

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| ELECTRONIC APPLICATION OF |) | |
| SHELBY ENERGY COOPERATIVE |) | CASE NO. |
| INC. FOR A GENERAL ADJUSTMENT |) | 2024-00351 |
| OF RATES |) | |

SHELBY ENERGY COOPERATIVE, INC.’S REPLY BRIEF

Comes now Shelby Energy Cooperative, Inc. (“Shelby Energy”) by counsel, and for its Reply Brief hereby states as follows:

INTRODUCTION

Through extensive discovery, each of Shelby Energy’s assertions and claims were explored by Commission Staff and the Attorney General, by and through the Office of Rate Intervention (“Attorney General”). As is normal in any contested rate case, there are differing positions on the revenue requirement, customer charge, and pro forma adjustments. However, in the end, Shelby Energy supported its position with a cost-of-service study (“COSS”) and the methodologies employed for calculation of its requested pro forma adjustments are accurate and reliable and provide the basis for a Commission decision granting the requests in this case.

Consistent with KRS 278.030(1), Shelby Energy seeks approval to increase its annual revenues by \$2,332,517¹ allowing Shelby Energy to achieve a Times Interest Earned Ratio (“TIER”) of 2.00. Shelby Energy based its proposed rates on a twelve-month historic test period ending December 31, 2023. Included in the request is an increase of the monthly customer charge

¹ Application at ¶ 4 (filed December 5, 2024).

from \$19.00 to \$29.00 based on the results of a comprehensive cost of service study (“COSS”). The rates are appropriately adjusted for known and measurable changes consistent with Commission regulations and precedent.

ARGUMENT IN REPLY

The Attorney General’s Revenue Requirement Adjustments Should be Excluded.

Any new evidence sought to be introduced into the record at this date should be excluded.

807 KAR 5:001, Section 11(4) states:

Unless so ordered by the commission, the commission shall not receive in evidence or consider as part of the record a book, paper, or other document for consideration in connection with the proceeding after the close of the testimony.

The testimony was closed in this case when the formal hearing was waived and the parties agreed to make a submission on the record.^{2,3} The Attorney General’s Brief attempts to introduce new information as evidence into the record depriving Shelby Energy of due process of law.

On January 6, 2025, the Commission established a schedule for the processing of this matter.⁴ Included in the schedule were dates for the Attorney General to provide expert testimony, for Shelby Energy and the Commission to propound requests for information to the Attorney General’s witness, and for the Attorney General’s witness to provide responses to the request for

² See *In the Matter of the Application of Jessamine-South Elkhorn Water District for a Certificate of Public Convenience and Necessity to Construct and Finance a Waterworks Improvements Project Pursuant to KRS 278.020 and 278.300*. Order, Case No. 2012-00470, pp. 4-5 (Ky. P.S.C., Apr. 30, 2013) (holding that a water district’s attempt to introduce evidence after the close of testimony “deprived the intervenors of notice” of an issue, as well as “any opportunity to address this evidence or confront the water district’s claim of conflicting propositions ... such notice and opportunity are the essence of due process.”).

³ See also *In the Matter of Kentucky Utilities Company v. Henderson-Union Rural Electric Cooperative Corporation*, Order, Case No. 1989-00349 (Ky. P.S.C., May 21, 1990) (“[t]he Commission must ensure that all parties to its proceedings are afforded due process. Despite the relaxed nature of Commission proceedings, each party must still have the opportunity to confront and cross examine adverse witnesses...”).

⁴ January 6, 2025 Order (Ky. PSC January 6, 2025).

information.⁵ On February 28, 2025, the Attorney General filed notice that it would not be presenting expert testimony.⁶ The Attorney General’s Brief contains “AG Revenue Requirement Adjustments.”⁷ Since the Attorney General did not provide expert testimony, Shelby Energy was deprived of the opportunity to evaluate these adjustments, cross examine the expert’s opinion, or rebut the assertions. Admission of such evidence would violate due process of law. Therefore, any new evidence sought to be introduced into the record at this date should be excluded.

Shelby Energy’s Requested Right of Way Expenses Should be Approved.

Shelby Energy requested \$2,443,845 in right of way (“ROW”) expenses.⁸ The Attorney General recommended this amount be reduced by \$333,826.⁹ Shelby Energy’s requested ROW request is based upon a five-year ROW maintenance cycle to clear 1,900 miles, or 380 miles per year.¹⁰ The Attorney General claims that because Shelby Energy has not cleared 380 miles in the past, it cannot clear 380 miles per year going forward.¹¹ However, Shelby Energy has not cleared the budgeted miles per year because it did not have the funds. The way to ensure Shelby Energy is able to complete the five-year cycle is to allow Shelby Energy the requested amount for ROW maintenance. Not allowing Shelby Energy the additional revenue for ROW maintenance will ensure that Shelby Energy will not meet its goal of a five-year cycle.

⁵ January 6, 2025 Order, Appendix.

⁶ Notice Regarding Intervenor Testimony (filed February 28, 2025).

⁷ Attorney General’s Brief at 3 (filed May 2, 2025).

⁸ Application, Exhibit 10, Direct Testimony of John Wolfram, Exhibit JW-2, Reference Schedule 1.13.

⁹ Attorney General’s Brief at 3-4.

¹⁰ Application, Exhibit 9, Direct Testimony of Michael Moriarty at 8.

¹¹ Attorney General’s Brief at 3-4.

The costs for vegetative management continue to rise through no fault of Shelby Energy. The lack of additional funding will cause Shelby Energy to fall further and further behind, ultimately harming the members and compromising safety and reliability. There is no evidence in the record to support the conclusion that Shelby Energy made imprudent decisions regarding ROW management. Shelby Energy is responding to the local and national pressures regarding ROW for electric utilities and Shelby Energy is managing its ROW maintenance in an efficient and reasonable manner. The Commission should therefore accept Shelby Energy's requested pro forma increase for ROW maintenance.

Shelby Energy's Depreciation Rates are Reasonable.

In Case No. 2009-00410, the Commission ordered Shelby Energy to perform a depreciation study within five years or the next base case.¹² Shelby Energy performed the required depreciation study in 2013, and the Commission found the rates reasonable.¹³ The depreciation study approved by the Commission only included Distribution Plan (Accounts 362-373).¹⁴ The depreciation study did not address General Plant (Accounts 390-398).¹⁵

United States Department of Agriculture, Rural Utility Service ("RUS") Bulletin 183-1, allows General Plant assets to be depreciated using a composite method or a unit method on a straight-line basis.¹⁶ Shelby Energy used the unit method for General Plant depreciation assets for

¹² Case No. 2009-00410, *Application of Shelby Energy Cooperative, Inc. for an Adjustment of Rates*, July 27, 2010 Order at 16 (Ky. PSC July 27, 2020).

¹³ Case No. 2016-00434, *Application of Shelby Energy Cooperative, Inc. for an Increase in its Retail Rates*, July 21, 2017 Order at 8-9 (Ky PSC July 31, 2017).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ United States Department of Agriculture, Rural Utility Service Bulletin 183-1. https://www.rd.usda.gov/sites/default/files/UEP-Bulletin_183-1.pdf (last accessed May 9, 2025).

many years, including Case No. 2023-00213.¹⁷ The General Plant depreciation rates used in the Application, Exhibit 10, Exhibit JW-2, Reference Schedule 1.11 are weighted-average rates based on the useful lives of Shelby Energy's current General Plant assets. The useful lives for General Plant depreciation closely matches the economic useful lives of the assets. For example, many of the assets in Account 391 are computers and servers. Shelby Energy believes the useful life of these items is 5 to 7 years.

Since the approved depreciation study did not address General Plant assets, Shelby Energy used the correct depreciation rates in this proceeding. Especially since the Commission found this approach reasonable in a recent case. There is no evidence in the record of this proceeding, or in Case No. 2016-00434, that depreciating these types of General Plant assets over 16 years is reasonable. Depreciating these assets for over 16 years as suggested in the Attorney General's brief does not match the depreciation expense with the useful lives of the assets. The Commission should not consider this adjustment by the Attorney General.

The Commission Should Reject the Attorney General's Adjustments for Labor Expenses

Shelby Energy is attempting to fill the Employee Number 7, System Engineer position.¹⁸ The Attorney General claimed that the Commission should reduce the labor pro forma adjustment by \$67, 695 because Employee Number 7, System Engineer, was vacant.¹⁹ However, this position is necessary for the future of Shelby Energy as the system becomes more technologically advanced. This position was not created for the test period and Shelby Energy just received an

¹⁷ Case No. 2023-00213, *Electronic Application of Shelby Energy Cooperative, Inc. for a General Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-407*, October 17, 2023 Order (Ky. PSC Oct. 17, 2023).

¹⁸ Shelby Energy's Response to the Attorney General's First Request for Information, Item 19(f).

¹⁹ Attorney General Brief at 5-6.

acceptance of a job offer for this position. The Commission should therefore reject the Attorney General's adjustment.

Additionally, the Attorney General asserted Shelby Energy's requested salary increase of 7% is unreasonable because the average raise increase was 3% for the years 2014-2024.²⁰ The 7% raises are consistent with Shelby Energy's wage and salary study.²¹ The raises for Position 2, Position 4, Position 10, Position 14, and Position 15 were adjusted to the midpoint based upon the wage and salary study. These raises were not excessive or unreasonable. Shelby Energy is in close proximity to one of Kentucky's large metropolitan areas. The salary that is necessary to keep and retain Shelby Energy's highly skilled workforce is higher than other cooperatives for this reason. The 7% increase for wages and salaries is reasonable and should be accepted.

Shelby Energy's Phone Reimbursement is Reasonable.

Shelby Energy's system is becoming more and more technologically advanced. Shelby Energy's phone allowance lets Shelby Energy utilize a work management system through an employees' phone which requires a large amount of a phone plan capacity and allows Shelby Energy to respond to issues 24 hours a day. The Attorney General recommended the Commission reduce Shelby Energy's phone reimbursement to \$40/month and this would reduce the revenue requirement by \$13,485.²² The Attorney General asserts that employees might use the phones for personal business as the reason for the disallowance of the full amount.²³ However, reimbursing employees for their phone bill is an incentive for this demanding 24-hour schedule. Allowing the

²⁰ Attorney General's Brief at 6-7.

²¹ Shelby Energy's Response to Commission Staff's First Request, Item 18.

²² Attorney General's Brief at 6.

²³ Attorney General's Brief at 6.

\$109 or \$85 monthly phone allowance is reasonable and allows Shelby Energy to better respond to needs in the field.

**Shelby Energy’s Rate Design and Customer Charge are Reasonable
and Supported by the COSS.**

Shelby Energy engaged the services of Catalyst Consulting LLC (“Catalyst”) to perform a comprehensive cost of service study (“COSS”) to assist Shelby Energy in designing its proposed rates. Mr. John Wolfram, Principal of Catalyst, conducted the COSS which showed that several rate classes warranted increases.²⁴ The Attorney General argued Shelby Energy’s proposed customer charge of \$29.00 is unreasonable and should be rejected.²⁵ This is incorrect. The COSS supported a residential customer charge of up to \$31.68.²⁶ Based on the results of the COSS, Shelby Energy proposed to increase the current customer charge of \$19.00 to \$29.00.²⁷

Shelby Energy distributed the required rate increase more heavily in the customer charge, as opposed to the energy charge, consistent with the COSS, to create a lower negative impact to economically vulnerable members. Applying more of the rate increase to the customer charge, which is fixed, is the least volatile option. In Shelby Energy’s experience, members who can least afford an increase use more energy due to poorly insulated homes; so, placing the increase on the fixed charges will allow these members to see a lower increase than if the increase was focused on the energy charge. Although the COSS supported a higher increase, Shelby Energy elected not to move the customer charge to the full cost-based rate in order to make the rate increase more gradual and remain sensitive to the economic demands on vulnerable members.

²⁴ Application, Exhibit 10, Direct Testimony of John Wolfram at 20.

²⁵ Attorney General’s Brief at 9.

²⁶ Application, Exhibit 10, Direct Testimony of John Wolfram at 21.

²⁷ Application, Paragraph 5.

The Attorney General did not provide any evidence or written testimony that the COSS was incorrect or should not be utilized by the Commission. The undisputed evidence in this proceeding is that the fixed costs to serve Shelby Energy's members is \$31.68. The Commission has multiple pending rate cases where a cooperative is making similar requests due to increasing economic pressures felt by individuals and cooperatives alike, signaling to the Commission, the Attorney General, and the public that distribution cooperatives are moving toward cost based rates. The COSS took into consideration the intricacies of Shelby Energy's system and produced a just and reasonable cost required to service customers on that system.

Historic Use of 2.0 TIER by Cooperatives is Reasonable and Should be Continued.

Aside from requesting the Commission to abandon years of precedent,²⁸ the Attorney General is advocating for Shelby Energy to disregard one of the main cooperative principles²⁹ - showing concern for the community where its members reside.³⁰ If the Commission were to authorize a TIER lower than 2.00, Shelby Energy would have less cash working capital, impairing Shelby Energy's ability to respond to any unforeseen expenses. As the Commission is aware, even though Shelby Energy's rates are currently set to achieve a 2.0 TIER, Shelby Energy does not achieve a 2.0 TIER. In fact, Shelby Energy has not achieved a 2.0 TIER in many years and in 2023 the TIER was 1.07.³¹ Decreasing the TIER will put Shelby Energy in jeopardy of not meeting its debt covenant requirements. If the Commission were to deviate from the 2.00 TIER, it would

²⁸ Case No. 2023-00223, *Electric Application of Fleming-Mason Energy Cooperative, Inc. for a General Adjustment of Rates*, June 28, 2024 Order at 16 (Ky. PSC June 28, 2024) citing historical cases utilizing a 2.00 TIER.

²⁹ National Rural Electric Cooperative Association, "Understanding the Seven Cooperative Principles" <https://www.electric.coop/seven-cooperative-principles%E2%80%8B> (last accessed May 8, 2025).

³⁰ *Id.*

³¹ Shelby Energy's Response to the Attorney General's First Request for Information, Item 16.

abandon years of precedent that cooperatives rely upon.³² Shelby Energy's use of 2.0 TIER calculation is reasonable in this case, is supported by precedent, and should be accepted by the Commission.

CONCLUSION

Shelby Energy's proposal is based upon a comprehensive and reliable COSS employing both known and measurable changes to the test year. It is fair, just and reasonable both in terms of the revenue request and the rate design. Shelby Energy respectfully requests the Commission enter a final order adopting its request in full and not accepting the Attorney General's proposed adjustments.

This 9th day of May 2025.

Respectfully submitted,

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³² Case No. 2023-00223, *Electric Application of Fleming-Mason Energy Cooperative, Inc. for a General Adjustment of Rates*, June 28, 2024 Order at 16 (Ky. PSC June 28, 2024) citing historical cases utilizing a 2.00 TIER.

CERTIFICATE OF SERVICE

This is to certify that the electronic filing was transmitted to the Commission on May 9, 2025, and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085 no paper copies of this filing will be made.

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