

KINKEAD & STILZ, PLLC
ATTORNEYS AT LAW
NATIONAL CITY PLAZA
301 EAST MAIN STREET, SUITE 800
LEXINGTON, KENTUCKY 40507-1520
(859) 296-2300
FACSIMILE (859) 296-2566

RECEIVED

JUL 16 2010

**PUBLIC SERVICE
COMMISSION**

FACSIMILE TRANSMITTAL LETTER

To: W. Duncan Crosby, III, Esq.
Stoll Keenon Ogden PLLC
2000 West Jefferson Plaza
500 West Jefferson Street
Louisville, Kentucky 40202-2828

DATE: July 15, 2010

FAX : (502) 627-8754
(606) 362-8939; (606) 743-2202;
and (606) 743-2551
(606) 743-7811
(502) 564-6801
(502) 564-3460

Hon. D. Joleen Frederick
City Attorney for West Liberty
Kentucky
c/o 511 Main Street
P.O. Box 508
West Liberty, Kentucky 41472

PHONE: (502) 333-6000
(606) 743-2550
(606) 743-3866
(502) 696-5609 / (502) 564-7600
(502) 564-3940

Kim Ison Gevedon, Esq.
579 Main Street, Suite 2
P.O. Box 216
West Liberty, Kentucky 41472

TIME: 7:56 p. m. EST

Dennis G. Howard, II, Esq.
Lawrence W. Cook, Esq.
Paul D. Adams, Esq.
Assistant Attorneys General
Office of the Ky. Att'y General
Office of Rate Intervention
1024 Capital Center Dr., Suite 200
Frankfort, Kentucky 40601-8204

RE: *In the Matter of: Elam Utility
Company, Inc., and its
Owner/Shareholder (Alleged
Abandonment of Service to
Morgan County, Kentucky), Case
No. 2010-00292, Commonwealth
of Kentucky, Before the Public
Service Commission*

Mr. Jeff DeRouen,
Executive Director
Kentucky Public Service
Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602-0615

*Columbia Gas Transmission, LLC
v. Elam Utility Company, Inc., 10-
fj-00002, United States District
Court for the Eastern District of
Kentucky, Ashland Division*

FROM: Wayne F. Collier and Shelby C.
Kinkead, Jr.

Elam Utility and Counsel in the PSC Proceeding
July 15, 2010
Fax Page 2

We are sending you 33 page(s), including this cover sheet. If you do not receive all of these page(s) or if you have any difficulty receiving this transmission, please call (859) 296-2300 and ask for Wayne. Also sent via post? Yes No .

MESSAGE: Dear Counsel, Elam Utility and the PSC:

Please be advised that we represent the interests of Columbia Gas Transmission, LLC ("Columbia-Transmission"), in connection with the rights that it has by virtue of the September 30, 2009, judgment that was recognized in an action styled *Columbia Gas Transmission, LLC v. Elam Utility Company, Inc.*, 10-fj-00002, United States District Court for the Eastern District of Kentucky, Ashland Division (the "Action"), whereby Elam Utility Company, Inc. ("Elam Utility") was adjudged indebted to Columbia-Transmission in the sum of \$313,646.35, a copy of which is attached hereto. In addition, we have been advised that either Columbia-Transmission or Columbia Gulf Transmission Company ("Columbia-Gulf") is also owed another \$390,114.00, for a total of \$703,760.35.

The undersigned was advised by Mr. Andrew Melnykovich of the PSC that it would be helpful to file certain documents relating to this action with the PSC in a matter styled *In the Matter of: Elam Utility Company, Inc., and its Owner/Shareholder (Alleged Abandonment of Service to Morgan County, Kentucky)*, Case No. 2010-00292, Commonwealth of Kentucky, Before the Public Service Commission. To that end, Columbia-Transmission has attached hereto the following:

- a. the judgment registered in the Action;
- b. a judgment lien filed yesterday afternoon in the Morgan County Clerk's Office;
- c. a judgment lien filed this afternoon in the Wolfe County Clerk's Office;
- d. an order of garnishment that was served today on Commercial Bank in West Liberty;
- e. an order of garnishment that was served today on Citizen's Bank in West Liberty;
- f. an order of garnishment that was served today on the Bank of the Mountains in West Liberty; and
- g. an order of garnishment that was served today on First National Bank of Grayson in West Liberty.

We have heard that the City of West Liberty is considering buying Elam Utility Company, Inc., or its assets. Although Columbia has not moved to intervene at this time, it would appreciate being

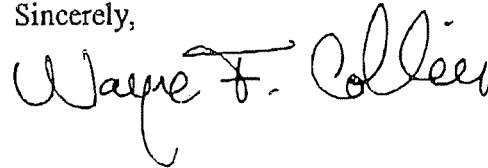
THIS MESSAGE IS INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED OR CONSTITUTES WORK PRODUCT AND IS EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or an agent or employee responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

Elam Utility and Counsel in the PSC Proceeding
July 15, 2010
Fax Page 3

apprised of any such developments and furnished with copies of any documents relating to a proposed sale and how the debt owed Columbia-Transmission will be paid in full. Furthermore, and, understandably, Columbia-Transmission expects to be paid what it is owed either by Elam and/or by any purchaser thereof or of Elam Utility's assets.

Please call me at once if you have any questions. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Wayne F. Collier". The signature is written in a cursive style with a large, sweeping "W" and a distinct "F".

cc: Wilma B. Sorrell, President
Elam Utility Company, Inc.
459 Main Street
West Liberty, Kentucky 41472

Columbia Gas Transmission, LLC

To be served by hand-delivery to the PSC on July 16, 2010

AO 451 (Rev. 01/09) Clerk's Certification of a Judgment to be Registered in Another District

UNITED STATES DISTRICT COURT
for the
Eastern District of Virginia

<u>Columbia Gas Transmission, LLC</u>)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 1:09cv655
<u>Elam Utility Company, Inc.</u>)	
<i>Defendant</i>)	

CLERK'S CERTIFICATION OF A JUDGMENT TO BE REGISTERED IN ANOTHER DISTRICT

I certify that the attached judgment is a copy of a judgment entered by this court on (date) 09/30/2009.

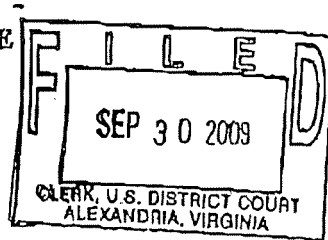
I also certify that, as appears from this court's records, no motion listed in Fed. R. App. P. 4(a)(4)(A) is pending before this court and that no appeal has been filed or, if one was filed, that it is no longer pending.

Date: December 30, 2009

Fernando Galindo, Clerk
CLERK OF COURT

Queenia C. Williams
Signature of Clerk or Deputy Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



COLUMBIA GAS TRANSMISSION, LLC,)
Plaintiff,)
v.)
ELAM UTILITY COMPANY, INC.,)
Defendant.)

Civil Action No. 1:09cv655

JUDGMENT ORDER

Upon consideration of the September 10, 2009 Report and Recommendation of the United States Magistrate Judge designated to conduct a hearing in this matter, no objections having been filed, and upon an independent *de novo* review of the record, it is hereby **ORDERED** that the Court adopts as its own the findings of fact and recommendation of the United States Magistrate Judge, as set forth in the September 10, 2009 Report and Recommendation.

Accordingly, it is hereby **ORDERED** that judgment is **ENTERED** by default in favor of plaintiff and against defendant in the total amount of \$313,646.35.

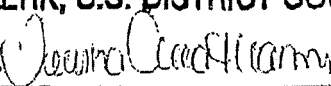
The Clerk is **DIRECTED** to enter judgment pursuant to Rule 58, Fed. R. Civ. P. and to place this matter among the ended causes.

The Clerk is further **DIRECTED** to send a certified copy of this Judgment Order to defendant and to all counsel of record.

Alexandria, VA
September 30, 2009



T. S. Ellis, III
United States District Judge

A TRUE COPY, TESTE:
CLERK, U.S. DISTRICT COURT
BY 
DEPUTY CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
ASHLAND DIVISION
CASE NO. 10-fj-00002-HRW

COLUMBIA GAS TRANSMISSION, LLC,

PLAINTIFF,

v.

NOTICE OF JUDGMENT LIEN

ELAM UTILITY COMPANY, INC.,

DEFENDANT.

* * * * *

TO: COUNTY CLERK OF MORGAN COUNTY, KENTUCKY

JUDGMENT DEBTOR: Elam Utility Company, Inc.
459 Main Street
West Liberty, Kentucky 41472

JUDGMENT DATE: September 30, 2009

JUDGMENT AMOUNT: \$313,646.35

Take notice that the Judgment Creditor herein has obtained Judgment against the Judgment Debtor as set forth above and that this Notice constitutes a lien upon all real estate in this county in which said Judgment Debtor has any ownership interest.

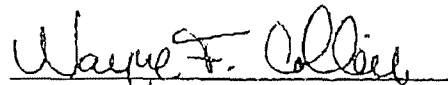
NOTICE TO JUDGMENT DEBTOR

YOU MAY BE ENTITLED TO AN EXEMPTION UNDER KRS 427.060 REPRINTED BELOW. IF YOU BELIEVE YOU ARE ENTITLED TO ASSERT AN EXEMPTION, SEEK LEGAL ADVICE. KRS 427.060: (HOMESTEAD AND BURIAL PLOT EXEMPTIONS – EXCEPTIONS) In addition to any exemption of personal property, an individual debtor's aggregate interest, not to exceed five thousand dollars (\$5,000.00) in value, in real or personal property that such debtor or a dependent of such debtor uses as a permanent residence in this state, or in a burial plot for such debtor or a dependent of such debtor is exempt from sale under execution, attachment or judgment, except to foreclose a mortgage given by the owner of a homestead or for purchase money due thereon. This exemption shall not apply if the debt or liability existed prior to the purchase of the property or the erection of the improvements thereon.

CERTIFICATE OF SERVICE AND PREPARATION

This is to certify that I prepared this document and that a true and correct copy of the foregoing Notice of Judgment Lien was served by mailing same via regular first-class mail, postage pre-paid on the 14th day of July, 2010, to the following:

Elam Utility Company, Inc.
459 Main Street
West Liberty, Kentucky 41472



Wayne F. Collier
Kinkead & Stilz, PLLC
301 E. Main Street, Suite 800
Lexington, Kentucky 40507
(859) 296-2300 phone
(859) 296-2566 facsimile
*COUNSEL FOR PLAINTIFF,
COLUMBIA GAS TRANSMISSION, LLC*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
ASHLAND DIVISION
CASE NO. 10-fj-00002-HRW

COLUMBIA GAS TRANSMISSION, LLC,

PLAINTIFF,

v.

NOTICE OF JUDGMENT LIEN

ELAM UTILITY COMPANY, INC.,

DEFENDANT.

* * * * *

TO: COUNTY CLERK OF WOLFE COUNTY, KENTUCKY

JUDGMENT DEBTOR: Elam Utility Company, Inc.
459 Main Street
West Liberty, Kentucky 41472

JUDGMENT DATE: September 30, 2009

JUDGMENT AMOUNT: \$313,646.35

Take notice that the Judgment Creditor herein has obtained Judgment against the Judgment Debtor as set forth above and that this Notice constitutes a lien upon all real estate in this county in which said Judgment Debtor has any ownership interest.

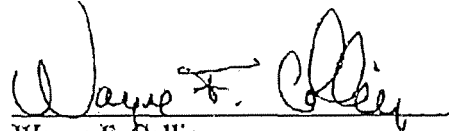
NOTICE TO JUDGMENT DEBTOR

YOU MAY BE ENTITLED TO AN EXEMPTION UNDER KRS 427.060 REPRINTED BELOW. IF YOU BELIEVE YOU ARE ENTITLED TO ASSERT AN EXEMPTION, SEEK LEGAL ADVICE. KRS 427.060: (HOMESTEAD AND BURIAL PLOT EXEMPTIONS – EXCEPTIONS) In addition to any exemption of personal property, an individual debtor’s aggregate interest, not to exceed five thousand dollars (\$5,000.00) in value, in real or personal property that such debtor or a dependent of such debtor uses as a permanent residence in this state, or in a burial plot for such debtor or a dependent of such debtor is exempt from sale under execution, attachment or judgment, except to foreclose a mortgage given by the owner of a homestead or for purchase money due thereon. This exemption shall not apply if the debt or liability existed prior to the purchase of the property or the erection of the improvements thereon.

CERTIFICATE OF SERVICE AND PREPARATION

This is to certify that I prepared this document and that a true and correct copy of the foregoing Notice of Judgment Lien was served by mailing same via regular first-class mail, postage pre-paid on the 5th day of July, 2010, to the following:

Elam Utility Company, Inc.
459 Main Street
West Liberty, Kentucky 41472



Wayne F. Collier
Kinkead & Stilz, PLLC
301 E. Main Street, Suite 800
Lexington, Kentucky 40507
(859) 296-2300 phone
(859) 296-2566 facsimile
COUNSEL FOR PLAINTIFF.
COLUMBIA GAS TRANSMISSION, LLC

EDKy426 (Rev. 09/91) Order of Garnishment (Non-wage)

Eastern District of Kentucky

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY

at Ashland

ORDER OF GARNISHMENT (NON-WAGE)

JUL 15 2010

AT LEXINGTON
LESLIE G. WHITMER
CLERK OF DISTRICT COURT

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC

Garnishee's Date of Receipt

Judgment Debtor: ELAM UTILITY COMPANY, INC.

Case Name and No.
10-fj-0002

Garnishee: Commercial Bank
West Liberty, Kentucky 41472

Name and Address of Judgment
Creditor's Attorney

Amount Due: \$313,646.35
Court Costs:

Wayne F. Collier, Esq.
Kinkead & Stilz, PLLC
301 East Main Street, Suite 800
Lexington, Kentucky 40507

THE UNITED STATES OF AMERICA:

To the Garnishee:

If you hold property belonging to, or are indebted to, the judgment debtor named above, you are hereby ORDERED to hold and safely keep all of the property of the Judgment Debtor necessary to satisfy the amount due plus court costs as shown above. You are RESTRAINED from paying to the Judgment Debtor, or to anyone for him, money or property in your possession belonging to him or in which he has any interest.

INSTRUCTIONS

You Are Hereby Summoned and Required to Do the Following:

- (1) Fill in the Garnishee's Date of Receipt in the space provided above on all copies;
- (2) Hold and safely keep any funds or property due the Judgment Debtor to the extent of the Amount Due above plus Court Costs until further Order of the Court or as directed below;
- (3) Promptly attempt to notify the Judgment Debtor by mailing a copy of this Order to his last known address or by delivering it to him;
- (4) If after the expiration of fourteen (14) days from your receipt of this Order and there has been no further notice from the Court, then do the following:
 - (a) Using the form provided, Answer as Garnishee within twenty (20) days of the receipt of this Order; and
 - (b) Forward to the Attorney named below your Answer, and,
 - (c) Send the original of your Answer to the Court.

Date: JUL 15 2010

LESLIE G. WHITMER, CLBRK.

By: Jackie Seitzman, D.C.

IMPORTANT LEGAL NOTICE TO JUDGMENT DEBTOR

Money or property belonging to you has been subjected to a garnishment under a judgment entered against you in this case. Some funds may be exempt from garnishment, including Social Security benefits, workers compensation benefits, unemployment insurance benefits, AFDC, and some other types of governmental benefit payments; however, you must claim and prove any applicable exemption. If you can show that the property garnished by this Order consists of exempt funds, then you may immediately request a hearing in the court listed above by filing a sworn written request with the Clerk of the Court within ten (10) days of the Garnishee's Date of Receipt noted above. Note: The Clerk does not have forms for you to use and cannot give you legal advice.

Distribution: Original to Court, Copy to Judgment Creditor's Attorney, Copy to Garnishee (sent by Judgment Creditor's Attorney)

EDKy-426 (Rev. 09/01) Affidavit and Answer of Garnishee (Non-wage)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
at Ashland
AFFIDAVIT AND ANSWER OF GARNISHEE

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC

Garnishee's Date of Receipt

Judgment Debtor: BLAM UTILITY COMPANY, INC.

Case Name and No.

10-fj-0002

Garnishee: Commercial Bank
West Liberty, Kentucky 41472

Name and Address of Judgment
Creditor's Attorney

Amount Due: \$313,646.35

Court Costs:

Wayne F. Collier, Esq.
Kinkead & Stiltz, PLLC
301 East Main Street, Suite 800
Lexington, Kentucky 40507

The Affiant, after being first duly sworn, states as follows:

1. The name of the Judgment Debtor is _____
2. At the time of the service of the Order of Garnishment (Non-wage), the Garnishee herein is indebted to the Judgment Debtor or holds money belonging to the Judgment Debtor in the amount of \$ _____
3. Other property belonging to the Judgment Debtor and held by me is as follows (If none, put "none");

4. I, or I on behalf of the Garnishee herein, state that there is no other money, property, or other evidence of debt in my possession that belongs to the Judgment Debtor.
5. I, or I on behalf of the Garnishee, have forwarded to the Judgment Creditor's Attorney the amount of money so held by me to the extent of the amount due plus costs as shown on the reverse. THE AMOUNT FORWARDED IS: \$ _____
6. If I, or I on behalf of the Garnishee, hold property (listed above) other than money which I am unable to forward, I hereby disclose (in Paragraph 3 above) such property and will hold and safely keep such property pending further orders of the Court.
7. In addition, I have sent the original of this Answer to the Court, a copy to the Judgment Creditor's Attorney and a copy of the Order of Garnishment (Non-wage) and of this Answer to the Judgment Debtor.

GARNISHEE

By: _____
Signature of Affiant
Position (If Applicable): _____

Subscribed and sworn to before me by the above Affiant this _____ day of _____, 20_____

My Commission Expires: _____

Notary Public, State at Large

INSTRUCTIONS

1. After receiving the Order of Garnishment (Non-wage), promptly send a copy of it to the Judgment Debtor.
2. After 14 days from Garnishee's Date of Receipt, but within 20 days from Garnishee's Date of Receipt, mail the original of this Answer to the Court, a copy to the Judgment Creditor's Attorney and a copy to the Judgment Debtor.
3. Retain a copy of the Order and this Answer for your records.

EDKy426 (Rev. 09/91) Affidavit for Order of Garnishment (Non-wage)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
at Ashland

AFFIDAVIT FOR ORDER OF GARNISHMENT (NON-WAGE)

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC

Judgment Debtor: ELAM UTILITY COMPANY, INC.

Case Name and No.
10-fj-0002

Garnishee: Commercial Bank
West Liberty, Kentucky 41472

Name and Address of Judgment
Creditor's Attorney

Amount Due: \$313,646.35
Court Costs:

Wayne F. Collier, Esq.
Kinkead & Stilz, PLLC
301 East Main Street, Suite 800
Lexington, Kentucky 40507

The undersigned affiant states that he is counsel for the Judgment Creditor and states as follows:

1. The above named Judgment Debtor(s) are not now, nor have they been at any time during the pendency of this action, in the active military service of the United States of America.
2. The date of the judgment and the amount due thereon (subject to any credits due for any sums currently being processed) are:
9/30/2009
\$313,646.35
3. The following are indebted to said Judgment Debtor(s):

WHEREFORE: The Judgment Creditor prays for garnishment against the Judgment Debtor(s); that the Garnishee(s) named herein be made parties to this action, and that they be required to answer the garnishment(s) issued hereunder; and for its costs.

Wayne F. Collier
Affiant

Subscribed and sworn to before me by the above affiant this 14th day of July 2010.

My Commission expires: 09/21/2010

Emilijl. Hogue
Notary Public, State at Large



AO 451 (Rev. 01/09) Clerk's Certification of a Judgment to be Registered in Another District

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Columbia Gas Transmission, LLC

Plaintiff

v.

Elam Utility Company, Inc.

Defendant

Civil Action No. 1:09cv655

CLERK'S CERTIFICATION OF A JUDGMENT TO BE REGISTERED IN ANOTHER DISTRICT

I certify that the attached judgment is a copy of a judgment entered by this court on (date) 09/30/2009.

I also certify that, as appears from this court's records, no motion listed in Fed. R. App. P. 4(a)(4)(A) is pending before this court and that no appeal has been filed or, if one was filed, that it is no longer pending.

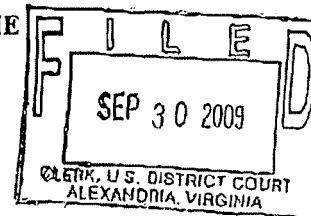
Date: _____

Fernando Galindo, Clerk
CLERK OF COURT

Signature of Clerk or Deputy Clerk

Case: 0:10-fj-00002-HRW Doc #: 21-5 Filed: 07/15/10 Page: 6 of 6 - Page ID#: 86
Case 0:10-fj-00002-HRW Document 1-1 Filed 03/26/10 Page 2 of 2
Case 1:09-cv-00655-TSE-JFA Document 17 Filed 09/30/2009 Page 1 of 1

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



COLUMBIA GAS TRANSMISSION, LLC,)
Plaintiff,)
)
v.)
)
ELAM UTILITY COMPANY, INC.,)
Defendant.)

Civil Action No. 1:09cv655

JUDGMENT ORDER

Upon consideration of the September 10, 2009 Report and Recommendation of the United States Magistrate Judge designated to conduct a hearing in this matter, no objections having been filed, and upon an independent *de novo* review of the record, it is hereby **ORDERED** that the Court adopts as its own the findings of fact and recommendation of the United States Magistrate Judge, as set forth in the September 10, 2009 Report and Recommendation.

Accordingly, it is hereby **ORDERED** that judgment is **ENTERED** by default in favor of plaintiff and against defendant in the total amount of \$313,646.35.

The Clerk is **DIRECTED** to enter judgment pursuant to Rule 58, Fed. R. Civ. P. and to place this matter among the ended causes.

The Clerk is further **DIRECTED** to send a certified copy of this Judgment Order to defendant and to all counsel of record.

Alexandria, VA
September 30, 2009



T. S. Billis, III
United States District Judge

A TRUE COPY, TESTE:
CLERK, U.S. DISTRICT COURT

BY _____
DEPUTY CLERK

Eastern District of Kentucky
FILED

EDKy426 (Rev. 09/91) Order of Garnishment (Non-wage)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY

JUL 14 2010

at Ashland

ORDER OF GARNISHMENT (NON-WAGE)

AT LEXINGTON
LESLIE G. WHITMER
CLERK U.S. DISTRICT COURT

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC

Garnishee's Date of Receipt

Judgment Debtor: ELAM UTILITY COMPANY, INC.

Case Name and No.
10-fj-0002

Garnishee: Citizens Bank
West Liberty, Kentucky 41472

Name and Address of Judgment
Creditor's Attorney

Amount Due: \$313,646.35
Court Costs:

Wayne F. Collier, Esq.
Kinkead & Stilz, PLLC
301 East Main Street, Suite 800
Lexington, Kentucky 40507

THE UNITED STATES OF AMERICA:

To the Garnishee:

If you hold property belonging to, or are indebted to, the judgment debtor named above, you are hereby ORDERED to hold and safely keep all of the property of the Judgment Debtor necessary to satisfy the amount due plus court costs as shown above. You are RESTRAINED from paying to the Judgment Debtor, or to anyone for him, money or property in your possession belonging to him or in which he has any interest.

INSTRUCTIONS

You Are Hereby Summoned and Required to Do the Following:

- (1) Fill in the Garnishee's Date of Receipt in the space provided above on all copies;
- (2) Hold and safely keep any funds or property due the Judgment Debtor to the extent of the Amount Due above plus Court Costs until further Order of the Court or as directed below;
- (3) Promptly attempt to notify the Judgment Debtor by mailing a copy of this Order to his last known address or by delivering it to him;
- (4) If after the expiration of fourteen (14) days from your receipt of this Order and there has been no further notice from the Court, then do the following:
 - (a) Using the form provided, Answer as Garnishee within twenty (20) days of the receipt of this Order; and
 - (b) Forward to the Attorney named below your Answer; and,
 - (c) Send the original of your Answer to the Court.

Date: JUL 14 2010

LESLIE G. WHITMER, CLERK

By: Jackie Seltsam D.C.

IMPORTANT LEGAL NOTICE TO JUDGMENT DEBTOR

Money or property belonging to you has been subjected to a garnishment under a judgment entered against you in this case. Some funds may be exempt from garnishment, including Social Security benefits, workers compensation benefits, unemployment insurance benefits, AFDC, and some other types of governmental benefit payments, however, you must claim and prove any applicable exemption. If you can show that the property garnished by this Order consists of exempt funds, then you may immediately request a hearing in the court listed above by filing a sworn written request with the Clerk of the Court within ten (10) days of the Garnishee's Date of Receipt noted above. Note: The Clerk does not have forms for you to use and cannot give you legal advice.

Distribution: Original to Court, Copy to Judgment Creditor's Attorney, Copy to Garnishee (sent by Judgement Creditor's Attorney)

EDKy426 (Rev. 09/91) Affidavit and Answer of Garnishee (Non-wage)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
at Ashland
AFFIDAVIT AND ANSWER OF GARNISHEE

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC

Garnishee's Date of Receipt

Judgment Debtor: ELAM UTILITY COMPANY, INC.

Case Name and No.
10-fj-0002

Garnishee: Citizens Bank
West Liberty, Kentucky 41472

Name and Address of Judgment
Creditor's Attorney

Amount Due: \$313,646.35
Court Costs:

Wayne F. Collier, Esq.
Kinkead & Stiltz, PLLC
301 East Main Street, Suite 800
Lexington, Kentucky 40507

The Affiant, after being first duly sworn, states as follows:

- 1. The name of the Judgment Debtor is
2. At the time of the service of the Order of Garnishment (Non-wage), the Garnishee herein is indebted to the Judgment Debtor or holds money belonging to the Judgment Debtor in the amount of \$
3. Other property belonging to the Judgment Debtor and held by me is as follows (If none, put "none"):
4. I, or I on behalf of the Garnishee herein, state that there is no other money, property, or other evidence of debt in my possession that belongs to the Judgment Debtor.
5. I, or I on behalf of the Garnishee, have forwarded to the Judgment Creditor's Attorney the amount of money so held by me to the extent of the amount due plus costs as shown on the reverse. THE AMOUNT FORWARDED IS: \$
6. If I, or I on behalf of the Garnishee, hold property (listed above) other than money which I am unable to forward, I hereby disclose (in Paragraph 3 above) such property and will hold and safely keep such property pending further orders of the Court.
7. In addition, I have sent the original of this Answer to the Court, a copy to the Judgment Creditor's Attorney and a copy of the Order of Garnishment (Non-wage) and of this Answer to the Judgment Debtor.

GARNISHEE

By:
Signature of Affiant
Position (If Applicable):

Subscribed and sworn to before me by the above Affiant this ___ day of ___, 20__

My Commission Expires:
Notary Public, State at Large

INSTRUCTIONS

- 1. After receiving the Order of Garnishment (Non-wage), promptly send a copy of it to the Judgment Debtor.
2. After 14 days from Garnishee's Date of Receipt, but within 20 days from Garnishee's Date of Receipt, mail the original of this Answer to the Court, a copy to the Judgment Creditor's Attorney and a copy to the Judgment Debtor.
3. Retain a copy of the Order and this Answer for your records.

EDKy426 (Rev. 09/91) Affidavit for Order of Garnishment (Non-Wage)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
at Ashland

AFFIDAVIT FOR ORDER OF GARNISHMENT (NON-WAGE)

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC

Judgment Debtor: ELAM UTILITY COMPANY, INC.

Case Name and No.
10-fj-0002

Garnishee: Citizens Bank
West Liberty, Kentucky 41472

Name and Address of Judgment
Creditor's Attorney

Amount Due: \$313,646.35
Court Costs:

Wayne F. Collier, Esq.
Kinhead & Stolz, PLLC
301 East Main Street, Suite 800
Lexington, Kentucky 40507

The undersigned affiant states that he is counsel for the Judgment Creditor and states as follows:

1. The above named Judgment Debtor(s) are not now, nor have they been at any time during the pendency of this action, in the active military service of the United States of America.
2. The date of the judgment and the amount due thereon (subject to any credits due for any sums currently being processed) are:
9/30/2009
\$313,646.35
3. The following are indebted to said Judgment Debtor(s):

WHEREFORE: The Judgment Creditor prays for garnishment against the Judgment Debtor(s); that the Garnishee(s) named herein be made parties to this action, and that they be required to answer the garnishment(s) issued hereunder; and for its costs.

Wayne F. Collier
Affiant

Subscribed and sworn to before me by the above affiant this 14th day of July 2010.

My Commission expires: 09/21/2010

Emil Hogue
Notary Public, State at Large

Case: 0:10-fj-00002-HRW Doc #: 21-4 Filed: 07/15/10 Page: 5 of 6 Page ID#: 79
Case 0:10-fj-00002-HRW Document 21-4 Filed 07/15/10 Page 5 of 6 Page ID#: 79

AO 451 (Rev. 01/09) Clerk's Certification of a Judgment to be Registered in Another District

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

<u>Columbia Gas Transmission, LLC</u>)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 1.09cv655
<u>Elam Utility Company, Inc.</u>)	
<i>Defendant</i>)	

CLERK'S CERTIFICATION OF A JUDGMENT TO BE REGISTERED IN ANOTHER DISTRICT

I certify that the attached judgment is a copy of a judgment entered by this court on (date) 09/30/2009.

I also certify that, as appears from this court's records, no motion listed in Fed. R. App. P. 4(a)(4)(A) is pending before this court and that no appeal has been filed or, if one was filed, that it is no longer pending.

Date: _____

Fernando Gallardo, Clerk
CLERK OF COURT

Signature of Clerk or Deputy Clerk

EDKy-126 (Rev. 09/91) Affidavit and Answer of Garnishee (Non-wage)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
at Ashland
AFFIDAVIT AND ANSWER OF GARNISHEE

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC Garnishee's Date of Receipt

Judgment Debtor: ELAM UTILITY COMPANY, INC. Case Name and No.
10-fj-0002

Garnishee: Bank of the Mountains West Liberty, Kentucky 41472 Name and Address of Judgment Creditor's Attorney
Wayne P. Collier, Esq. Kinkead & Stilz, PLLC 301 East Main Street, Suite 800 Lexington, Kentucky 40507
Amount Due: \$313,646.35
Court Costs:

The Affiant, after being first duly sworn, states as follows:

- 1. The name of the Judgment Debtor is
2. At the time of the service of the Order of Garnishment (Non-wage), the Garnishee herein is indebted to the Judgment Debtor or holds money belonging to the Judgment Debtor in the amount of \$
3. Other property belonging to the Judgment Debtor and held by me is as follows (If none, put "none"):
4. I, or I on behalf of the Garnishee herein, state that there is no other money, property, or other evidence of debt in my possession that belongs to the Judgment Debtor.
5. I, or I on behalf of the Garnishee, have forwarded to the Judgment Creditor's Attorney the amount of money so held by me to the extent of the amount due plus costs as shown on the reverse. THE AMOUNT FORWARDED IS: \$
6. If I, or I on behalf of the Garnishee, hold property (listed above) other than money which I am unable to forward, I hereby disclose (in Paragraph 3 above) such property and will hold and safely keep such property pending further orders of the Court.
7. In addition, I have sent the original of this Answer to the Court, a copy to the Judgment Creditor's Attorney and a copy to the Order of Garnishment (Non-wage) and of this Answer to the Judgment Debtor.

GARNISHEE

By: Signature of Affiant
Position (If Applicable):

Subscribed and sworn to before me by the above Affiant this day of , 20

My Commission Expires: Notary Public, State at Large

INSTRUCTIONS

- 1. After receiving the Order of Garnishment (Non-wage), promptly send a copy of it to the Judgment Debtor.
2. After 14 days from Garnishee's Date of Receipt, but within 20 days from Garnishee's Date of Receipt, mail the original of this Answer to the Court, a copy to the Judgment Creditor's Attorney and a copy to the Judgment Debtor.
3. Retain a copy of the Order and this Answer for your records.

Eastern District of Kentucky

FILED

FDKy426 (Rev. 09/91) Order of Garnishment (Non-wage)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY

JUL 14 2010

at Ashland

ORDER OF GARNISHMENT (NON-WAGE)

AT LEXINGTON -
LESLIE G. WHITMER
CLERK U.S. DISTRICT COURT

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC

Garnishee's Date of Receipt

Judgment Debtor: ELAM UTILITY COMPANY, INC.

Case Name and No.
10-fj-0002

Garnishee: Bank of the Mountains
West Liberty, Kentucky 41472

Name and Address of Judgment
Creditor's Attorney

Amount Due: \$313,646.35
Court Costs:

Wayne F. Collier, Esq.
Kinkead & Stiliz, PLLC
301 East Main Street, Suite 800
Lexington, Kentucky 40507

THE UNITED STATES OF AMERICA;

To the Garnishee:

If you hold property belonging to, or are indebted to, the judgment debtor named above, you are hereby ORDERED to hold and safely keep all of the property of the Judgment Debtor necessary to satisfy the amount due plus court costs as shown above. You are RESTRAINED from paying to the Judgment Debtor, or to anyone for him, money or property in your possession belonging to him or in which he has any interest.

INSTRUCTIONS

You Are Hereby Summoned and Required to Do the Following:

- (1) Fill in the Garnishee's Date of Receipt in the space provided above on all copies;
- (2) Hold and safely keep any funds or property due the Judgment Debtor to the extent of the Amount Due above plus Court Costs until further Order of the Court or as directed below;
- (3) Promptly attempt to notify the Judgment Debtor by mailing a copy of this Order to his last known address or by delivering it to him;
- (4) If after the expiration of fourteen (14) days from your receipt of this Order and there has been no further notice from the Court, then do the following:
 - (a) Using the form provided, Answer as Garnishee within twenty (20) days of the receipt of this Order; and
 - (b) Forward to the Attorney named below your Answer; and,
 - (c) Send the original of your Answer to the Court.

Date: JUL 14 2010

LESLIE G. WHITMER, CLERK

By: Jackie Seitsam D.C.

IMPORTANT LEGAL NOTICE TO JUDGMENT DEBTOR

Money or property belonging to you has been subjected to a garnishment under a judgment entered against you in this case. Some funds may be exempt from garnishment, including Social Security benefits, workers compensation benefits, unemployment insurance benefits, AFDC, and some other types of governmental benefit payments; however, you must claim and prove any applicable exemption. If you can show that the property garnished by this Order consists of exempt funds, then you may immediately request a hearing in the court listed above by filing a sworn written request with the Clerk of the Court within ten (10) days of the Garnishee's Date of Receipt noted above. Note: The Clerk does not have forms for you to use and cannot give you legal advice.

Distribution: Original to Court, Copy to Judgment Creditor's Attorney, Copy to Garnishee (sent by Judgement Creditor's Attorney)

EDKy426 (Rev. 09/91) Affidavit for Order of Garnishment (Non-wage)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY

at Ashland

AFFIDAVIT FOR ORDER OF GARNISHMENT (NON-WAGE)

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC

Judgment Debtor: ELAM UTILITY COMPANY, INC.

Case Name and No.

10-fj-0002

Garnishee: Bank of the Mountains
West Liberty, Kentucky 41472

Name and Address of Judgment
Creditor's Attorney

Amount Due: \$313,646.35

Court Costs:

Wayne F. Collier, Esq.
Kinkead & Stilz, PLLC
301 East Main Street, Suite 600
Lexington, Kentucky 40507

The undersigned affiant states that he is counsel for the Judgment Creditor and states as follows:

1. The above named Judgment Debtor(s) are not now, nor have they been at any time during the pendency of this action, in the active military service of the United States of America.
2. The date of the judgment and the amount due thereon (subject to any credits due for any sums currently being processed) are:
9/30/2009
\$313,646.35
3. The following are indebted to said Judgment Debtor(s):

WHEREFORE: The Judgment Creditor prays for garnishment against the Judgment Debtor(s); that the Garnishee(s) named herein be made parties to this action, and that they be required to answer the garnishment(s) issued hereunder, and for its costs.

Wayne F. Collier
Affiant

Subscribed and sworn to before me by the above affiant this 14th day of July, 2010.

My Commission expires: 09/21/2010

Emily P. House
Notary Public, State at Large

Case: 0:10-fj-00002-HRW Doc #: 21-3 Filed: 07/15/10 Page: 5 of 6 - Page ID#: 73
Case 0:10-fj-00002-HRW Document 1-1 Filed 03/26/10 Page 1 of 2

AO 451 (Rev. 01/09) Clerk's Certification of a Judgment to be Registered in Another District

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

<u>Columbia Gas Transmission, LLC</u>)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 1:09cv655
<u>Elam Utility Company, Inc.</u>)	
<i>Defendant</i>)	

CLERK'S CERTIFICATION OF A JUDGMENT TO BE REGISTERED IN ANOTHER DISTRICT

I certify that the attached judgment is a copy of a judgment entered by this court on (date) 09/30/2009.

I also certify that, as appears from this court's records, no motion listed in Fed. R. App. P. 4(a)(4)(A) is pending before this court and that no appeal has been filed or, if one was filed, that it is no longer pending.

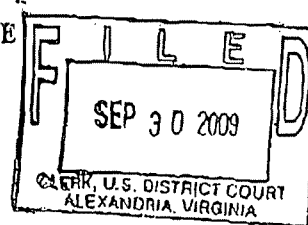
Date: _____

Fernando Galindo, Clerk
CLERK OF COURT

Signature of Clerk or Deputy Clerk

Case: 0:10-cv-00002-TRW Doc #: 21-3 Filed: 07/15/10 Page: 6 of 6 Page ID#: 74
Case 0:10-cv-00002-TRW Document 1-1 Filed 03/26/10 Page 2 of 2
Case 1:09-cv-00655-TSE-JFA Document 17 Filed 09/30/2009 Page 1 of 1

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



COLUMBIA GAS TRANSMISSION, LLC,)
Plaintiff,)
)
v.)
)
ELAM UTILITY COMPANY, INC.,)
Defendant.)

Civil Action No. 1:09cv655

JUDGMENT ORDER


Upon consideration of the September 10, 2009 Report and Recommendation of the United States Magistrate Judge designated to conduct a hearing in this matter, no objections having been filed, and upon an independent *de novo* review of the record, it is hereby **ORDERED** that the Court adopts as its own the findings of fact and recommendation of the United States Magistrate Judge, as set forth in the September 10, 2009 Report and Recommendation.

Accordingly, it is hereby **ORDERED** that judgment is **ENTERED** by default in favor of plaintiff and against defendant in the total amount of \$313,646.35.

The Clerk is **DIRECTED** to enter judgment pursuant to Rule 58, Fed. R. Civ. P. and to place this matter among the ended causes.

The Clerk is further **DIRECTED** to send a certified copy of this Judgment Order to defendant and to all counsel of record.

Alexandria, VA
September 30, 2009



T. S. Ellis, III
United States District Judge

A TRUE COPY, TESTE:
CLERK, U.S. DISTRICT COURT

BY _____
DEPUTY CLERK

Eastern District of Kentucky

EDKY-426 (Rev. 09/91) Order of Garnishment (Non-wage)

FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY

JUL 14 2010

at Ashland

ORDER OF GARNISHMENT (NON-WAGE)

AT LEXINGTON
LESLIE G. WHITMER
CLERK U.S. DISTRICT COURT

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC

Garnishee's Date of Receipt

Judgment Debtor: ELAM UTILITY COMPANY, INC.

Case Name and No.
10-fj-0002

Garnishee: First National Bank of Grayson
West Liberty, Kentucky 40472

Name and Address of Judgment
Creditor's Attorney

Amount Due: \$313,646.35
Court Costs:

Wayne F. Collier, Esq.
Kinkead & Stilz, PLLC
301 East Main Street, Suite 800
Lexington, Kentucky 40507

THE UNITED STATES OF AMERICA:

To the Garnishee:

If you hold property belonging to, or are indebted to, the judgment debtor named above, you are hereby ORDERED to hold and safely keep all of the property of the Judgment Debtor necessary to satisfy the amount due plus court costs as shown above. You are RESTRAINED from paying to the Judgment Debtor, or to anyone for him, money or property in your possession belonging to him or in which he has any interest.

INSTRUCTIONS

You Are Hereby Summoned and Required to Do the Following:

- (1) Fill in the Garnishee's Date of Receipt in the space provided above on all copies;
- (2) Hold and safely keep any funds or property due the Judgment Debtor to the extent of the Amount Due above plus Court Costs until further Order of the Court or as directed below;
- (3) Promptly attempt to notify the Judgment Debtor by mailing a copy of this Order to his last known address or by delivering it to him;
- (4) If after the expiration of fourteen (14) days from your receipt of this Order and there has been no further notice from the Court, then do the following:
 - (a) Using the form provided, Answer as Garnishee within twenty (20) days of the receipt of this Order; and
 - (b) Forward to the Attorney named below your Answer; and,
 - (c) Send the original of your Answer to the Court.

Date: JUL 14 2010

LESLIE G. WHITMER, CLERIC

By: Jacka Seltzer, D.C.

IMPORTANT LEGAL NOTICE TO JUDGMENT DEBTOR

Money or property belonging to you has been subjected to a garnishment under a judgment entered against you in this case. Some funds may be exempt from garnishment, including Social Security benefits, workers compensation benefits, unemployment insurance benefits, AFDC, and some other types of governmental benefit payments; however, you must claim and prove any applicable exemption. If you can show that the property garnished by this Order consists of exempt funds, then you may immediately request a hearing in the court listed above by filing a sworn written request with the Clerk of the Court within ten (10) days of the Garnishee's Date of Receipt noted above. Note: The Clerk does not have forms for you to use and cannot give you legal advice.

Distribution: Original to Court, Copy to Judgment Creditor's Attorney, Copy to Garnishee (sent by Judgment Creditor's Attorney)

EDKy426 (Rev. 09/91) Affidavit and Answer of Garnishee (Non-wage)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
at Ashland
AFFIDAVIT AND ANSWER OF GARNISHEE

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC Garnishee's Date of Receipt

Judgment Debtor: ELAM UTILITY COMPANY, INC. Case Name and No.
10-fj-0002

Garnishee: First National Bank of Grayson Name and Address of Judgment
West Liberty, Kentucky 41472 Creditor's Attorney
Amount Due: \$313,646.35 Wayne F. Collier, Esq.
Court Costs: Kinkead & Stilz, PLLC
301 East Main Street, Suite 800
Lexington, Kentucky 40507

The Affiant, after being first duly sworn, states as follows:

1. The name of the Judgment Debtor is _____
2. At the time of the service of the Order of Garnishment (Non-wage), the Garnishee herein is indebted to the Judgment Debtor or holds money belonging to the Judgment Debtor in the amount of \$ _____
3. Other property belonging to the Judgment Debtor and held by me is as follows (If none, put "none"):

4. I, or I on behalf of the Garnishee herein, state that there is no other money, property, or other evidence of debt in my possession that belongs to the Judgment Debtor.
5. I, or I on behalf of the Garnishee, have forwarded to the Judgment Creditor's Attorney the amount of money so held by me to the extent of the amount due plus costs as shown on the reverse. THE AMOUNT FORWARDED IS: \$ _____
6. If I, or I on behalf of the Garnishee, hold property (listed above) other than money which I am unable to forward, I hereby disclose (in Paragraph 3 above) such property and will hold and safely keep such property pending further orders of the Court.
7. In addition, I have sent the original of this Answer to the Court, a copy to the Judgment Creditor's Attorney and a copy to the Order of Garnishment (Non-wage) and of this Answer to the Judgment Debtor.

GARNISHEE

By: _____
Signature of Affiant
Position (If Applicable): _____

Subscribed and sworn to before me by the above Affiant this ___ day of _____, 20___

My Commission Expires: _____
Notary Public, State at Large

INSTRUCTIONS

1. After receiving the Order of Garnishment (Non-wage), promptly send a copy of it to the Judgment Debtor.
2. After 14 days from Garnishee's Date of Receipt, but within 20 days from Garnishee's Date of Receipt, mail the original of this Answer to the Court, a copy to the Judgment Creditor's Attorney and a copy to the Judgment Debtor.
3. Retain a copy of the Order and this Answer for your records.

EDKy426 (Rev. 09/91) Affidavit for Order of Garnishment (Non-wage)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
at Ashland

AFFIDAVIT FOR ORDER OF GARNISHMENT (NON-WAGE)

Judgment Creditor: COLUMBIA GAS TRANSMISSION, LLC

Judgment Debtor: ELAM UTILITY COMPANY, INC.

Case Name and No.
10-fj-0002

Garnishee: First National Bank of Grayson
West Liberty, Kentucky 41472

Name and Address of Judgment
Creditor's Attorney

Amount Due: \$313,646.35
Court Costs:

Wayne F. Collier, Esq.
Kinkead & Stilz, PLLC
301 East Main Street, Suite 800
Lexington, Kentucky 40507

The undersigned affiant states that he is counsel for the Judgment Creditor and states as follows:

1. The above named Judgment Debtor(s) are not now, nor have they been at any time during the pendency of this action, in the active military service of the United States of America.
2. The date of the judgment and the amount due thereon (subject to any credits due for any sums currently being processed) are:
9/30/2009
\$313,646.35
3. The following are indebted to said Judgment Debtor(s):

WHEREFORE: The Judgment Creditor prays for garnishment against the Judgment Debtor(s); that the Garnishee(s) named herein be made parties to this action, and that they be required to answer the garnishment(s) issued hereunder; and for its costs.

Wayne F. Collier
Affiant

Subscribed and sworn to before me by the above affiant this 14th day of July, 2010.

My Commission expires: 09/21/2010

Emily L. Hague
Notary Public, State of Large

AO 451 (Rev. 01/09) Clerk's Certification of a Judgment to be Registered in Another District

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Columbia Gas Transmission, LLC
Plaintiff
v.
Elam Utility Company, Inc.
Defendant

Civil Action No. 1.09cv655

CLERK'S CERTIFICATION OF A JUDGMENT TO BE REGISTERED IN ANOTHER DISTRICT

I certify that the attached judgment is a copy of a judgment entered by this court on (date) 09/30/2009

I also certify that, as appears from this court's records, no motion listed in Fed. R. App. P. 4(a)(4)(A) is pending before this court and that no appeal has been filed or, if one was filed, that it is no longer pending.

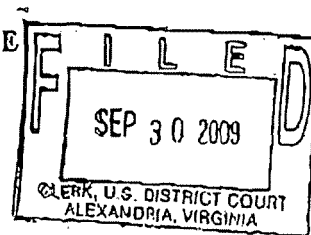
Date:

F. de Salido, Clerk
CLERK OF COURT

Signature of Clerk or Deputy Clerk

Case: 0:10-fj-00002-HRW Doc #: 21-2 Filed: 07/15/10 Page: 6 of 6 - Page ID#: 68
Case 0:10-fj-00002-HRW Document 1-1 Filed 03/26/10 Page 2 of 2
Case 1:09-cv-00655-TSE-JFA Document 17 Filed 09/30/2009 Page 1 of 1

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



COLUMBIA GAS TRANSMISSION, LLC,)
Plaintiff,)
v.)
ELAM UTILITY COMPANY, INC.,)
Defendant.)

Civil Action No. 1:09cv655

JUDGMENT ORDER


Upon consideration of the September 10, 2009 Report and Recommendation of the United States Magistrate Judge designated to conduct a hearing in this matter, no objections having been filed, and upon an independent *de novo* review of the record, it is hereby **ORDERED** that the Court adopts as its own the findings of fact and recommendation of the United States Magistrate Judge, as set forth in the September 10, 2009 Report and Recommendation.

Accordingly, it is hereby **ORDERED** that judgment is **ENTERED** by default in favor of plaintiff and against defendant in the total amount of \$313,646.35.

The Clerk is **DIRECTED** to enter judgment pursuant to Rule 58, Fed. R. Civ. P. and to place this matter among the ended causes.

The Clerk is further **DIRECTED** to send a certified copy of this Judgment Order to defendant and to all counsel of record.

Alexandria, VA
September 30, 2009


T. S. Ellis, III
United States District Judge

A TRUE COPY, TESTE:
CLERK, U.S. DISTRICT COURT

BY _____
DEPUTY CLERK