

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

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. On May 28, 2003, the Commission initiated a review of Elam in Case No. 2003-00171¹. The Commission issued an Order on October 24, 2003, which, among other things, ordered Elam to file its Gas Cost Adjustment (GCA) by December 1, 2003. A review of Commission records shows Elam has entered no such filing.

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

1. The Order of October 24, 2003 is a final Order from which all rights of appeal have been exhausted.

¹ 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.

2. The Order of October 24, 2003 directed Elam to file its GCA on or before December 1, 2003. A copy of that Order is appended hereto as Appendix A.

3. As of the date of this Order, Elam has not filed its GCA with the Commission.

4. Elam has consistently failed to file its GCA in accordance with the quarterly filing schedule as contained in its tariff.

5. The 2002 Annual Report filed by Elam with the Commission lists Wilma B. Ison as President of Elam.

6. Elam's Annual Report for Corporations, dated March 27, 2003, as filed with the Kentucky Secretary of State, lists Wilma B. Ison as President and Robert D. Ison as Vice President.

7. A *prima facie* showing has been made that Elam has violated the Commission's Order of October 24, 2003 by failure to timely file its GCA.

8. A *prima facie* showing has been made that Wilma B. Ison and Robert D. Ison have aided and abetted Elam in its violation of the Commission's Order.

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

1. Elam and Wilma B. Ison, President of Elam, and Robert D. Ison, Vice President of Elam, shall appear before the Commission on February 3, 2004 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 purpose of presenting evidence concerning their alleged failure to timely make a GCA filing as directed in the Commission's Order of October 24, 2003, and of showing cause why Elam; Wilma B.

Ison and Robert D. Ison, jointly and severally, should not be subject to the penalties prescribed in KRS 278.990(1).

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

3. Corporate entities are advised that under Kentucky law a corporation, its employees, and any representative, who are not licensed to practice law in Kentucky, are not permitted to make objections, examine, or cross-examine witnesses in administrative hearings.²

4. The record in Case No. 2003-00171 is incorporated by reference into the record of this proceeding.

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

6. 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.

² Turner v. Kentucky Bar Ass'n., Ky., 980 S.W.2d 560 (1998), and Practice Before The Commission By Attorneys Non-Licensed In The Commonwealth Of Kentucky, Admin. Case No. 249, Order dated June 15, 1981.

Done at Frankfort, Kentucky, this 24th day of December, 2003.

By the Commission

ATTEST:

Deputy Wm H. I. Barker
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2003-00488 DATED DECEMBER 24, 2003

(See document named 200300488_12242003apx.pdf for Appendix)