

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

The Commission was advised in February of 1999 that Elam Utility Company, Inc. (Elam) was charging and collecting rates in violation of KRS 278.160(2). On February 15, 1999, after an inquiry by Commission staff, Elam acknowledged that it had charged and collected rates that were not authorized in its filed tariff.

KRS 278.160(2) states that a utility shall not charge or collect for its services other than that prescribed in its filed schedules. Based upon the initial investigation and response of Elam, the Commission found in its Order of March 26, 1999 that Elam had in fact acknowledged the charging and collection of unauthorized rates in violation of KRS 278.160(2) as admitted in its letter of February 15, 1999.

The Commission found Elam in violation of KRS 278.160(2) and ordered an immediate refund of the amounts overcharged. Elam had informed the Commission that it had collected \$8,947.39 in untariffed charges. However, Elam filed with the Commission documents to show it had made refunds in the amount of \$8,882.78 in its March billings.

An informal conference was scheduled to discuss the issues of the amount of the refunds and the penalty to be imposed. Prior to the informal conference Elam and Commission staff reached a settlement agreement. It was agreed that the refund amount was \$8,882.78 and that Elam would be assessed a civil penalty of \$150.00.

After due consideration of the foregoing and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement dated May 3, 1999 is fair and reasonable and should be approved.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement, attached as Appendix A, be and hereby is incorporated into this Order as if fully set forth herein.

2. Elam is assessed a civil penalty of \$150 for violation of KRS 278.160(2). Within 10 days of the date of this Order, Elam shall pay to the Commonwealth of Kentucky the sum of One Hundred Fifty Dollars (\$150). This payment shall be in the form of a cashier's or certified check made payable to Treasurer, Commonwealth of Kentucky and shall be mailed or delivered to: Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Post Office Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 14th day of May, 1999.

By the Commission

ATTEST:

Executive Director