

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF ELAM UTILITY)	
COMPANY, INC. AND WILMA B. ISON,)	
INDIVIDUALLY AND AS AN OFFICER OF ELAM)	CASE NO.
UTILITY COMPANY, INC., FOR ALLEGED)	2009-00362
VIOLATIONS OF FILED TARIFF GAS COST)	
ADJUSTMENT CLAUSE)	

O R D E R

Elam Utility Company d/b/a Elam Utility Company, Inc. (“Elam”) is a local gas distribution company subject to the Commission’s jurisdiction pursuant to KRS 278.040.

Elam’s filed tariff contains a Gas Cost Adjustment (“GCA”) clause that requires Elam to file with the Commission a gas cost recovery rate for each calendar quarter.¹ Elam’s GCA clause further requires each filing to be made 30 days prior to the first day of each calendar quarter and provides a list of the calendar quarters.

On July 2, 2009, Elam filed its proposed GCA to be effective August 1, 2009.² The Commission found that the current quarter Actual Adjustment reported by Elam would produce a negative GCA rate and is not in the best interest of Elam or its customers. This anomaly is attributable to Elam’s failure to submit its GCA filings, as

¹ Tariff of Elam Utility Company, First Revised Sheet No. 4-5 (effective Oct. 1, 2000).

² Case No. 2009-00257, Purchased Gas Adjustment Filing of Elam Utility Company (Ky. PSC Sept. 14, 2009).

required by its tariff, for a period of four quarters.³ The information provided in Elam's GCA filing of July 2, 2009 shows that, from May 2008 to March 2009, Elam had accumulated over-recoveries of gas cost from its customers in the amount of \$249,063.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Elam failed to file its GCA with the Commission for calendar quarter four of 2008 (October, November, and December 2008).

2. Elam failed to file its GCA with the Commission for calendar quarter one of 2009 (January, February, and March 2009).

3. Elam failed to file its GCA with the Commission for calendar quarter two of 2009 (April, May, and June 2009).

4. Elam failed to timely file its GCA with the Commission for calendar quarter three of 2009 (July, August, and September 2009).

5. Elam's latest utility report filed with the Commission lists Wilma Ison as President and sole officer of the utility company.

6. Elam's last Annual Report for Corporations filed with the Kentucky Secretary of State lists Wilma B. Ison as President and sole officer of the corporation.

7. A prima facie showing has been made that Elam has violated the provisions of its filed tariff by failure to timely file its GCAs, as stated in finding paragraphs 1-4 above, and being four separate violations of KRS 278.160(2).

8. A prima facie showing has been made that Wilma B. Ison aided and abetted Elam in its violation of tariff provisions by failure to timely file its GCAs, as

³ Elam's last GCA filing was May 30, 2008, for rates to be effective July 1, 2008.

stated in finding paragraphs 1-4 above, and being four separate violations of KRS 278.160(2).

The Commission, on its own motion, HEREBY ORDERS that:

1. Elam and Wilma B. Ison, individually and as President of Elam, shall appear before the Commission on November 12, 2009 at 10:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky for the purposes of presenting evidence concerning the failure to file Elam's GCA for four quarters and showing cause why Elam and Wilma B. Ison, jointly and severally, should not be subject to the penalties prescribed in KRS 278.990(1) for each violation.

2. The Commission does not favor motions for continuance and will grant them only when such a motion is made in writing and states a compelling reason for granting the motion.

3. Corporate entities are advised that, under Kentucky law, a corporation, its employees, and any representative not licensed to practice law in Kentucky are not permitted to make objections, examine, or cross-examine witnesses in administrative hearings.⁴

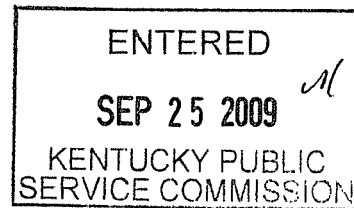
4. Within 20 days of the date of this Order, Elam and Wilma B. Ison shall each file a written response to the Commission concerning the allegations contained herein.

⁴ Turner v. Kentucky Bar Ass'n., 980 S.W.2d 560 (Ky. 1998); and Administrative Case No. 249, Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky (Ky. PSC June 15, 1981).

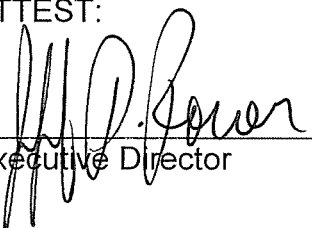
5. Any motion requesting an informal conference with Commission Staff to consider any matter that would aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

6. Pursuant to KRS 278.360, the record of the formal hearing shall be kept by videotape. Any party requesting a court reporter shall file a motion within 10 business days of the date of this Order requesting that the Commission schedule a court reporter to provide a written transcript of the hearing.

By the Commission



ATTEST:



Executive Director

