

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELAM UTILITY COMPANY D/B/A )  
ELAM UTILITY COMPANY, INC. )  
AND )  
WILMA B. ISON )  
AND ROBERT D. ISON, INDIVIDUALLY )  
AND AS OFFICERS OF THE UTILITY )  
\_\_\_\_\_ ) CASE NO. 2003-00488  
)  
ALLEGED VIOLATIONS OF )  
THE COMMISSION'S ORDER )

O R D E R

On May 28, 2003, the Commission initiated a review of Elam Utility Company d/b/a Elam Utility Company, Inc. ("Elam") in Case No. 2003-00171.<sup>1</sup> The Commission issued an Order on October 24, 2003, which ordered Elam to file its Gas Cost Adjustment ("GCA") by December 1, 2003; to file by January 10, 2004 written evidence that it has paid accrued interest on its customer deposits; and to file by December 20, 2003 the monthly general ledger and copies of bank statements for the previous month.

Elam failed to make any of the filings on time. Consequently, this case was opened and an Order was issued to Elam; Wilma B. Ison, President of Elam; and Robert D. Ison, Vice President of Elam, requiring each of them to show cause why each

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<sup>1</sup> Case No. 2003-00171, A Review of the Rates of Elam Utility Company, Inc. Pursuant to the Decision to Approve the Financing Requested in Case No. 2001-00324 (Order dated October 24, 2003).

should not be found in violation of a Commission Order and why penalties should not be assessed against the utility, its officers, and employees, pursuant to KRS 278.990(1).

Elam, Wilma B. Ison, Robert D. Ison, and Commission Staff entered into negotiations to resolve all outstanding issues in this proceeding. A Settlement Agreement was entered into between Elam, Wilma B. Ison, Robert D. Ison, and Commission Staff. The Settlement Agreement is attached hereto as Appendix A. In reviewing the Settlement Agreement and the record, the Commission makes the following findings:

1. The November 14, 2003 Order in Case No. 2003-00171 should be amended to allow Elam until the 30<sup>th</sup> of each month in which to file copies of its general ledger and bank statements for the previous month.

2. The October 24, 2003 Order in Case No. 2003-00171 should be amended to require Elam to request Commission approval prior to the declaration or payment of any dividend.

3. The Settlement Agreement is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement dated January 23, 2004 is incorporated into this Order as if fully set forth herein.

2. The terms and conditions set forth in the Settlement Agreement are adopted and approved.

3. Elam is assessed a civil penalty of Seven Thousand Five Hundred Dollars (\$7,500). However, the entire civil penalty assessed upon Elam is suspended for a period of 2 years upon the following conditions:

a. Elam will file a GCA on or before January 30, 2004 and quarterly thereafter under the terms of its tariff, the next GCA to be filed by March 1, 2004.

b. Elam will submit its supplemental accrued interest filing by January 30, 2004 and will file its general ledger and bank statements, as set out in the Order of October 24, 2003, on or before the 30<sup>th</sup> of each month.

c. Elam will have no further violations during the 2-year suspension period.

d. If any of the above conditions are not met, the entire penalty shall become due and payable.

4. Wilma B. Ison, individually and as an officer of the utility, is assessed a civil penalty of Seven Thousand Five Hundred Dollars (\$7,500). Two Thousand Dollars (\$2,000) of that amount shall be paid within 30 days from the date of this Order by cashier's check payable to "Kentucky State Treasurer," and mailed or delivered to the Office of the General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky, 40602. The balance of Five Thousand Five Hundred Dollars (\$5,500) is suspended for a period of 2 years upon the same conditions as set out in paragraph number 3(a), (b), and (c) of this Order. Any violations of those conditions or of Commission Orders shall cause the suspended penalty of \$5,500 to become due and payable.

5. Robert D. Ison, individually and as an officer of the utility, is assessed a total civil penalty of One Thousand Five Hundred Dollars (\$1,500). However, the entire civil penalty assessed upon Robert D. Ison is suspended for a period of 2 years upon the same conditions as set out in paragraph number 3(a), (b), and (c) of this Order. Any violations of those conditions or of Commission Orders shall cause the suspended penalty of \$1,500 to become due and payable.

6. The Order dated November 24, 2003 in Case No. 2003-00171 is amended to read as follows:

Elam shall file copies of its general ledger and bank statements for the preceding month no later than the 30<sup>th</sup> of each month until further Order of the Commission.

7. Ordering paragraph number 7 of the Order dated October 24, 2003 in Case No. 2003-00171 is amended to read as follows:

Before Elam shall declare or pay any dividend, Elam shall obtain Commission approval. Any request for such approval shall include a cash flow analysis showing the impact of the proposed dividend on the financial condition of the utility and a statement explaining why the payment of a dividend is reasonable.

8. Upon payment of the non-suspended portion of the penalties, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

Done at Frankfort, Kentucky, this 8<sup>th</sup> day of March, 2004.

By the Commission

ATTEST:

  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2003-00488 DATED March 8, 2004

(See document named "200300488\_03082004apx.pdf" for Appendix.)