked="" type="checkbox"/>)	()	()
Copy of Closing Conference Checklist Provided to Employee Representative	()	()	(<input checked="" type="checkbox"/>)
Closing Conference Held with Employee Representative			
	Jointly ()		
	Separately ()		
	N/A (<input checked="" type="checkbox"/>)		

I acknowledge receipt of the booklet Post Inspection Guide and acknowledge that all sections in said booklet were discussed satisfactorily. Signature is not an acceptance or denial of any guilt or innocence.

SIGNATURE James D. Dobson
TITLE President DATE 01-09-08



Shelby Energy
Cooperative, Inc.

Your Touchstone Energy® Partner 

February 22, 2008

Mr. John V. Shupp, P.E.
Manager, Electric Branch
Division of Engineering
Kentucky Public Service Commission
P. O. Box 615
211 Sower Blvd.
Frankfort, KY 40602-0615

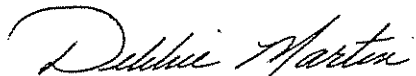
RE: Shelby EC-F-111307 Investigation Report

Dear Mr. Shupp:

Enclosed are the original and five (5) copies of the response of Shelby Energy Cooperative to the deficiency tracking report as submitted by Investigator, Jeff Moore, with a date of November 13, 2007. As requested in your letter dated January 16, 2008, a response has been provided for each of the three sections concerning the deficiency.

Should you have any questions or need additional information, please feel free to contact me at 502-633-4420, extension 533.

Sincerely,



Debbie Martin
President & CEO

Enclosures

**RESPONSE TO UTILITY INSPECTION REPORT
REPORT NO. SHELBYEC-F-111307**

February 20, 2008

RESPONSE (1)

The findings by Investigator Moore of the Kentucky Public Service Commission (PSC) relative to the work being performed by Dobson Power Line Construction Company, Inc. (Dobson) on Shelby Energy Cooperative's (Shelby) electric distribution plant have basis in two areas, namely maintaining National Electric Safety Code (NESC) minimum ground clearance requirements (as specified in Table 232-1 of the NESC) during new conductor stringing procedures and the effective grounding of those new conductors during the new conductor stringing process.

Addressing the matter of effectively grounding of new conductors being installed on an existing circuit first, the NESC states in Section 422, C1: "wires or cables that are not bonded to an effective ground and which are being installed in the vicinity of energized conductors shall be considered as being energized". The Dobson crew was apparently working under the assumption that occasional, incidental contact of a stringing block with a lightning arrester ground lead, stapled to a crossarm, served as sufficient bonding to an effective ground. No mechanical/ "traveling" grounds were in use when Inspector Moore observed this conductor stringing operation on November 13, 2007. Clearly, the new conductors in this instance were not effectively grounded and therefore must be considered energized. This fact also has bearing on the minimum amount of ground clearance (or clearance between the conductor and grade) that must be maintained during the conductor stringing operation.

Relative to the finding that NESC ground clearance requirements were violated during the conductor stringing operation observed by Inspector Moore, it must be said that this is indeed the case. Since it has already been established that the new conductors were not effectively grounded and must therefore be considered energized, then NESC minimum ground clearance requirements from Table 232-1 for open supply conductors over 750 volts to 22 kilovolts would apply. The absolute minimum value given for this category of conductor is 14.5 feet, for spaces and ways subject to pedestrians or restricted traffic only. Inspector Moore's report references a particular span between Shelby poles No. 9746 and No. 9747, crossing a rural, residential "front" yard. While apparently no physical measurement of the actual ground clearance of these conductors was made by either Inspector Moore or by Shelby personnel (David Martin and Wayne Anderson) it was evident by casual observation that these conductors were less than 14.5 feet above grade. Sufficient means to provide conductor tensioning was not being applied to the conductor for this to have occurred.

RESPONSE (2)

Actions taken to correct the deficiencies noted in this report included: immediately notifying Dobson personnel of the situation of NESC violations, particularly relative to the minimum ground clearance violation in the span between poles no. 9746 and no. 9747. This was done on the afternoon of November 13, 2007 by Wayne Anderson and David Martin, within an hour after this was called to our attention by Inspector Moore. Corrective action was taken by Dobson personnel immediately upon notice. Subsequently, conductor stringing operations by Dobson were halted until such time that Dobson could provide means of effectively bonding new conductors in stringing operations to the existing distribution system's effectively grounded neutral (namely use of mechanical, "traveling" grounds). After Shelby became aware of the safety violations, Debbie Martin, President & CEO of Shelby sent James D. Dobson the attached letter (Attachment 2-1), dated November 27, 2007, pointing out the safety violations and reminding him Dobson must abide by the NESC at all times. Subsequently, the attached letter (Attachment 2-2), dated December 20, 2007, from the cooperative's attorney, Donald T. Prather, was sent to Dobson placing it on probation, a future violation of which would result in the cancellation of the Dobson contract after the required twenty (20) day notice.

RESPONSE (3)

Additional action taken by Shelby to prevent potential reoccurrence of these or similar deficiencies includes: 1) requiring Dobson personnel to undergo instruction and review of the NESC, particularly to the requirements relative to the work performed on electric distribution systems and provide Shelby with evidence of compliance, 2) requiring Dobson to supply and use equipment accepted by best industry practices to effectively bond new conductors installed during conductor stringing operations to the existing electric distribution system neutral. Dobson complied with this on December 19, 2007, 3) requiring Dobson to review all work practices with employees, particularly relative to the conductor stringing operation, and furthermore recommending that at all times during the conductor stringing operation that both the conductor pay-out (reel trailer) end and the conductor take-up (tensioner) end be manned and that additional employees as necessary be used throughout the ruling span of the "conductor pull" to observe the behavior of the new conductor being installed to assure that any problems or abnormal conditions are spotted and corrective action is initiated promptly. Constant communication between both "ends" of the operation and the intermediate "scouts" or observers will also be emphasized. Shelby's responsible person for this will be David Martin – Manager of Operations.

Attached is a certification of compliance (Attachment 3-1) signed by James D. Dobson concerning the preventive actions implemented by Shelby, and a safety meeting roster provided by Dobson, dated January 29, 2008, indicating a topic of NESC grounding procedures (Attachment 3-2).


Response Provided By: R. Wayne Anderson, VP & Manger of Engineering

Signature: 

Date: FEB. 20, 2008



Shelby Energy
Cooperative, Inc.

Your Touchstone Energy® Partner 

November 27, 2007

ATTACHMENT 2-1

James D. Dobson
Dobson Power Line Construction Co.
7696 Harrodsburg Road
Nicholasville, KY 40356

HAND DELIVERED

Dear Mr. Dobson:

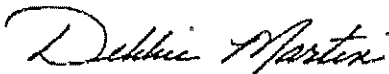
This is written notice of what is considered violations of the National Electrical Safety Code as reported on November 13, 2007 at approximately 9:30.

First, a report of a low span of conductor on Vigo Road was made to Shelby Energy Cooperative on the above date. The span was observed by a representative of the Public Service Commission at approximately six (6) feet above the ground with no stationed guard of Dobson Power Line Construction within the area.

Next, the representative of the Public Service Commission reported an apparent absence of proper grounding on the new conductor being pulled in at the Vigo Road location. After review and discussion with managers of Shelby Energy's engineering and operations departments, it appears the method of grounding used by Dobson Power Line Construction did not meet the generally accepted criteria of the National Electrical Safety Code.

Effective immediately, public safety measures, grounding methods, and operation of electric lines by Dobson Power Line Construction will meet those established by the National Electrical Safety Code or all projects for Shelby Energy Cooperative will cease.

Sincerely,



Debbie Martin
President & CEO

c: David Martin
Wayne Anderson

www.shelbyenergy.com

620 Old Finchville Road • Shelbyville, Kentucky 40065-1714

Shelby Co. (502) 633-4420 • Trimble Co. (502) 255-3260 • Henry Co. (502) 845-2845

Debbie.M@shelbyenergy.com

TOTAL P. 02
EXHIBIT 13 of 4 dx

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

ATTACHMENT 2-2

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

December 20, 2007

Dobson Power Line Construction Co.

Attn: James D. Dobson
7696 Harrodsburg Road
Nicholasville, KY 40356

Re: Shelby Energy Cooperative, Inc.

Dear Mr. Dobson:

You were previously sent a letter dated November 27, 2007 by Debbie Martin, President and CEO, regarding two (2) violations of the National Electric Safety Code reported on November 13, 2007. Shelby Energy has received an additional report of a safety violation observed by an independent witness on Busey Lane on November 12, 2007, the date of the fatal accident involving Cosby Carroll. That witness observed a Dobson bucket truck moving forward with a person in the bucket and the bucket partially extended (in other words, not in the cradle position). This is a violation of applicable safety rules. While a bucket truck may be moved short distances with a person in the bucket while the bucket is in the cradle position, it cannot be moved with bucket boom being partially or fully extended.

You have been performing services for Shelby Energy pursuant to a contract dated November 21, 2006 for conversion and conductor replacement projects. Article IV, Section 1 requires Dobson Power to "at all times take reasonable precautions for the safety of employees on the work and of the public, and shall comply with all applicable provisions of federal, state, and local laws, rules, and regulations and building and construction codes." You are aware the National Electric Safety Code applies to your work under this contract. Subparagraph "D" of Section 1 further provides that you "shall provide and maintain all such guard lights and other protection for the public as may be required by all applicable statutes, ordinances and regulations or by local conditions."

You are hereby notified pursuant to Article IV, Section 1, paragraph "i" to immediately correct all present and future violations of the National Electric Safety Code and other applicable safety rules. In the event any future safety violations are observed, Shelby Energy will immediately direct the offending employee(s) to be removed from the project pursuant to Article II, Section 6, paragraph "b."

Additionally, please consider this notice under Article V, Section 1, that you are considered in default under the terms of the contract due to repeated recent safety violations. This is written

EXHIBIT B page 5 of 8

notice from Shelby Energy requiring Dobson Power Line Construction Co. to cause its employees to strictly comply with all safety rules and regulations in the future, including but not limited to the National Electric Safety Code. If any further significant violations of any safety regulations are observed, your services under the contract will be terminated twenty (20) days thereafter and Shelby Energy shall take over the construction of the project.

We regret to be forced to take these measures, but believe they are essential to the protection of your employees, the public, and Shelby Energy employees.

Yours truly,

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

BY: _____
Donald T. Prather

DTP/mew
Cc: Debbie Martin
dtp/shelby energy/psc/carroll/Dobson - letter

EXHIBIT Bpse 10078

**Dobson Power Line Construction Company, Inc.
Certification of Compliance**

I, James D. Dobson of Dobson Power Line Construction Company, Inc. (Dobson) do hereby certify that I have read, understand, and will comply with the additional actions listed below to be taken on the behalf of Shelby Energy Cooperative, Inc. (Shelby) to prevent potential reoccurrence of deficiencies as reported in the deficiency tracking report dated November 13, 2007 and issued by Jeff Moore of the Kentucky Public Service Commission.

1. Dobson personnel to undergo instruction and review of the National Electric Safety Code, particularly to the requirements relative to the work they perform on electric distribution systems and provide Shelby with evidence of compliance.
2. Dobson to supply and use equipment accepted by best industry practices to effectively bond new conductors installed during conductor stringing operations to the existing electric distribution system neutral. This was complied with on December 19, 2007.
3. Dobson to review all work practices with employees, particularly relative to the conductor stringing operation, and furthermore recommending that at all times during the conductor stringing operation that both the conductor pay-out (reel trailer) end and the conductor take-up (tensioner) end be manned and that additional employees as necessary be used throughout the ruling span of the "conductor pull" to observe the behavior of the new conductor being installed to assure that any problems or abnormal conditions are spotted and corrective action is initiated promptly. Constant communication between both "ends" of the operation and the intermediate "scouts" or observers will also be emphasized. Shelby's responsible person for this will be David Martin, Manager of Operations.

Signature: James D. Dobson
James D. Dobson

Date: 02-20-08

EXHIBIT B pgs 2008

SAFETY MEETING ATTENDANCE ROSTER

Date: 1-29-08 Time: 8:00 A.M.

INSTRUCTOR: J.D. Dobson


TOPIC: NEESC Grounding procedures

This certifies that the following employees received the above training:

Date	Print Name	Signature
<u>1-29-08</u>	<u>Kelvin Thomas</u>	<u>Kelvin Thomas</u>
<u>1-29-08</u>	<u>James D. Dobson</u>	<u>James D. Dobson</u>
<u>1-29-08</u>	<u>Ronnie Pierce</u>	<u>Ronnie Pierce</u>
<u>1-29-08</u>	<u>Justin Sparks</u>	<u>Justin Sparks</u>
<u>1-29-08</u>	<u>Luke Makowski</u>	<u>Luke Makowski</u>
<u>1-29-08</u>	<u>James Kiser</u>	<u>James Kiser</u>
<u>1-29-08</u>	<u>M. PRICE</u>	<u>M. Price</u>
<u>1-29-08</u>	<u>Chuck Venters</u>	<u>Chuck Venters</u>
<u>1-29-08</u>	<u>Billy Lane</u>	<u>Billy Lane</u>
<u>1-29-08</u>	<u>Josh Long</u>	<u>Josh Long</u>
<u>1-29-08</u>	<u>Roy Thomas</u>	<u>Roy Thomas</u>



Shelby Energy Cooperative, Inc.

Your Touchstone Energy* Partner 

November 27, 2007

James D. Dobson
Dobson Power Line Construction Co.
7696 Harrodsburg Road
Nicholasville, KY 40356

HAND DELIVERED

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Next, the representative of the Pubic Service Commission reported an apparent absence of proper grounding on the new conductor being pulled in at the Vigo Road location. After review and discussion with managers of Shelby Energy's engineering and operations departments, it appears the method of grounding used by Dobson Power Line Construction did not meet the generally accepted criteria of the National Electrical Safety Code.

Effective immediately, public safety measures, grounding methods, and operation of electric lines by Dobson Power Line Construction will meet those established by the National Electrical Safety Code or all projects for Shelby Energy Cooperative will cease.

Sincerely,

Debbie Martin
President & CEO

c: David Martin
Wayne Anderson

www.shelbyenergy.com
620 Old Finchville Road • Shelbyville, Kentucky 40065-1714
Shelby Co. (502) 633-4420 • Trimble Co. (502) 255-3260 • Henry Co. (502) 845-2845

DEBBIE.M@SHELBYENERGY.COM

TOTAL P.02
EXHIBIT C

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

December 20, 2007

Dobson Power Line Construction Co.

Attn: James D. Dobson
7696 Harrodsburg Road
Nicholasville, KY 40356

Re: Shelby Energy Cooperative, Inc.

Dear Mr. Dobson:

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You have been performing services for Shelby Energy pursuant to a contract dated November 21, 2006 for conversion and conductor replacement projects. Article IV, Section 1 requires Dobson Power to "at all times take reasonable precautions for the safety of employees on the work and of the public, and shall comply with all applicable provisions of federal, state, and local laws, rules, and regulations and building and construction codes." You are aware the National Electric Safety Code applies to your work under this contract. Subparagraph "D" of Section 1 further provides that you "shall provide and maintain all such guard lights and other protection for the public as may be required by all applicable statutes, ordinances and regulations or by local conditions."

You are hereby notified pursuant to Article IV, Section 1, paragraph "i" to immediately correct all present and future violations of the National Electric Safety Code and other applicable safety rules. In the event any future safety violations are observed, Shelby Energy will immediately direct the offending employee(s) to be removed from the project pursuant to Article II, Section 6, paragraph "b."

Additionally, please consider this notice under Article V, Section 1, that you are considered in default under the terms of the contract due to repeated recent safety violations. This is written

EXHIBIT 12/20/07

notice from Shelby Energy requiring Dobson Power Line Construction Co. to cause its employees to strictly comply with all safety rules and regulations in the future, including but not limited to the National Electric Safety Code. If any further significant violations of any safety regulations are observed, your services under the contract will be terminated twenty (20) days thereafter and Shelby Energy shall take over the construction of the project.

We regret to be forced to take these measures, but believe they are essential to the protection of your employees, the public, and Shelby Energy employees.

Yours truly,

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

BY: 

Donald T. Prather

DTP/mew
Cc: Debbie Martin
dtp/shelby energy/psc/carroll/Dobson - letter