

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF ELAM UTILITY)	
COMPANY, INC.)	
_____)	CASE NO. 99-107
)	
ALLEGATION OF VIOLATION OF)	
KRS 278.160(2) AND 807 KAR 5:011,)	
SECTION 6, FOR COLLECTING RATES)	
NOT AUTHORIZED IN ITS FILED TARIFF)	

O R D E R

In February 1999, it was brought to the attention of Commission Staff that Elam Utility Company, Inc. ("Elam") is allegedly collecting rates that do not appear in its filed tariff, in violation of KRS 278.160(2). On February 15, 1999, after an inquiry by Commission Staff, Elam responded by letter to the Commission.¹ In that letter Elam acknowledges that it has charged and collected rates that are not authorized in its filed tariff. Elam also describes in the letter the charges and the amounts collected, stating that it stopped collecting those rates when it learned that its actions were in violation of KRS 278.160. Elam requests that the Commission allow it to retain the overcharged amounts pending the Commission's decision on a rate application to be filed by Elam. In addition, Elam requests that the Commission lend assistance to Elam in applying for a rate increase.

¹ Letter dated February 15, 1999 from Elam Utility Company to Public Service Commission.

Pursuant to KRS 278.160(2), a utility shall not charge or collect for its services other than as prescribed in its filed schedules. Based upon the initial investigation and the response of Elam, the Commission finds that there is sufficient cause to open a case to require Elam to refund the amounts wrongfully collected and to show cause why a penalty should not be imposed under KRS 278.990.

The Commission finds that Elam has acknowledged the charging and collection of unauthorized rates in violation of KRS 278.160(2), as stated in Elam's letter of February 15, 1999. Elam has informed the Commission that it has collected \$8,947.39 in untariffed charges, but has requested that the Commission allow it to retain the funds pending a decision on its application. Elam may not, however, collect or retain rates other than those set out in its filed tariff. The Commission finds that Elam must refund or credit the illegally collected amounts to customers within a reasonable time.

Therefore, the only further issue to be decided by the Commission is the penalty, if any, to be imposed, pursuant to KRS 278.990, upon Elam for the alleged violation. Before the Commission makes this decision, Elam is entitled to a public hearing.

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

1. Elam shall appear before the Commission on May 12, 1999, at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violations of KRS 278.160(2) and Administrative Regulation 807 KAR 5:011, Section 6, and showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for these alleged violations. Any motion requesting an informal conference with Commission Staff to consider any matter which 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.

2. Within 30 days of the date of this Order, Elam shall refund or credit to customers' bills the illegally collected revenues in the total amount of \$8,947.39.

3. On or before May 17, 1999, Elam shall report to the Commission the amounts refunded and verify that said amounts were those reported in its letter dated February 15, 1999 as illegally collected.

Done at Frankfort, Kentucky, this 26th day of March, 1999.

By the Commission

ATTEST:

Executive Director