

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SHELBY ENERGY COOPERATIVE, INC.)
FOR AUTHORIZATION TO EXECUTE MORTGAGE AND) CASE NO. 2023-00007
SECURITY AGREEMENT TO UNITED STATES OF)
AMERICA BY RURAL UTILITIES SERVICE AND)
NATIONAL RURAL UTILITIES COOPERATIVE FINANCE)
CORPORATION TO SECURE DEBT FOR \$30,000,000.00)
FROM THE UNITED STATES TREASURY)

APPLICATION

*** ** ** ** **

Pursuant to KRS 278.300, 807 KAR 5:001, and all other applicable law, comes Shelby Energy Cooperative, Inc. (“Shelby Energy”), and respectfully submits this Application for authorization to execute a Mortgage and Security Agreement to the United States of America, Rural Utilities Service and National Rural Utilities Cooperative Finance Corporation seeking expedited approval by February 15, 2023, in order to maintain a closing date not later than March 31, 2023. The closing date will not change if the Public Service Commission (the “Commission”) approval is received earlier than the requested date, nor would it have any effect on the terms set forth in this Application. This Application respectfully shows:

1. Shelby Energy is a nonprofit electric cooperative organized under KRS Chapter 279 and is engaged in the business of distributing retail electric power to member-customers in the Kentucky counties of Anderson, Carroll, Franklin, Henry, Jefferson, Oldham, Owen, Shelby, Spencer, and Trimble.

2. Pursuant to 807 KAR 5:001, Section 14(1), Applicant's full name and mailing address is Shelby Energy Cooperative, Inc., 620 Old Finchville Road, Shelbyville, Kentucky 40065-1714. The electronic mailing address of Applicant is psc@shelbyenergy.com.

3. Pursuant to 807 KAR 5:001, Section 14(2), Applicant states that it incorporated in the Commonwealth of Kentucky on June 14, 1937, and attests that it is currently in good standing.

4. Pursuant to 807 KAR 5:001, Section 18(1)(b), as of October 31, 2022, Shelby Energy had 13,694 member-customers. It has 2,193 miles of distribution lines in its 10-county service territory, and owns additional facilities necessary to support this distribution system. The total original cost of these distribution lines and additional facilities as of October 31, 2022, was \$115,762,364.

5. The financial exhibit, as required by 807 KAR 5:001, Section 12(1)(a) is attached as Exhibit 1 to this Application. There have been no material changes since the end of that twelve (12) month period reported therein.

6. Shelby Energy is not seeking authorization to issue any kind of stock as part of this application.

7. Shelby Energy is borrowing from the United States Treasury up to \$30,000,000 pursuant to a loan contract with the United States of America, acting by and through the Administrator of the Rural Utilities Services (RUS) and will execute a future advance promissory note payable to the United States Treasury and guaranteed by RUS with adjustable interest as set out therein. The United States Treasury term for loan advances will be thirty-five (35) years with the first principal payment due December 1, 2024. In consideration of this loan the following documents will need to be executed by Shelby Energy:

A. Mortgage Note (“Note”) to United States Treasury, a copy of which is attached as Exhibit 2; and,

B. An RUS Loan Contract (“Loan Contract”), a copy of which is attached as Exhibit 3.

8. As a condition of the RUS Loan Contract, Shelby is required to execute and deliver a Restated Mortgage and Security Agreement dated as of December 1, 2022 (“Restated Mortgage”), between Shelby Energy, as Mortgagor, and RUS, as Mortgagee, and National Rural Utilities Cooperative Finance Corporation (“CFC”) as Mortgagee. A copy of the proposed Restated Mortgage and Security Agreement is attached hereto as Exhibit 4. Shelby Energy, RUS, and CFC are parties to that certain Restated Mortgage and Security Agreement dated November 1, 2005, as supplemented, amended or restated (“Original Mortgage”) for a maximum indebtedness of \$100,000,000.00. A certified copy of said Mortgage is attached hereto as Exhibit 5. There are no sinking fund provisions or supplemental mortgages.

9. As a condition of the RUS Loan Contract, Shelby Energy must execute a Uniform Commercial Code Financing Agreement (“UCC Financing Statement”) to RUS and CFC. A true and correct copy of said UCC Financing Statement is attached hereto as Exhibit 6.

10. Shelby Energy will use the proceeds from the United States Treasury loan to fund projects contained in Shelby Energy’s 2022-2025 Construction Work Plan (“CWP”) which projects fall within the “ordinary course of business.” The PSC Staff is of the opinion that each of the proposed projects set out in Shelby Energy’s 2022-2025 CWP satisfy the “ordinary course of business” exemption from the Commission’s Certificate of Public Convenience and Necessity requirement. PSC Staff Opinion 2022-0008 is attached hereto as Exhibit 7.

11. Shelby Energy previously received expedited approval from the Commission in Case No. 2018-00093 to obtain RUS financing.

12. Shelby Energy is not seeking Commission approval for the United States Treasury loan as KRS 278.300 (10) exempts this indebtedness as it is subject to the supervision or control of the federal government or an agency thereof.

13. Shelby Energy is seeking Commission approval for the execution of the Restated Mortgage and Security Agreement and the UCC Financing Statement because both the mortgage and the financing statement include CFC as a party, and CFC is not controlled by the federal government or an agency thereof. Accordingly, the exclusion provision of KRS 278.300 (10) is not applicable.

In support of approval of this Application, Shelby Energy states:

- a. Shelby Energy has deemed it necessary to borrow money for its corporate purposes, specifically to finance construction projects in accordance with the aforementioned 2022-2025 CWP, and to execute a promissory note to the United States Treasury, and to mortgage and pledge its property for the payment of the same through the guarantee of RUS;
- b. Shelby Energy desires to enter into the Restated Mortgage and UCC Financing Statement to which all secured debt of Shelby Energy shall be secured on parity;
- c. The Restated Mortgage and UCC Financing Statement restates and consolidates the Original Mortgage while preserving the priority of the lien under the Original Mortgage securing the payment of Shelby Energy's outstanding obligations secured under the Original Mortgage; and,
- d. In order for the Restated Mortgage and UCC Financing Statement to be valid and legally binding instruments of Shelby Energy authorization from the Commission is required.

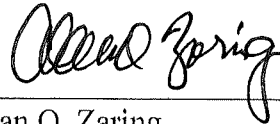
14. 807 KAR 5:001, Section 11(2)(c) is not applicable since no property is being acquired in conjunction with this financing.

15. There are no fees or expenses to close the loan from the United States Treasury, except for legal fees and expenses for Shelby Energy's attorney to obtain Commission approval for this transaction; to prepare and submit to the United States Treasury the opinion of counsel, note and loan agreement, and to provide title opinions and record mortgages in ten (10) counties. The legal fees and recording expenses are not expected to exceed \$1,000.00.

WHEREFORE, Shelby Energy requests that the Commission issue an Order authorizing Shelby Energy to execute the Restated Mortgage and UCC Financing Agreement for the CFC as stated herein, and for any other relief to which it may be entitled.

This the 18 day of January, 2023.

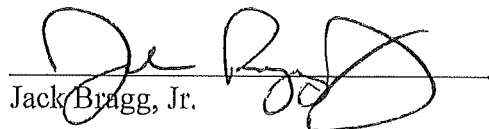
Respectfully submitted,



Alan Q. Zaring
ZARING & SULLIVAN LAW OFFICE, P.S.C.
10 South Main Street
PO Box 226
New Castle, KY 40050
(502) 845-2222

Shelby Energy Cooperative, Inc. by and through its President & CEO, Jack Bragg, Jr., who has knowledge of the matters set forth herein and who is duly designated by the Cooperative, pursuant to KRS 278.300, and all other applicable law, hereby verifies that all of the information contained in the Application filed with the Public Service Commission together with exhibits attached thereto, is true and correct to the best of my knowledge, opinion, and belief.

Shelby Energy Cooperative, Inc.

BY: 
Jack Bragg, Jr.


Title: President & CEO

STATE OF KENTUCKY)

COUNTY OF SHELBY)

Subscribed and sworn to before me by Shelby Energy Cooperative, Inc., by and through its President & CEO, Jack Bragg, Jr., on this the 12 day of January, 2023.

My commission expires: December 13 2025


Notary Public, KY, State at Large
Notary ID: KYNP 38593

