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August 2, 2010

RECEIVED

AUG 02 2010

PUBLIC SERVICE
COMMISSION

VIA HAND DELIVERY

Jeff DeRouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

RE: Application of the City of West Liberty, Kentucky for Approval to Acquire the Utility Assets of Elam Utility Company, Inc., and for Approval of a Management Agreement
Case No. 2010-00302

Dear Mr. DeRouen:

Enclosed please find and accept for filing the original and ten copies of the Response of the City of West Liberty, Kentucky to the Attorney General's Amended Initial Data Requests Dated July 26, 2010 in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me via our runner.

Should you have any questions, please contact me at your convenience.

Sincerely,

W. Duncan Crosby III

WDC:ec
Enclosures
cc: Parties of Record

113812.137923/646127.1

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE CITY OF)	
WEST LIBERTY, KENTUCKY FOR)	
APPROVAL TO ACQUIRE THE UTILITY)	CASE NO. 2010-00302
ASSETS OF ELAM UTILITY COMPANY,)	
INC. AND FOR APPROVAL OF A)	
MANAGEMENT AGREEMENT)	

RECEIVED

AUG 02 2010

PUBLIC SERVICE
COMMISSION

RESPONSE OF THE CITY OF WEST LIBERTY, KENTUCKY
TO THE ATTORNEY GENERAL'S AMENDED INITIAL DATA REQUESTS
DATED JULY 26, 2010

Filed: August 2, 2010

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 1

Responding Witness: Sally Barker

- Q-1 Please provide the names of the personnel who will comprise the management of Elam Utility Co., Inc. ["Elam"], or its surviving / successor entity or company, following any transfer of control allowed by the Commission, and describe in detail the financial, technical and managerial abilities they possess enabling them to engage in the natural gas delivery industry.
- a. Identify by name the personnel charged with system maintenance and system safety. Provide a summary of their qualifications and certifications.
 - b. Please provide the total employee count of Elam immediately prior to the contemplated transaction, and state whether the City at this time believes it will be necessary to hire any additional personnel. If so, please identify such personnel by expected job title and the nature of that employee's duties.
 - c. Please state whether the financial, technical or managerial functions or duties of any current Elam employee will be outsourced, and if "yes", specifically identify the nature of the job responsibilities to be outsourced and the name of the person or entity who/which will assume the responsibilities, together with their relevant qualifications and/or credentials.
 - d. State whether any Elam employees residing in Kentucky will be laid off or otherwise terminated as a result of the contemplated transaction, and if so, provide, with as much accuracy as possible, the number, and names, of any employees so affected, together with their relevant qualifications and/or credentials.
 - e. Please identify the employee who will work on customer service issues, both before and after the contemplated transfer of control and provide their relevant qualifications and/or credentials.
- A-1. If the Commission approves the City's proposed asset purchase agreement, Elam presumably will not be in the natural gas business in any way (because the City will have acquired all of its assets of all kinds). The City cannot otherwise speak for Elam, and assumes the subparts of this question pertain to the City's operation of assets acquired from Elam.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

- a. David Elliott (8 years of experience with Elam) and Robert Hopkins (15 years experience with Elam. Certificates are attached.
- b. Elam has 4 employees, Wilma Ison, David Elliott, Robert Hopkins, and Kim Bolin.
- c. The City does not plan to outsource any such functions at this time.
- d. The City plans to hire all of Elam's current employees except its President, Wilma Sorrell, and Kim Bolin, who does general office work. The City already has on staff adequate personnel to perform these tasks, including the City Clerk Administrator, Sally Barker, who will perform the equivalent of Ms. Sorrell's function.
- e. Amy Baldwin with 9 years experience and Sharon Lykins with 12 years experience with the City will deal with customers on a daily basis with various issues.

This certifies that
David L. Elliott
has been evaluated and determined qualified to
perform the tasks as indicated with a "✓" in the
corresponding box.

Evaluation method:
 Written Exam Observation

January 8, 2009 *Ray Winters*
Date Evaluator

Kentucky Gas Association
310 C.C. Lowry Drive • Murray, KY 42071
1-800-455-9427 • www.kygas.org

Gas Distribution & Service Seminars

SPONSORED BY
KENTUCKY GAS ASSOCIATION EDUCATION COMMITTEE

This certifies that

David L. Elliott

has successfully completed an instructional program in

NGT 1803 & 1804 (OQ F-1 & F-2) – Joining Polyethylene Pipe According to CFR 192.283

In Witness Whereof, this certificate is issued
this *eight* day of *January, 2009*

Reynolds
COURSE INSTRUCTOR

[Signature]
KGA EDUCATION COMMITTEE, CHAIRMAN

Gas Distribution & Service Seminars

SPONSORED BY
KENTUCKY GAS ASSOCIATION EDUCATION COMMITTEE

This certifies that

David L. Elliott

has successfully completed an instructional program in
**NGT 1505 (OQ Task M-1) – Performing Patrol
and Leakage Surveys on Gas Pipeline Facilities**

In Witness Whereof, this certificate is issued
this *fifteenth* day of *September, 2009*


COURSE INSTRUCTOR


KGA EDUCATION COMMITTEE, CHAIRMAN

Gas Distribution & Service Seminars

SPONSORED BY
KENTUCKY GAS ASSOCIATION EDUCATION COMMITTEE

This certifies that

David L. Elliott

has successfully completed an instructional program in

NGT 1602 (OQ Task L-3s) – Monitoring Odorant Levels

*In Witness Whereof, this certificate is issued
this fifteenth day of September, 2009*

Timothy Pearson

COURSE INSTRUCTOR


KGA EDUCATION COMMITTEE CHAIRMAN

Gas Distribution & Service Seminars

SPONSORED BY
KENTUCKY GAS ASSOCIATION EDUCATION COMMITTEE



This certifies that

David L. Elliott

has successfully completed an instructional program in

NGT 2001 (OQ Task L-1) – Tapping/Stopping Pipelines Under Pressure

*In Witness Whereof, this certificate is issued
this sixteenth day of September, 2009*


COURSE INSTRUCTOR


KGA EDUCATION COMMITTEE, CHAIRMAN

Gas Distribution & Service Seminars

SPONSORED BY
KENTUCKY GAS ASSOCIATION EDUCATION COMMITTEE

This certifies that

Robert Hopkins

has successfully completed an instructional program in

NGT 1803 & 1804 (OQ F-1 & F-2) – Joining Polyethylene Pipe According to CFR 192.283

In Witness Whereof, this certificate is issued
this *eight* day of *January, 2009*

Reynold Winters
COURSE INSTRUCTOR

[Signature]
CHAIRMAN

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 2

Responding Witness: Sally Barker

- Q-2. Please identify whether Elam has any subsidiaries and affiliates, and if so, whether each one will be subject to regulation by:
- a. the Kentucky Public Service Commission;
 - b. any other state utility Commission, and if so, the name of the Commission(s); and
 - c. any other municipal, state, federal or other agency.
- A-2. To the City's knowledge, Elam does not have any subsidiaries or affiliates.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 3

Responding Witness: Sally Barker

- Q-3. Did, or will, the City seek approval for the contemplated transaction from, or serve notice on or information to, any state agency (including the Kentucky State Fire Marshal), federal agency or other governmental authority for the contemplated transaction? If so, please submit copies of any and all filings and responses from any such agency in this regard.
- a. If so, has or will any such agency seek any conditions in the transaction or notices or information regarding same?
- A-3. No. To the City's knowledge, no other such approval is required. That notwithstanding, the City will provide necessary emergency information to the Kentucky Fire Marshal.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 4

Responding Witness: Sally Barker

- Q-4. Does the City anticipate any changes in any contracts as a result of the contemplated transaction (e.g., engineering, information technology, maintenance, etc.)?
- A-4. No changes are anticipated at this time; however, if the Commission approves the proposed transfer, the City will manage its natural gas utility assets in a prudent, safe, and cost-effective manner.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 5

Responding Witness: Sally Barker

- Q-5. Does the City anticipate any changes in customer charges or any and all other fees charged for services as a result of the contemplated transaction?
- a. If the answer to the previous question is yes, please describe the changes in specific detail.
- A-5. No changes are anticipated at this time; however, if the Commission approves the proposed transfer, the City will manage its natural gas utility assets in a prudent, safe, and cost-effective manner.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 6

Responding Witness: Sally Barker

- Q-6. Please state whether the City intends to provide any sort of directory board or commission to oversee the operations of the gas utility.
- a. If so, provide a description of the board or commission members' expected qualifications and/or credentials to serve as a board member in a natural gas delivery company.
- A-6. No, the City does not intend to provide any sort of directory board or commission to oversee the operations of the gas utility. The City Clerk Administrator will provide day-to-day oversight of the natural gas utility operations (as she currently does for the City's water and sewer utility operations). The Mayor and City Council will provide ultimate oversight.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 7

Responding Witness: Sally Barker

- Q-7. Please state whether the City will retain any members of Elam's board of directors, officers or shareholders following the transfer of control, if approved by the Commission. If so, identify each such person by name and address.
- a. Provide biographical information of each member of Elam's current board of directors, including a statement of their qualifications to serve as a board member in a natural gas delivery company.
- A-7. No, the City will not retain any such personnel in any capacity.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 8

Responding Witness: Sally Barker

- Q-8. State whether the City is aware whether any of Elam's executive management, and members of its board of directors are members, officers, partners, directors of, or have a controlling interest in, any business entity engaged in the distribution or transportation of natural gas, and if so, identify them by name and by type of interest.
- A-8. The City has no such knowledge.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 9

Responding Witness: Sally Barker

- Q-9. Please state whether Elam, either currently or as a result of the contemplated transaction, will engage in non-regulated activities in any location. If so, please provide:
- a. the nature of the activity;
 - b. the location of the activity;
 - c. a breakdown by percentage of the amount of non-regulated activity and regulated activities in which Elam will engage; and
 - d. the amount of revenue derived from non-regulated activities.
- A-9. The City cannot speak for Elam. The City is proposing merely to acquire Elam's assets.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 10

Responding Witness: Sally Barker

- Q-10. As a result of the contemplated transaction, will the City be incurring any additional debt? If so, provide full details including whether the debt will be passed along to Elam's existing ratepayers.
- A-10. Yes. The City will borrow a total of \$700,000 from the Commercial Bank (West Liberty) via a revolving line of credit. The City does not presently anticipate needing to increase rates to service the loan.

The Commercial Bank loan is interim financing. The City will seek long-term, low-interest terms for the debt. The USDA Office of Rural Development and the Kentucky League of Cities have expressed interest in providing such financing.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 11

Responding Witness: Sally Barker

Q-11. Please identify, in detail, any and all tax savings that Elam and the City expect to result from the contemplated transaction, and provide any relevant quantifications.

A-11. The City cannot speak for Elam. The City does not anticipate any tax savings.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 12

Responding Witness: Sally Barker

- Q-12. Please state whether Elam currently has any deferred tax accounts on its balance sheets. If "yes," please identify the account(s), the amount carried therein, and provide a summary of the nature of the balance.
- a. For each deferred tax balance identified above, please state what impact the contemplated transaction will have on the account (e.g., will the contemplated transaction result in a loss of any deferred tax credits?).
- A-12. To the City's knowledge, Elam does not have any such accounts on its balance sheet.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 13

Responding Witness: Sally Barker

- Q-13. Please state whether any employee, officer, director, consultant, or contractor of Elam or the City will receive, directly or indirectly, any bonus, stock option, and/or any other remuneration of any type or sort resulting from the contemplated transaction. If so, please identify the person, the method of remuneration, whether directly or indirectly, whether it is deferred, and the amount or dollar value thereof.
- A-13. No person described will receive any kind of remuneration resulting from the proposed transaction. The asset purchase agreement attached to the City's application states all of the consideration the City will provide to Elam in exchange for all of its assets.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 14

Responding Witness: Sally Barker

- Q-14. When was the last time Elam performed any safety-related maintenance on its utility system? If known, identify the nature of the work and any and all relevant details.
- A-14. The November 2009 PSC Inspection Report and Elam's January 2010 responses to the report detailing the remedial actions taken are attached.



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

Charles R. Borders
Commissioner

November 30, 2009

Wilma Ison
Elam Utility Company, Inc.
459 Main Street
West Liberty, KY 41472

PERIODIC REGULATORY COMPLIANCE INSPECTION OF ELAM UTILITY COMPANY, INC.

On October 28, 2009, Joel Grugin conducted a periodic regulatory compliance inspection of the natural gas facilities of Elam Utility Company, Inc. in West Liberty, Kentucky. A copy of the inspection report is attached for your review. Three deficiencies were documented during this periodic inspection. The previous inspection was conducted on December 18, 2008. No deficiencies were documented during that inspection.

As noted, three deficiencies were documented during this inspection. You are requested to respond to this report, outlining corrective actions for the cited deficiencies by December 21, 2009. Please provide your responses on the copies of the Deficiency Tracking Reports sent with this letter by completing the three separate sections under the Response heading for the cited deficiency.

If you have any questions or need additional information, you are welcome to contact me at (502) 564-3940. We appreciate your continued interest in the safe operation of your gas facilities.

JASON R. BRANGERS, P.E., MANAGER, GAS BRANCH, DIVISION OF ENGINEERING

Attachment: ElamUC-102809 Inspection Report

COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

Attachment to AG DR No. 14
Page 2 of 6

UTILITY INSPECTION REPORT

Report Date: 11/9/2009

Report Number: Elam Utility Company102809

BRIEF

Inspector: Joel Grugin
Inspection Date: 10/28/2009
Type of Inspection: Periodic Regulatory Compliance Inspection

Type of Facility: Private distribution
Name of Utility: Elam Utility Company, Inc.
Location of Facility: West Liberty, KY
Purpose of Inspection: Periodic inspection of utility's facilities and management practices to verify compliance with federal and state pipeline safety regulations.

Applicable Regulations: 49 CFR Part 192, 199 & 807 KAR 5:022

INSPECTION

Description of Utility: Small natural gas distribution company in eastern Kentucky.
Number of Customers: 500
Area of Operation: West Liberty and Daysboro
Supply Source: Columbia Gas Transmission & Jefferson Gas Transmission.
Distribution Description: The system consists of plastic mains and services operating at 10 and 15 psig.
Workforce Summary: 3-Employees
Utility Reps in Insp: Robert Hopkins and Wilma Ison
Date of Last Inspection: 12/18/2008
DTR from Last Insp: 0
DTRs not Cleared: 0

Summary of Items and facilities Inspected:

The Operation and Maintenance, Emergency, Damage Prevention, Public Awareness, Operator Qualification, Drug & Alcohol Plans were reviewed during the office visit. Also inspected, were records pertaining to leakage surveys and repairs, patrolling, valve maintenance, relief valves, regulators, odorization, and atmospheric corrosion. During the field portion of the inspection, checks on mainline valve locations, relief valves, regulator stations, purchase points, meter barricades, and pipeline markers were conducted.

**COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION**

Attachment to AG DR No. 14
Page 3 of 6

UTILITY INSPECTION REPORT

Report Date: 11/9/2009

Report Number: Elam Utility Company102809

FINDINGS

- 1 Elam Utility Company did not have a written public awareness plan.
- 2 Elam Utility Company had not been random drug and alcohol testing its employees.
- 3 Elam Utility Company had a service line at 329 Glen Avenue that did not have a curb valve installed, and the main was under pavement.


RECOMMENDATIONS

ADDITIONAL INSPECTOR COMMENTS

Elam Utility Company may have more service lines where the main is located under pavement and there are no curb valves installed. I advised them to survey their system and to take actions to correct these as they are found.

Submitted by

WH



Joel Grugin

Utility Regulatory and Safety Investigator III

Report Number: Elam Utility Company102809

Due Date:

12/21/2009

DTR Number: 1

Deficiency Tracking Report

Deficiency Detail

Utility	Date of Investigation	Investigator
Elam Utility Company, Inc.	10/28/2009	Joel Grugin

Regulation

49 CFR Part 192.616 (h) Operators in existence on June 20, 2005, must have completed their written programs no later than June 20, 2006. As an exception ...

Deficiency:

Elam Utility Company did not have a written public awareness plan.

If Repeat Deficiency, Date of Last DTR:

Response (attach additional pages as necessary)

1) Explain why the deficiency occurred. Include information about what caused the deficiency and why it was not detected by the utility. (Attach extra pages as necessary)

A public awareness plan has been in the planning stages for awhile.

2) Explain actions taken to correct the deficiency, including utility's responsible person, actions taken, and when it was (or will be) done. (Attach extra pages as necessary)

*As soon as it is completed, a copy will be sent to the PSC
 Wilma Ison is responsible for the program*

3) Explain actions taken to prevent the deficiency from occurring again, including utility's responsible person, actions taken, and when it was (or will be) done. (Attach extra pages as necessary)

Wilma Ison is to complete the forms asap

Response Provided By: Wilma Ison

Response Date: 1-20-10

Signature: Wilma Ison

Report Number: Elam Utility Company102809
DTR Number: 2

Due Date: 12/21/2009

Deficiency Tracking Report

Deficiency Detail

Utility	Date of investigation	Investigator
Elam Utility Company, Inc.	10/28/2009	Joel Grugin

Regulation

49 CFR Part 199.101 Anti-drug plan (a) Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this part and the DOT Procedures.

Deficiency:

Elam Utility Company had not been random drug and alcohol testing its employees.

If Repeat Deficiency, Date of Last DTR:

Response (attach additional pages as necessary)

1) Explain why the deficiency occurred. Include information about what caused the deficiency and why it was not detected by the utility. (Attach extra pages as necessary)

Our past supplier, Capital Drug Co has gone out of business, of which we were not aware until now.

2) Explain actions taken to correct the deficiency, including utility's responsible person, actions taken, and when it was (or will be) done. (Attach extra pages as necessary)

Wilma Ison called different offices to find a new supplier for this action.

3) Explain actions taken to prevent the deficiency from occurring again, including utility's responsible person, actions taken, and when it was (or will be) done. (Attach extra pages as necessary)

Morgan Co ARH has agreed per Rhonda Ruppe to do the drug testing as needed for the company.

Response Provided By: Wilma Ison

Response Date: 1-20-10

Signature: Wilma Ison

Report Number: Elam Utility Company102809

DTR Number: 3

Deficiency Tracking Report

Deficiency Detail

Utility	Date of Investigation	Investigator
Elam Utility Company, Inc.	10/28/2009	Joel Grugin

Regulation

807 KAR 5:022 Section 9(17)(a)(1) Utility's responsibility. In urban areas with well defined streets, the utility shall furnish and install at its own expense, for the purpose of connecting its distribution system to customers premises, . . .

Deficiency:

Elam Utility Company had a service line at 329 Glen Avenue that did not have a curb valve installed, and the main was under pavement.

If Repeat Deficiency, Date of Last DTR:

Response (attach additional pages as necessary)

1) Explain why the deficiency occurred. Include information about what caused the deficiency and why it was not detected by the utility. (Attach extra pages as necessary)

The lines were put in during the total line replacement in 1980. He did not realize this was a problem until the inspection

2) Explain actions taken to correct the deficiency, including utility's responsible person, actions taken, and when it was (or will be) done. (Attach extra pages as necessary)

The service line at Potter Funeral Home was dug up and moved in the correct location.

3) Explain actions taken to prevent the deficiency from occurring again, including utility's responsible person, actions taken, and when it was (or will be) done. (Attach extra pages as necessary)

Robert Hopkins + David Elliott were the servicemen who did the work to move the curb valves

Response Provided By: Wilma Ison

Response Date: 1-20-10

Signature: Wilma Ison

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 15

Responding Witness: Sally Barker

- Q-15. Has the city conducted any due diligence reviews? If so, please provide copies of all such reports.
- a. In the course of conducting any such due diligence review of Elam's facilities and accounts, etc., did the City identify any facts or circumstances that would have a material adverse effect on Elam's existing customers?
 - b. If the City did not conduct any such due diligence review, and in the event latent problems or issues should arise, what recourse and / or plan of action does the City contemplate? Please describe in detail.
 - c. Has the City reviewed Elam's accounting records? If so, does it appear that Elam has collected from its customers the sums necessary to pay for the gas costs Elam owes to Columbia Gas Transmission and its affiliates? If not, please explain in detail.
 - d. Please identify all accounts where the sums referenced in the City's response to (c), above, are located, and any other relevant details.
 - e. Has the City developed a plan for how to repay any potential arrearages Elam owes to its gas suppliers? If so, please provide complete details.
- A-15. The City has conducted some investigation concerning the status of Elam, but no due diligence reports exist.
- a. It appears that there are no records of customers' deposits, and it is not known where the deposit money is. Also, Elam has a number of budget customers. Otherwise, the only material adverse impact that could occur to Elam's customers would be the termination of their service if the Commission does not approve the proposed asset purchase agreement by August 13, 2010. The amount Elam collected from its budget customers as of December 31, 2009, was \$11,984.97 (per Elam's ledger). It is not clear what has happened to that money.
 - b. N/A – please see the City's response to (a) above.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

- c. The City has reviewed such records as appear to exist. Please see response to Question 2 of the PSC Staff. Regardless of whether Elam collected sufficient sums to pay Columbia Gas Transmission, the pertinent fact is that Elam does not have the money to pay Columbia. The City is not aware where the collected funds have gone.
- d. Please see the City's response to (c) above.
- e. Yes. As stated in the City's Application, the Escrow Agreement, and the Memorandum of Understanding, the City will repay Columbia primarily in replacement gas using a portion of the funds the City will borrow from the Commercial Bank (West Liberty). The City also plans to use part of the funds it is placing in escrow pursuant to the Escrow Agreement to purchase replacement gas (a portion of those funds will be delivered to Columbia for transmission services).

To the City's knowledge, there is no other gas arrearage.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 16

Responding Witness: Sally Barker

Q-16. Please provide all minutes of any and all meetings held between Elam, its board of directors (or supervisory management), and the City pertaining to the contemplated transaction.

A-16. To the City's knowledge, no such minutes exist.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 17

Responding Witness: Sally Barker

- Q-17. Please provide copies of any documents (as defined in the Attorney General's instructions attached hereto), in the possession of Elam's officers or other officials, or in the possession of City officials, which in any way describe the contemplated transaction.
- A-17. Please see attached. The City is not aware of Elam's possession of any other such documents.

City of West Liberty
565 Main Street
West Liberty, KY 41472
Phone 606-743-3330
Fax 606-743-2202
Wliberty@mrtc.com

Emergency Council Meeting
Tuesday July 13, 2010 1:00 PM

Agenda

I. Elam Utility Gas Shutoff

Council Members:

Phyllis Keeton- Present
Belinda Jordan Present
Mark Walter- Present

John May- Present
Dwayne Nickell- Absent
Alton Pelfrey- Present

Others; Sharon Lykins, Assistant Clerk, Joleen Frederick, City Attorney and Sally Barker, City Clerk

Call to Order- In the absence of Mayor Jim Rupe, Councilmember John May called the meeting to order and stated that an emergency with the gas service to the City of West Liberty existed and the City is in danger of being disconnected by Columbia Gas.

City Attorney Joleen Frederick addressed the meeting by stating that Columbia gas has notified Elam Utility that gas service to the City of West Liberty will be disconnected on July 26, 2010 at 10:00 am if outstanding invoices totaling \$688,000.00 are not paid. Ms. Frederick went on to state that Elam Utility owner has approached the city with an offer to turn over the Utility System to the City if the City will assume the debt. The debt disclosed was \$688,000.00 to Columbia, \$180,000.00 to Community Trust Bank and \$30,000.00 to the Commercial bank of West Liberty. Ms. Frederick explained that the \$688,000.00 to Columbia could be settled at a lower cost by purchasing gas at today's price and replacing it. Ms. Frederick stated that the cost would be approximately \$400,000.00 to \$450,000.00. Ms. Frederick also stated that the estimated worth of the assets of Elam Utility could be placed at \$650,000.00 to \$750,000.00.

Belinda Jordan made a motion to go into executive session, Alton Pelfrey seconded the motion. Motion approved unanimously.

Mark Walter made a motion to go back in to regular session, Alton Pelfrey seconded. Motion approved unanimously.

No action taken at this time.

Ms. Frederick continued the meeting by stating that the City had contacted Rural Development about financing for the system and money is available at 4 percent interest for 40 years, if the City desired to pursue the purchase. Ms. Frederick went on to explain that to expedite the process that the City had also spoken with Commercial Bank about interim financing until the Rural Development financing could be executed. Commercial Bank stated that the City would be offered interim financing.

Ms. Frederick also explained that all of this could be entered into with the stipulation that the transfer of the Utility be approved by the Public Service Commission and Columbia Gas accepted the City's offer to replace the gas that Elam Utility had not paid for. Ms. Frederick pointed out that the City's only reason for this action was to prevent the disconnection scheduled for July 26.

Ms. Frederick also advised that the City should hire an Attorney to represent the City in the Public Service Commission filings and dealing with Columbia Gas. Ms. Frederick stated that she had contacted an attorney that had previously represented the City in Public Service Commission matter and he had a conflict of interest. Ms. Frederick recommended hiring Stoll-Keenan-Ogden PLLC.

Mark Walter made a motion to enter into a contract with Stoll-Keenan-Ogden, Phyllis Keeton seconded the motion. Motion approved unanimously.

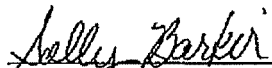
Phyllis Keeton made a motion to approve the purchase of the Utility Company as recommended by the City Attorney with the stipulations that the PSC approves the transfer, the Columbia Gas debt can be settled in time to avoid the disconnect and no other monies will be exchanged.

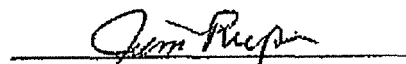
Belinda Jordan seconded the motion; motion approved unanimously.

Ms. Frederick advised the Council that due to Mayor Rupe's absence that the City Clerk would need to sign the contract with Stoll-Keenan-Ogden as directed by Executive Order on file. Mark Walter made a motion to authorize the City Clerk to execute the authority of the Executive Order, Phyllis Keeton seconded the motion. Motion approved unanimously.

Alton Pelfrey made a motion to adjourn the meeting; Belinda Jordan seconded the motion, Motion approved unanimously meeting adjourned at 2:15 pm.

Attest:


Sally Barker, City Clerk


Jim Rupe, Mayor

City of West Liberty
565 Main Street
West Liberty, KY 41472
Phone 606-743-3330
Fax 606-743-2202
Wliberty@mrtc.com

Emergency Council Meeting
Thursday July 15, 2010 4:15 PM

Agenda

I. Elam Utility Gas Shutoff

Council Members:

Phyllis Keeton- Present
Belinda Jordan Present
Mark Walter- Present

John May- Present
Dwayne Nickell- Absent
Alton Pelfrey- Present

Others; Sharon Lykins, Assistant Clerk, Joleen Frederick, City Attorney and Sally Barker, City Clerk

Call to Order- In the absence of Mayor Jim Rupe, Councilmember John May called the meeting to order and stated that an emergency with the gas service to the City of West Liberty still exists and the City is in danger of being disconnected by Columbia Gas and the City must act quickly to avoid a crisis.

City Attorney Joleen Frederick stated the Stock Purchase Agreement that had been approved for the purchase of the Elam Utility Company at the July 13 meeting was not in the City's best interest. Ms Frederick presented them with an Asset Purchase Agreement. Ms Frederick explained that buying the assets and settling the debt of the assets would be in the City's best interest. Ms Frederick pointed out that the City need only acquire the complete assets of Elam Utility and take over the service to the system; 410 customers in West Liberty and 50 customers in Daysboro.

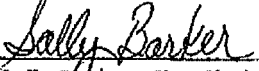
Mark Walter made a motion to approve the Asset Purchase agreement as presented, Belinda Jordan seconded the motion. Asset Purchase agreement approved unanimously.

Ms. Frederick also stated that the City may need to enter into a Management Agreement to take immediate control of the system to help avoid the disconnect. The management agreement Ms. Frederick explained would put the system under control of the City until the transfer of the assets could be completed.

Alton Pelfrey made a motion to approve the Management Agreement, Belinda Jordan seconded the motion. Management Agreement approved unanimously.

Mark Walter made a motion to adjourn the meeting; Alton Pelfrey seconded the motion,
Motion approved unanimously meeting adjourned at 5:15 pm.

Attest:


Sally Barker, City Clerk


Jim Rupe, Mayor

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 18

Responding Witness: Sally Barker

- Q-18. Will the contemplated transaction result in any changes in accounting principles for the gas utility? If yes, please summarize the change(s).
- A-18. The City uses generally accepted accounting principles and operates on a modified accrual accounting basis. Please see the attached pages from the City's audited financial reports for the fiscal year ending June 30, 2009.

**CITY OF WEST LIBERTY, KENTUCKY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2009**

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NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Narrative Profile

The City of West Liberty, Kentucky (the City) was established in 1840. The City operates under Council-Mayor form of government and provides the following service as authorized by its charter: public safety, highway and street, public works, recreation, community development, and general administrative services.

The accounting and reporting policies of the City relating to the funds included in the accompanying basic financial statements conform to accounting principles generally accepted in the United States of America applicable to state and local governments. Generally accepted accounting principles for local governments include those principles prescribed by the Governmental Accounting Standards Board (GASB), the American Institute of Certified Public Accountants in the publication entitled Audits of State and Local Governmental Units and by the Financial Accounting Standards Board (when applicable). As allowed in Section P80 of GASB's Codification of Governmental Accounting and Financial Reporting Standards, the City has elected not to apply Financial Accounting Standards Board Statements and Interpretations issued after November 30, 1989. The more significant accounting policies of the City are described below.

A. Financial Reporting Entity

The City's basic financial statements include the accounts of all City operations. The criteria for including organizations as component units within the City's reporting entity, as set forth in Section 2100 of GASB's Codification of Governmental Accounting and Financial Reporting Standards, include whether:

- the organization is legally separate (can sue and be sued in their own name)
- the City holds the corporate powers of the organization
- the City appoints a voting majority of the organization's board
- the City is able to impose its will on the organization
- the organization has the potential to impose a financial benefit/burden on the City
- there is fiscal dependency by the organization on the City

Based on the aforementioned criteria, the City of West Liberty's only such entity included in the financial statements, as a *blended component unit*, is the City of West Liberty Public Properties Corporation.

The City of West Liberty Public Properties Corporation (the Corporation) was established as a nonprofit corporation pursuant to a resolution of the City Council to act as an agency and instrumentality of the City. The purpose of the corporation was to finance the cost of construction of the City Hall building which is leased to the General Fund of the City. The Corporation financed the costs related to the project by issuance of \$448,000 first mortgage revenue bonds dated January 16, 1991 and demand notes totaling \$94,956 at the Commercial Bank of West Liberty. The City has agreed to lease the facilities from the Corporation with minimum annual rentals equal to the funding requirements of the bonds and notes. Therefore, no amounts are shown for rent relating to the lease of the City Hall building. The General Fund has the option each year to renew the lease.

B. Basis of Presentation

The government-wide financial statements (the statement of net assets and the statement of changes in net assets) report information on all of the activities of the City. The effect of interfund activity, within the governmental and business-type activities columns, has been removed from these statements. Governmental

**CITY OF WEST LIBERTY, KENTUCKY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2009**

15

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

activities, which normally are supported by taxes and intergovernmental revenues, are reported separately from business-type activities, which rely to a significant extent on fees and charges for support.

The statement of activities demonstrates the degree to which the direct expenses of a given program are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific program. Program revenues include 1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given program and 2) operating or capital grants and contributions that are restricted to meeting the operational or capital requirements of a particular program. Taxes and other items not properly included among program revenues are reported instead as general revenues.

Fund Financial Statements:

The City segregates transactions related to certain functions or activities in separate funds in order to aid financial management and to demonstrate legal compliance. Separate statements are presented for governmental and proprietary activities. These statements present each major fund as a separate column on the fund financial statements; all non-major funds are aggregated and presented in a single column.

Governmental funds are those funds through which most governmental functions typically are financed. The measurement focus of governmental funds is on the sources, uses and balance of current financial resources. The City has presented the following governmental funds:

General Fund –

The General Fund is the main operating fund of the City and always classified as a major fund. This fund is used to account for all financial resources not accounted for in other funds. All general tax revenues and other receipts that are not restricted by law or contractual agreement to some other fund are accounted for in this fund. General operating expenditures, fixed charges and capital improvement costs that are not paid through other funds are paid from the General Fund.

Debt Service Fund –

The Debt Service Fund is used to account for the accumulation of financial resources for the payment of principal, interest and related costs on general long-term debt paid primarily from taxes levied by the City. The fund balance of the Debt Service Fund is reserved to signify the amounts that are restricted exclusively for debt service expenditures.

Municipal Road Aid Fund --

The Municipal Road Aid Fund is used to account for the revenues received and expenditures paid for construction, reconstruction, and maintenance of city streets.

Tourism and Planning Commission Fund –

The Tourism and Planning Commission Fund is used to account for the restaurant tax and shelter income and the related expenditures. The Tourism and Planning Commission Fund is considered a major fund for government-wide reporting purposes.

CITY OF WEST LIBERTY, KENTUCKY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2009

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

CMRS Fund –

The CMRS Fund is used to account for wireless collections and the related expenditures paid for 911 dispatch.

Fire Tax Fund –

The Fire Tax Fund is used to account for fire tax collections and the related expenditures.

Police Incentive Fund –

The Police Incentive Fund is used to account for funds received from the Kentucky Law Enforcement Foundation Program and the related expenditures.

Proprietary Funds are accounted for using the economic resources measurement focus and the accrual basis of accounting. The accounting objectives are determinations of operating income and changes in net assets, financial position and cash flow. All assets and liabilities are included on the Statement of Net Assets. The City has presented the following major proprietary funds:

Water and Sewer Fund –

The Water and Sewer Fund is used to account for the provision of water and sewer services to the residents of the City. Activities of the fund include administration, operations and maintenance of the water and sewer system and billing and collection activities. The fund also accounts for the accumulation of resources for, and the payment of, long-term debt principal and interest for water and sewer debt. All costs are financed through charges to utility customers with rates reviewed regularly and adjusted if necessary to ensure integrity of the funds.

Proprietary funds distinguish operating revenues and expenses from non-operating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. Operating expenses for the proprietary funds include the cost of personal and contractual services, supplies and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as non-operating revenues and expenses.

C. Measurement Focus/Basis of Accounting

Measurement focus refers to what is being measured, basis of accounting refers to when revenues and expenditures are recognized in the accounts and reported in the financial statements. Basis of accounting relates to the timing of the measurement made, regardless of the measurement focus applied.

The government-wide statements and fund financial statements for proprietary funds are reported using the economic resources measurement focus and the accrual basis of accounting. The economic resources measurement focus means all assets and liabilities (whether current or non-current) are included on the statement of net assets and the operating statements present increases (revenues) and decreases (expenses) in net total assets. Under the accrual basis of accounting, revenues are recognized when earned, including unbilled water and sewer services which are accrued. Expenses are recognized at the time the liability is incurred.

CITY OF WEST LIBERTY, KENTUCKY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2009

17

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Governmental fund financial statements are reported using the current financial resources measurement focus and are accounted for using the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized when susceptible to accrual; i.e., when they become both measurable and available. "Measurable" means the amount of the transaction can be determined and "available" means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. The City considers property taxes as available if they are collected within 60 days after year end. A one-year availability period is used for recognition of all other Governmental Fund revenues. Expenditures are recorded when the related fund liability is incurred. However, debt service expenditures are recorded only when payment is due.

The revenues susceptible to accrual are property taxes, charges for service, interest income and intergovernmental revenues. All other Governmental Fund Type revenues are recognized when received.

D. Budgetary Control

The City follows the procedures established pursuant to Section 91 A.030 of the Kentucky Revised Statutes in establishing the budgetary data reflected in the financial statements. Budgets for all funds are adopted on the same basis of accounting as used in the financial statements.

Budgeted amounts in the financial statements are as amended and adopted by ordinance of the City.

Kentucky Revised Statute 91A.030 prohibits and nullifies any expenditure in excess of budgeted amounts. Certain actual expenditures exceeded budgeted amounts.

E. Cash and Investments

The City considers all cash, certificates of deposit, and savings to be cash equivalents. At June 30, 2009, the reported amount of the City's deposits was \$1,303,094 and the bank balance was \$1,308,041. Kentucky Revised Statutes requires depositories to provide an adequate pledge of securities to sufficiently cover deposits in excess of the \$250,000 Federal Deposit Insurance Corporation (FDIC) coverage. As of June 30, 2009, the City's deposits were adequately secured.

Kentucky Revised Statutes authorize municipalities to invest in obligations of the United States and its agencies, obligations of the Commonwealth of Kentucky and its agencies, shares in savings and loan associates insured by federal agencies and deposits in national or state chartered banks insured by federal agencies and larger amounts in such institutions providing such banks pledge as security obligations of the United States government or its agencies.

Investments are stated at cost, which approximates market.

F. Prepaid Items

Prepaid balances are for payments made by the City in the current year to provide services occurring in the subsequent fiscal year, and the reserve for prepaid items has been recognized to signify that a portion of fund balance is not available for other subsequent expenditures.

**CITY OF WEST LIBERTY, KENTUCKY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2009**

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

G. Inventory of Supplies

Inventories are valued at the lower of cost (first-in, first-out) or market. Inventory of the utility funds consists of materials and supplies.

H. Interfund Activity

Transfers between governmental and business-type activities on the government-wide statements are reported in the same manner as general revenues.

I. Bond Discounts and Issue Costs

Bond discounts and issue costs are being amortized over the life of the bonds using the straight-line method.

J. Capital Assets

Capital assets, which includes property, plant, equipment, and infrastructure assets, are reported in the applicable governmental or business-type activities columns in the government-wide financial statements and in the fund financial statements for proprietary funds. All capital assets are valued at historical cost or estimated historical cost if actual historical is not available. Donated assets are valued at their fair market value on the date donated. Repairs and maintenance are recorded as expenses. Renewals and betterments are capitalized. Interest incurred during the construction phase of capital assets of business-type activities is included as part of the capitalized value of the assets constructed.

Assets capitalized, not including infrastructure assets, have an original cost of \$2,500 or more and over three years of useful life. Infrastructure assets capitalized have an original cost of \$25,000 or more. Depreciation has been calculated on each class of depreciable property using the straight-line method. Estimated useful lives are as follows:

Buildings	20-50 Years
Water and Sewer System	10-50 Years
Infrastructure	10-35 Years
Machinery and Equipment	3-10 Years
Improvements	15 Years

K. Compensated Absences

The City of West Liberty's policy allows full-time employees to earn vacation leave and sick leave. Employees earn ten (10) days of vacation after each year of employment. After ten years of employment, employees earn fifteen (15) days of vacation per year. Any accumulated vacation will be paid to an employee upon termination.

Employees earn one (1) day of sick leave for each month worked and there is no limit on the number of days that can accumulate. Accumulated sick leave will not be paid to an employee upon termination.

CITY OF WEST LIBERTY, KENTUCKY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2009

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

L. Net Assets

Net assets represents the difference between assets and liabilities. Net assets invested in capital assets, net of related debt consists of capital assets, net of accumulated depreciation, reduced by the outstanding balances of any borrowing used for the acquisition, construction or improvements of those assets, and adding back unspent proceeds. Net assets are reported as restricted when there are limitations imposed on their use either through the enabling legislation adopted by the City or through external restrictions imposed by creditors, grantors or laws or regulations of other governments.

M. Interest Payable

In the Government-wide financial statements, interest payable on general long-term debt is recognized as the liability is incurred.

In the fund financial statements, governmental fund types recognize interest expenditures when due and payable.

N. Allowance for Uncollectible Accounts

The City's delinquent taxes and accounts receivable are considered fully collectible and therefore an allowance for uncollectible accounts is not applicable to those receivables.

O. Estimates

The preparation of the financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results may differ from those estimates.

P. Restricted Assets

Assets are reported as restricted when limitations on their use change the nature or normal understanding of the availability of the asset. Such constraints are either externally imposed by creditors, contributors, grantors, or laws of other governments, or are imposed by law through constitutional provisions or enabling legislation.

Q. Defined Pension Benefit Plan

Substantially all City of West Liberty's full-time regular employees participate in the statewide Kentucky Retirement Systems ("System"), a multiple-employer public employee retirement system. Kentucky Retirement Systems is a cost sharing public employee retirement system with one exception: all risks and costs are not shared by the City but are the liability of the State of Kentucky. The payroll for employees covered by the System for the year ended June 30, 2009 was \$993,123; the City's total payroll was \$1,058,046.

All City full-time employees are eligible to participate in the System. The Plan provides for retirement, disability and death benefits.

Covered employees are required by State statute to contribute 5 percent (6 percent for newly hired employees) of creditable compensation to the System. Employer contribution rates are intended to fund the System's normal cost on a current basis plus one percent (1%) of unfunded past service cost per annum plus interest at the

CITY OF WEST LIBERTY, KENTUCKY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2009

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

actuarial assumed rate. Such contribution rates are determined by the Board of Trustees of Kentucky Retirement Systems each biennial. The City contributed at 13.50% for all covered employees. The contribution requirement for the year ended June 30, 2009 was \$183,728, which consisted of \$134,072 from the City and \$49,656 from employees.

Additional information and historical trend information can be obtained from the separately issued Kentucky Retirement Systems Comprehensive Annual Financial Report.

R. Encumbrances

The City does not use a system of encumbrances in their accounting and reporting methods.

S. Unbilled Receivables

The City's Utility Department reads meters to measure customer consumption of sewer and water in the middle of the month. Estimates for unbilled receivable were based on consumption for the meter reading period immediately following the year end. This usage was prorated for the number of days within the fiscal year and multiplied by the appropriate rates.

NOTE 2. PROPERTY TAXES

Property taxes for fiscal year 2008 were levied on \$242,800,423 the assessed valuation of property located in Morgan County as of the preceding January 1, the lien date. Delinquent taxes are considered fully collectible and therefore no allowance for uncollected taxes is provided. A reserve for uncollectible property taxes is recorded for the amount uncollected at year end. The due date and collection periods for property taxes are as follows:

<u>Description</u>	<u>Per K.R.S. 134.020</u>
Due date for payment of taxes	Upon Receipt
Discount of 2%	Receipt to October 31
Face value amount payment dates	November 1 to November 30
Tax balance plus 2% penalty	December 1 to December 31
Tax balance plus 10% penalty	January 1

NOTE 3. CAPITAL ASSETS

Capital assets activity for the year ended June 30, 2009, consisted of the following:

Governmental Activities

	<u>Balance</u> <u>July 1, 2008</u>	<u>Additions</u>	<u>Retirements</u>	<u>Balance</u> <u>June 30, 2009</u>
Capital assets, not being depreciated:				
Land and land improvements	\$ 160,636	\$ -	\$ -	\$ 160,636
Construction in progress	-	-	-	-
Total capital assets, not being depreciated	<u>160,636</u>	<u>-</u>	<u>-</u>	<u>160,636</u>

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 19

Responding Witness: Sally Barker

- Q-19. Does the City anticipate entering into any new contracts as a consequence of the contemplated transaction? If so, will any of the entities with which the City will enter said contract(s) be affiliated in any way with the City, or any of its officials, employees, or consultants?
- A-19. The City does not anticipate entering into any new contracts other than a gas supply contract. See response to Question No. 1 of PSC Staff. However, if the Commission approves the proposed transfer, the City will manage its natural gas utility assets in a prudent, safe and cost-effective manner.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 20

Responding Witness: Sally Barker

Q-20. Please provide a copy of any and all materials, including but not limited to transcripts of presentations, recordings or notes of presentations, or other information, regarding any and all financial analyses concerning the transaction.

A-20. No such documents exist.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 21

Responding Witness: Sally Barker

Q-21. Please state whether as a result of the contemplated transaction the City will be required to guarantee any debts of Elam or its principles, or any partnerships in any manner associated therewith. If so, provide full details.

A-21. The asset purchase agreement states:

At the Closing, Buyer will assume the following liabilities and obligations, **and only the following liabilities and obligations**, of Seller:

1. Seller's outstanding obligation(s) to Columbia Gas Transmission, LLC, and Columbia Gulf Transmission Company, including the negative gas imbalance on GTS contract 37816 of 113,465 dekatherms, as well as unpaid invoices owed to Columbia totaling \$16,851.76;
2. Seller's debt to the Commercial Bank in West Liberty, Kentucky, in an approximate amount of \$30,000.00; and
3. Seller's mortgage debt of approximately \$180,000 to Community Trust Bank if and only if the Commission approves Buyer's acquisition of the portion of Seller's natural gas distribution system located in Wolfe County, Kentucky.

No other consideration of any kind has been offered to Elam or its principals concerning the proposed asset purchase transaction.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 22

Responding Witness: Sally Barker

- Q-22. Please state whether as a result of the contemplated transaction, the City will be required to grant liens in favor of any lenders or lien or judgment holders of Elam If so, provide full details.
- A-22. Please see the City's response to AG Question No. 21.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 23

Responding Witness: Sally Barker

Q-23. Please state whether the contemplated transaction, if approved, will or could have an adverse impact of any type or sort on the ability of the City to borrow money. If so, explain in complete detail.

A-23. The City does not anticipate any such adverse impact.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 24

Responding Witness: Sally Barker

- Q-24. Will the City provide clear and conspicuous notice to Elam's existing customers regarding any change in service(s) or tariffs resulting from the proposed transaction? If so, please describe in detail.
- A-24. The City does not anticipate any such changes at this time; however, if the Commission approves the proposed transfer, the City will manage its natural gas utility assets in a prudent, safe and cost-effective manner and will keep its gas customers fully informed of all issues that affect their service or rates.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 25

Responding Witness: Sally Barker

- Q-25. Describe, in detail, any and all inducements that Elam offered (other than the consideration stated in the application), or that the City demanded or requested during the course of negotiations leading to the proposed purchase that is the subject of the instant filing.
- A-25. No such "inducements" exist. The City requests approval for the asset purchase agreement on its own terms.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 26

Responding Witness: Sally Barker

- Q-26. In the event the Kentucky Public Service Commission approves the City's application, would the City agree and adhere to the following commitments (note: this question should not necessarily be construed as the Attorney General's acquiescence to the contemplated transaction):
- a. The contemplated transaction will not impair, impede, nor prohibit the ability and capabilities of the City in meeting its obligations to provide adequate, efficient and reasonable service to its gas customers.
 - b. The contemplated transaction will not detract from the benefits that Elam customers currently receive.
 - c. The contemplated transaction will not result in increased rates or increased charges of any type or sort, except those directly related to the purchase, transmission and delivery of natural gas not otherwise financially avoidable by the City, for Elam's existing customers.
- A-26. a. The City does not presently provide such service, so the proposed asset purchase could only enhance the City's ability to provide natural gas service.
- b. Absent the City's intervention, Elam's customers would have lost their gas service entirely on Monday, July 26, 2010. So the benefit the City will confer on Elam's customers is uninterrupted natural gas service. As stated in response to the Attorney General's other data requests, the City does not anticipate any changes in rates or service at this time; however, if the Commission approves the proposed transfer, the City will manage its natural gas utility assets in a prudent, safe and cost-effective manner.
 - c. Please see the response to (b) above.

THE CITY OF WEST LIBERTY, KENTUCKY

CASE NO. 2010-00302

**Response to the Attorney General's Amended Initial Data Requests
Dated July 26, 2010**

Question No. 27

Responding Witness: Sally Barker

- Q-27. The Memorandum of Understanding executed between the City and the Columbia companies indicates that the City may, in its sole discretion, fulfill Elam's "Current Obligation" owed to the Columbia companies either in cash or gas. Please confirm that the Columbia companies are willing to accept the delivery of an amount of natural gas equal to the amount Elam incorrectly drew off of Columbia's system, even though the monetary value of the gas the City replaces may be lower in cost than the cost of the natural gas Elam withdrew from Columbia's system. Stated another way, can the City simply replace the dekatherms of natural gas previously withdrawn, regardless of the cost which the City must pay for the gas, versus that which the Columbia companies charged Elam per dekatherm? Please explain the answer in detail.
- A-27. The Memorandum of Understanding, which was the product of the City's and Columbia's careful and deliberate negotiations, including negotiations on this very issue, speaks for itself:
4. In the event that the PSC approves the City's Application on or before August 13, 2010, the City shall fulfill the remaining portion of the Current Obligation (*i.e.*, the Current Obligation less the Escrowed Funds or the amount of natural gas purchased therewith), within 14 days of PSC approval. The City may fulfill the Current Obligation remaining at that time in natural gas or money at the City's sole discretion.

