

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

**ELECTRONIC APPLICATION OF)
SHELBY ENERGY COOPERATIVE, INC.) Case No. 2024-00351
FOR A GENERAL ADJUSTMENT OF RATES)**

ATTORNEY GENERAL'S BRIEF

On December 5, 2024, Shelby Energy Cooperative, Inc. (“Shelby Energy” or “Shelby” or “the Company”) filed its application seeking a rate increase. The Attorney General, through his Office of Rate Intervention, was granted intervention on December 12, 2024 in order to represent the interests of ratepayers in this matter.

Shelby Energy distributes retail electric power to over 14,000 ratepayers in Anderson, Carroll, Franklin, Henry, Jefferson, Oldham, Owen, Shelby, Spencer, and Trimble Counties. It last received a rate increase in Case No. 2023-00213. Here, Shelby Energy requests an additional increase of \$2,332,517¹ in annual revenues (4.33%). Further, Shelby Energy requests that its fixed customer charge be increased from \$19 to \$29 per month. If the proposed rates are approved, residential ratepayers of average usage would see their bills increase by \$13.88 per month, or 8.36%.

Pursuant to KRS 278.190(3), Shelby Energy bears the burden of proof to demonstrate “that an increase of rate or charge is just and reasonable.”² Shelby Energy

¹ Case No. 2024-00351, *Electronic Application of Shelby Energy Cooperative Inc. for a General Adjustment of Rates* Direct Testimony of John Wolfram at 6. Note that this number differs from the revenue requirement number shown on Exhibit JW-2, \$2,339,898.

² *Kentucky-American Water Company v. Commonwealth ex rel. Cowan*, 847 S.W.2d 737,741 (Ky. 1993).

has failed to meet its burden of proof to demonstrate that the requested revenue increase will result in fair, just, and reasonable rates.³

The Commission should not approve the rates requested by Shelby Energy. Instead, the Commission should approve rates that result in a revenue increase of \$1,388,759, which would be a 2.57% increase in revenue.

This lower revenue increase is based on adjustment of the following revenue requirement items proposed by Shelby Energy: (1) Right of Way Maintenance, (2) Depreciation Expense, (3) Labor Vacancies, (4) Phone Reimbursements, (5) Labor Salary Increases, (6) Revenue: Usage, (7) Revenue: Rounding, and (8) TIER. Those revenue requirement items should be adjusted by the amounts identified in the table below for the reasons discussed thereafter.

³ See KRS 278.190. "At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility...."; See KRS 278.030(1). "Every utility may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person."

<u>AG Revenue Requirement Adjustments</u>		
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1	Shelby Proposed Revenue Requirement ¹	\$ 2,339,898
	AG Adjustments to Rev Req:	
2	Right of Way	\$ (333,826)
3	Depreciation	\$ (134,091)
4	Labor: Vacancy	\$ (67,695)
5	Labor: Phone Other Pay Disallowance	\$ (13,485)
6	Labor: Salaried Wage Increase	\$ (25,715)
7	Revenue: Usage Normalization	\$ (172,465)
8	Revenue: Rounding	\$ 7,557
9	TIER	<u>\$ (211,420)</u>
10	Total AG Adjustments to Rev Req	\$ (951,139)
11	AG Adjusted Revenue Requirement	\$ 1,388,759

Source:
¹Shelby-2023-RevReq-FILED.xlsx

Further, the Commission should decline Shelby’s invitation to increase its customer charge by more than 50%.

1. Right of Way Maintenance

The Company proposed a *pro forma* level of expense for Right of Way Maintenance of \$2,443,845.⁴ That proposal would allow the cooperative to trim its 1,900 miles of rights of way on a five-year cycle, or 380 miles per year.⁵ However, the Company historically has not budgeted or achieved that level of miles trimmed as shown in the table below.⁶

⁴ See Exhibit JW-2, Reference Schedule 1.13.

⁵ Direct Testimony of Michael Moriarty, at page 8.

⁶ See Response to Attorney General’s Data Request 1-23(c).

<u>Budgeted vs. Actual Miles Trimmed</u>		
<u>Year</u>	<u>Budgeted Miles</u>	<u>Actual Miles</u>
2017	not found	143
2018	294	281
2019	371	301
2020	314	288
2021	317	270
2022	317	265
2023	350	297
2024	322	331

Source: Response to AG Data Request Set 1 Question 23c.

Based on this history, the Attorney General believes that it would be more reasonable to adjust the trim cycle to six years. This results in 316.7 annual miles to be trimmed. The Company has met this revised goal in at least one year. Additionally, at least one other Cooperative has a budgeted trim cycle of seven years, Big Sandy Rural Electric Cooperative.⁷

Thus, shifting Shelby to a six-year trim cycle is reasonable and would reduce the requested revenue requirement by \$333,826.⁸

2. Depreciation Expense

The depreciation rates used in the current revenue requirement model do not match those previously approved by the Commission. The approved depreciation rates

⁷ Case No. 2024-00287, *Electronic Application of Big Sandy Rural Electric Cooperative Corporation for a General Adjustment of Rates*, Rebuttal Testimony of Jeff Prater at page 3.

⁸ Note that the assertion of reasonableness is not a comment on the safety considerations of the plan. The recommendation is based solely on the Company's actual performance. Since this is the level of historical trimming, presumably the Company believes that level of trimming to result in a safe and effective system.

were approved in Case No. 2016-00434, but those are not the rates relied on by Mr. Wolfram here. The table below highlights the difference in the depreciation rates.

<u>Comparison of Depreciation Rates</u>			
Acct.	Approved Rates¹	Exhibit JW-2 Rates²	Difference
	(1)	(2)	(3) = (2) - (1)
362.0	2.88%	2.88%	0.00%
364.0	3.87%	3.90%	0.03%
365.0	2.91%	2.90%	-0.01%
366.0	2.93%	2.90%	-0.03%
367.0	5.10%	5.10%	0.00%
368.0	2.26%	2.30%	0.04%
369.0	3.21%	3.20%	-0.01%
370.0	6.67%	6.70%	0.03%
371.0	3.73%	3.70%	-0.03%
373.0	4.00%	4.00%	0.00%
389.0	0.00%	0.00%	0.00%
389.1	0.00%	0.00%	0.00%
390.0	3.00%	6.25%	3.25%
391.0	6.00%	20.00%	14.00%
393.0	4.80%	10.00%	5.20%
394.0	4.80%	16.67%	11.87%
395.0	4.80%	12.50%	7.70%
397.0	6.50%	11.11%	4.61%
398.0	4.80%	14.29%	9.49%
392.0	12.50%	12.50%	0.00%
396.0	13.50%	12.50%	-1.00%

¹Case No. 2016-00434, *Application of Shelby Energy Cooperative, Inc for an Increase in its Retail Rates*, Order at Page 8 and 9 and Witness James Adkins Exhibit 3 page 3 of 6.

²Exhibit JW-2, Reference Schedule 1.11.

Using the Commission’s approved depreciation rates reduces the revenue requirement by \$134,091.

3. Labor Vacancy

The company requested the inclusion of a vacancy in their revenue requirement for Employee Number 7.⁹ It is common for Companies to have vacant positions. To allow a position to be vacant in the test year is reflective of actual operating conditions for the Company. The total cost for this position is \$115,015 before payroll taxes and capitalization. Removing this employee from the revenue requirement would reduce it by \$67,695.¹⁰

4. Phone Reimbursement

The Company requests the inclusion of a phone reimbursement at \$1,303 annually (\$109 monthly) for most non-bargaining unit employees and \$1,020 annually (\$85 monthly) for most bargaining unit employees.¹¹ This is excessive. It is unlikely that utility employees utilize their phones solely for work. While they should be reimbursed for some amount to the extent their phone is used for work purposes, potentially paying the entire bill for all employees seems excessive. Reducing the reimbursement to a still generous \$40 per month would result in a \$13,485 revenue requirement reduction.

5. Labor Salary Increases

The Company requested 7.71% salary increases. The Company stated that average wage increases have been 3% for 2014-2024, which it represents as consistent with performance evaluation and an annual wage study.¹² But the wage increases for certain employees far exceed these levels. See Employees 1, 2, 4, 10, 14, and 15 on Schedule 1.10

⁹ See Response to Attorney General's Data Request 1-19(f).

¹⁰ This is a reduction from the \$115,015 due to the impacts of payroll taxes and capitalization.

¹¹ See Exhibit JW-2, Reference Schedule 1.10 Other Pay Column and AG Data Request Set 2, Question 6 for details.

¹² See Response to Attorney General Data Request 1-5(b).

“Wages.” Capping the wage increases of every employee who received wage increases in excess of 5% at 5% would be reasonable. This would reduce the average wage increase to 4.56% and would decrease the revenue requirement by \$25,715.

6. Revenue: Usage

The Company admits that the level of usage in the test year was abnormal. According to the Direct Testimony of Michael Moriarty at page 7, “Shelby Energy simultaneously saw a reduction in revenue for the 2023 test year due to lower sales volume. Milder temperatures in 2023 resulted in decreased residential kWh sales of 8.4% compared to 2022, and it was the lowest amount of residential kWh sales since 2017.” When usage of the system is low in the test year, fixed costs are spread over fewer kWh, resulting in higher rates than would have been necessary to generate the revenue requirement normally. Thus, when usage returns to normal levels, those higher rates result in unjustified revenues.

In another case, Witness Wolfram testified that one way of calculating a weather normalization adjustment would be to consider 20 or 30 years of Heating Degree Days and Cooling Degree Days.¹³ But he failed to do that here.

Usage rose in 2024.¹⁴ The Company should be required to utilize the average usage for 2023 and 2024. Using the two-year average residential usage per customer of 15.50 increases usage to 205,778 MWhs versus the company proposed level of 200,450. The historical levels and proposed calculation are shown in the table below.

¹³ Case No. 2024-00287, *Electronic Application of Big Sandy Rural Electric Cooperative Corporation for a General Adjustment of Rates*, Rebuttal Testimony of John Wolfram at page 4.

¹⁴ See Response to Attorney General’s Data Request 1-20.

<u>Line</u>	<u>Description</u>	<u>2023</u>	<u>2024</u>	<u>2 Year Average</u>	<u>Company TY</u>	<u>AG Proposed</u>
1	Usage (MWh)	200,450	214,477		200,450	205,778
2	EOY Customers	13,276	13,488		13,276	13,276
3	Usage per Ave Customer	15.10	15.90	15.50	15.10	15.50

Company Data Response to AG Data Request 1-20

This adjustment increases the revenues and subsequently decreases the revenue requirement of the company by \$172,465. This adjustment also takes into account the expense portion that would be affected by increasing usage.

7. Revenue: Rounding

The Company adjusts their member numbers to reflect the end of the test year amount. In doing so, its revenue and expenses change. To do this, the Company compares an average for the test year to the end of period amount and adjust the member numbers based on the difference. This member adjustment, as shown on Schedule 1.09, reflects an increase to revenues and subsequently decreases the revenue requirement of \$116,549.

This value is overstated due to a calculation error when comparing the end of test year member count to the average. Witness John Wolfram, like in previous cases, rounds the average to make the end of period increase over average into whole numbers. Correcting this rounding *increases* the company's revenue requirement by \$7,557.

8. TIER

The Commission should approve a TIER of 1.92. Shelby has requested a TIER of 2.0. Shelby makes contributions and pays dues and donations to various civic organizations that it excludes from cost of service. But the Company is likely to continue to pay out these contributions, dues, and donations out of excess TIER funding. If the Commission were to reduce TIER funding to offset those excluded voluntary expenses, the Company would be further incentivized to discontinue these payments, saving ratepayers the expense. In this case, those contributions total \$211,000.

9. Customer Charge

Shelby requests that its fixed customer charge be increased from \$19 to \$29 per month, an increase of 53%. The Attorney General has concerns regarding this sudden and severe increase in the fixed customer charge. An increase of this magnitude to the residential customer charge could hinder the ability of residential customers to control their monthly electric bills and pose a further financial hardship on those customers struggling to make ends meet. The Commission has always relied upon the principle of gradualism in ratemaking, which mitigates the financial impact of rate increases on customers.¹⁵ The Attorney General respectfully requests the Commission to continue to

¹⁵ Case No. 2014-00396, *In the Matter of Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (2) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief*, (Ky. PSC June 22, 2014) (“the Commission has long employed the principle of gradualism”); See also Case No. 2000-00080, *In the Matter of: The Application of Louisville Gas & Electric Company to Adjust its Gas Rates and to Increase its Charges for Disconnecting Service, Reconnecting Service and Returned Checks* (Ky. PSC Sept. 27, 2000) (“the Commission is adhering to the rate-making concepts of continuity and gradualism in order to lessen the impact of these increases on the customers that incur these charges.”)

rely upon the principle of gradualism when awarding any increase to the residential monthly customer charge.

Conclusion

The aforementioned reductions to the proposed increase in revenue requirement have a cumulative effect of reducing the increase by \$951,139.

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Source:
¹Shelby-2023-RevReq-FILED.xlsx.

Thus, the Commission should approve a revenue increase of \$1,388,759, not the \$2,339,898¹⁶ requested by the Company.

¹⁶ This revenue requirement number differs from the application number on the first page of this document due to a difference in the Company’s application and revenue requirement model, Exhibit JW-2. This number and all previously mentioned adjustments are based on Exhibit JW-2.

Respectfully submitted,

RUSSELL COLEMAN
ATTORNEY GENERAL



J. MICHAEL WEST
T. TOLAND LACY
LAWRENCE W. COOK
ANGELA M. GOAD
JOHN G. HORNE II
ASSISTANT ATTORNEYS GENERAL
1024 CAPITAL CENTER DRIVE SUITE 200
FRANKFORT, KY 40601-8204
PHONE: (502) 696-5433
FAX: (502) 573-1005
Michael.West@ky.gov
Thomas.Lacy@ky.gov
Larry.Cook@ky.gov
Angela.Goad@ky.gov
John.Horne@ky.gov

Certificate of Service and Filing

Pursuant to the Commission's Order dated March 17, 2020 in Case No. 2020-00085, and in accord with all other applicable law, Counsel certifies that, on May 2, 2025, a copy of the forgoing was served on the individuals on the e-service list.

this 2nd day of May, 2025.

A handwritten signature in blue ink, appearing to read "J. Michael New". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Assistant Attorney General