

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELAM UTILITY COMPANY, INC.            )  
AND WILMA B. ISON INDIVIDUALLY    )  
AND AS AN OFFICER OF                )  
ELAM UTILITY COMPANY, INC         )  
\_\_\_\_\_                                 )  
  )  
ALLEGED VIOLATIONS OF             )  
THE COMMISSION'S ORDER            )

CASE NO. 2007-00043

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. In Case No. 2003-00488,<sup>1</sup> the Commission found that Elam had failed to make timely filings of the required gas cost adjustment ("GCA") pursuant to its filed tariff, and had failed to file its monthly general ledger and bank statement for the preceding month. As a result of those findings, the Commission opened Case No. 2006-00080<sup>2</sup> and an Order was issued to Elam, Wilma B. Ison as President of Elam, and Robert D. Ison as Vice President of Elam, to show cause why each should not be found in violation of a Commission Order and why penalties should not be assessed against the utility, its officers, and employees, pursuant to KRS 278.990(1).

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<sup>1</sup> Case No. 2003-00488, 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 (Order dated March 8, 2004).

<sup>2</sup> Case No. 2006-00080, 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 (Order dated April 11, 2006).

On June 12, 2006, Elam and its officers filed a signed settlement agreement in which Elam and Wilma B. Ison, personally, agreed to abide by specific filing requirements and to pay the balance of the suspended penalty provisions. That settlement agreement was approved by the Commission's Order dated July 6, 2006 and, pursuant to that Order, Robert D. Ison was dismissed as a party in the case. No additional civil penalties were assessed against any of the parties.

Pursuant to the settlement agreement, Elam and Wilma B. Ison agreed that they were in violation of the Commission's Order of March 8, 2004 and agreed to pay the total suspended civil penalty of \$7,500 by September 30, 2006. Wilma Ison, personally and as President of Elam, agreed to pay the balance of her suspended civil penalty of \$5,500 by December 30, 2006. It was further stipulated in the settlement agreement that Elam would continue to file with the Commission its general ledger and bank statements on or before the 30<sup>th</sup> of each month for 2 years. Commission records indicate that Elam paid the \$7,500 penalty on October 19, 2006.

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

1. The Order of July 6, 2006 is a final Order from which all rights of appeal have been exhausted.
2. The Order of July 6, 2006 directed Elam to file its general ledger and bank statements on or before the 30<sup>th</sup> of each month, but Elam has not done so.
3. Wilma B. Ison aided and abetted Elam in its violation of the Commission's Order of July 6, 2006.
4. Wilma B. Ison has not paid the balance of the civil penalty of \$5,500 as ordered.

5. Elam's last Annual Report for Corporations filed with the Kentucky Secretary of State lists Wilma B. Ison as president of the corporation.

6. A *prima facie* showing has been made that Elam has violated the Commission's Order of July 6, 2006 by failure to timely file its general ledger and bank statements.

7. A *prima facie* showing has been made that Wilma B. Ison aided and abetted Elam in its violation of the Commission's Order of July 6, 2006.

8. A *prima facie* showing has been made that Wilma B. Ison is in violation of the Commission's Order of July 6, 2006 by failure to pay the balance of a civil penalty of \$5,500.

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

1. Elam and Wilma B. Ison, personally and as President of Elam, shall appear before the Commission on March 20, 2007 at 9:30 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky for the purpose of presenting evidence concerning (a) Elam's and Wilma B. Ison's failure to file monthly general ledger sheets and bank statements and (b) Wilma B. Ison's failure to pay the balance of the civil penalty as ordered, and for showing cause why Elam and Wilma B. 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 representatives, who are not licensed to practice law in Kentucky,

are not permitted to make objections, examine, or cross-examine witnesses in administrative hearings.<sup>3</sup>

4. A certified copy of the final Order in Case No. 2006-00080 dated July 6, 2006 is appended hereto.

5. Within 20 days of the date of this Order, Elam and Wilma B. Ison shall each file with the Commission a written response 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.

7. Pursuant to KRS 278.360, the official record of the formal hearing shall be by video. A stenographic transcript shall not be made unless either party requests a stenographic transcript by motion filed on or before March 12, 2007.

Done at Frankfort, Kentucky, this 15th day of February, 2007.

By the Commission

ATTEST



Executive Director

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<sup>3</sup> Turner v. Kentucky Bar Ass'n, 980 S.W.2d 560 (Ky. 1998), and Practice Before The Commission By Attorneys Non-Licensed In The Commonwealth Of Kentucky, Admin. Case No. 249, Order dated June 15, 1981.

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2007-00043 DATED February 15, 2007.

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 )  
\_\_\_\_\_)  
ALLEGED VIOLATIONS OF )  
THE COMMISSION'S ORDER )

I CERTIFY THAT THIS  
IS A TRUE COPY OF  
THE ORIGINAL

  
PUBLIC SERVICE COMMISSION

CASE NO. 2006-00080

O R D E R

In Case No. 2003-00488,<sup>1</sup> the Commission found that Elam Utility Company, Inc. ("Elam") had failed to make timely filings of its required gas cost adjustment ("GCA") pursuant to Elam's filed tariff, and had failed to file monthly general ledger and bank statements.<sup>2</sup> In that case, the Commission approved a Settlement Agreement wherein Elam, Wilma B. Ison, and Robert D. Ison agreed to specific filing requirements and to penalty provisions. Among the requirements was the filing of a quarterly GCA and a monthly general ledger and bank statement. The Settlement Agreement also provided for the assessment of \$16,500 in penalties, of which \$14,500 was suspended for a period of 2 years.

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<sup>1</sup> Case No. 2003-00488, 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: Alleged Violations of the Commission's Order (Order dated March 8, 2004).

<sup>2</sup> The monthly general ledger and bank statement were required to be filed by Order in 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 (Order dated October 24, 2003).

Commission records show that Elam failed to make the filings in a timely manner in accordance with the Settlement Agreement. Consequently, this case was opened and an Order was issued to Elam, Wilma B. Ison as President of Elam, and Robert D. Ison as Vice President of Elam, requiring them to show cause why each should not be found in violation of the Commission's prior Order and why certain suspended penalties as assessed in that Order against the utility and its officers should not now be immediately due and payable.

Elam, Wilma B. Ison, and Commission Staff entered into negotiations to resolve all outstanding issues regarding the suspended penalties and a Settlement Agreement was reached with Elam, Wilma B. Ison, and Commission Staff. In reviewing the Settlement Agreement and the record, the Commission finds as follows:

1. The Order of March 8, 2004 is a final Order from which all rights of appeal have been exhausted.
2. Elam failed to timely file a GCA quarterly under the terms of its tariff within the 2-year suspension period as set out in the prior Settlement Agreement.
3. Elam failed to timely file its general ledger and bank statements within the 2-year suspension period as set out in the prior Settlement Agreement.
4. The violation by Elam of the terms of the Order of March 8, 2004 renders the entire suspended penalty of \$7,500 assessed to Elam due and payable.
5. The violation by Wilma B. Ison of the terms of the Order of March 8, 2004 renders the suspended penalty of \$5,500 assessed to Wilma B. Ison due and payable.
6. Robert D. Ison has not been an officer of the utility since 2004.
7. Elam and Wilma B. Ison each waive a formal hearing of all matters herein.

8. Elam Gas Company, Inc., the corporation operating the utility, was administratively dissolved pursuant to KRS 271B.14-210 for failure to file its annual report, but has been restored to a corporation in good standing with the Kentucky Secretary of State.

9. The Settlement Agreement is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement dated June 12, 2006 is incorporated into this Order as if fully set forth herein and is attached hereto as Appendix A.

2. The terms and conditions set forth in the Settlement Agreement are adopted and approved.

3. The previous civil penalty of \$7,500 assessed against Elam is due and payable. Elam shall pay \$7,500 on or before September 30, 2006 by cashier's check payable to "Kentucky State Treasurer," and mailed or delivered to the Office of the General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky, 40602.

4. Elam shall file a GCA quarterly hereafter under the terms of its tariff.

5. Elam shall file a copy its general ledger and bank statements on or before the 30<sup>th</sup> of each month for 2 years from the date of this Order.

6. Wilma B. Ison, individually and as an officer of the utility, shall pay \$5,500, the balance of the suspended civil penalty, on or before December 30, 2006, by cashier's check payable to "Kentucky State Treasurer," and mailed or delivered to the



Office of the General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky, 40602.

7. Robert D. Ison, individually and as an officer of the utility, is dismissed as a party and any penalty assessed against him is vacated.

8. Upon payment of the suspended portion of the penalties by Elam and Wilma B. Ison, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

Done at Frankfort, Kentucky, this 6th day of July, 2006.

By the Commission

ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2006-00080 DATED July 6, 2006.

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 )  
\_\_\_\_\_ )  
ALLEGED VIOLATIONS OF )  
THE COMMISSION'S ORDER )

CASE NO. 2006-00080

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into this 12<sup>th</sup> day of June, 2006, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and ELAM UTILITY COMPANY D/B/A ELAM UTILITY COMPANY, INC. ("Elam") and WILMA B. ISON, individually and as an officer of Elam.

WITNESSETH:

WHEREAS, Elam operates a natural gas distribution system in Morgan and Wolfe Counties, Kentucky and is subject to Commission jurisdiction pursuant to KRS 278.040; and

WHEREAS, Elam's only current corporate officer is Wilma B. Ison, President; and

WHEREAS, on February 23, 2004, Elam and its officers filed a signed settlement agreement in which it and they agreed to specific filing requirements and to penalty

provisions. The settlement agreement and conditional suspension of the assessed penalties were approved by the Commission in an Order dated March 8, 2004; and

WHEREAS, on April 11, 2006, an Order was issued to Elam and Wilma B. Ison and Robert D. Ison, individually and as officers of Elam, requiring that each show cause why they should not be assessed penalties pursuant to KRS 278.990 for willful violations of the Commission's Order dated March 8, 2004; and

WHEREAS, an informal conference was held on May 18, 2006 between the parties and Commission Staff for the purpose of discussing the issues and of entering into a Settlement Agreement through compromise to settle the proceeding herein; and

WHEREAS, at the informal conference, Elam stated that it did not know what to report as its cost of gas since its contract with its supplier, Cumberland Valley Resources, had ended, and its last billing from Cumberland Valley Resources was received in July 2005. Since then, Elam has been paying Columbia Gas Transmission ("CGT") for transportation only and accumulating an imbalance on the CGT system. Elam acknowledged that the gas cost adjustment ("GCA") is part of its tariff and that it must comply with its tariff provisions. Elam agreed to file the GCA timely and, if needed, will request Commission Staff's assistance in preparing this filing; and

WHEREAS, during the conference, Elam filed a general ledger showing activity from October 2005 through April 2006 and an April 2006 bank statement. This filing was made to correct an incomplete filing made on May 1, 2006 and to add the month of April; and

WHEREAS, Elam states that Robert D. Ison has had no position with the company since 2004 and produced documents from the Secretary of State's Office to

show that Elam Gas Company, Inc. has been reinstated as a corporation in good standing with only one corporate officer, Wilma B. Ison, President;

NOW, THEREFORE, Elam, Wilma B. Ison, and Commission Staff agree that:

1. Robert D. Ison will be dismissed as a party to this action.
2. Elam acknowledges that it is in violation of the Commission Order of March 8, 2004. Elam agrees to pay the total suspended civil penalty of \$7,500 on or before September 30, 2006, which amount shall be paid by a cashier's check payable to "Kentucky State Treasurer," and mailed or delivered to the Office of the General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky, 40602.
3. Wilma B. Ison, as President of Elam, acknowledged that she is in violation of the Commission Order of March 8, 2004. Wilma B. Ison agrees to pay the balance of the suspended civil penalty of \$5,500, on or before December 30, 2006, which amount shall be paid by a cashier's check payable to "Kentucky State Treasurer," and mailed or delivered to the Office of the General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky, 40602.
4. Wilma B. Ison and Elam each waive a formal hearing of all matters herein.
5. Elam and Wilma B. Ison agree to timely file Elam's GCA as set out in its tariff. However, if Elam experiences difficulties in preparation of the filing, it will contact Commission Staff for assistance and direction prior to the due date of the GCA.
6. Elam and Wilma B. Ison agree that Elam will continue to file with the Commission a copy of its general ledger and bank statements on or before the 30th of

each month for a period of two years from the date of the Order approving this settlement.

7. This Agreement is subject to the acceptance of and approval by the Public Service Commission.

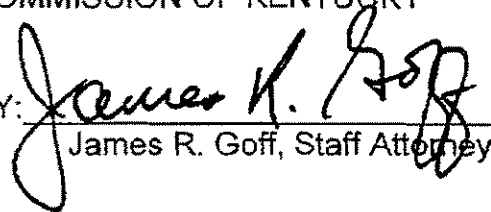
8. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on or be construed against Wilma B. Ison, Robert D. Ison, Elam, or Commission Staff.

9. Commission Staff shall recommend to the Public Service Commission that this Settlement Agreement be accepted and approved.

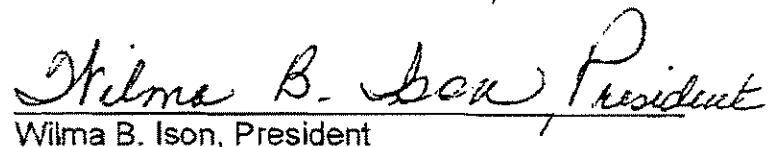
IN WITNESS WHEREOF, Elam, Wilma B. Ison, and Commission Staff have executed this Settlement Agreement on the date first above written.


STAFF OF THE PUBLIC SERVICE  
COMMISSION OF KENTUCKY

BY:

  
James R. Goff, Staff Attorney

WILMA B. ISON AND  
ELAM UTILITY COMPANY  
d/b/a ELAM UTILITY COMPANY, INC.

  
Wilma B. Ison, President

  
Wilma B. Ison, Individually