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August 3, 2010

RECEIVED

AUG 04 2010

PUBLIC SERVICE  
COMMISSION

**VIA FACSIMILE AND 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:

On August 3, 2010, the Attorney General presented to the City of West Liberty three additional questions concerning the City's proposed acquisition of the assets of Elam Utility Company, Inc. The Attorney General's questions and the City's responses are below.

- Q-1. Minutes of the emergency City Council meetings of July 13th and July 15th in which the issues regarding Elam were discussed indicate that Mayor Jim Rupe was not present for either meeting, but that he signed the minutes for both meetings. Why was the Mayor not present? Is he normally present for the meetings? Was any conflict of interest or potential conflict involved?
- A-1. The Mayor was out of town on July 13 and 15; there was and is no potential conflict of interest involved. Yes, the Mayor makes every effort to be present at City Council meetings.
- Q-2. The Asset Purchase Agreement the City entered with Elam requires the company to transfer all funds to the City upon the closing of the Agreement, which will occur after the PSC approves the transfer, assuming it is approved. What recourses are available to the City if Elam fails to turn over the funds or to otherwise provide access to them, including the disclosure of the identity of the financial

institution where the company maintained accounts and deposited customer receipts? Has Elam to date identified any such financial institution?

- A-2. The City did not enter into the Asset Purchase Agreement expecting that Elam would have meaningful amounts on deposit in any financial institution; however, as a result of its due diligence efforts and general knowledge about the personal relationships of Elam's principal, the City is aware of a two local banks where some of Elam's funds may be on deposit. In the event Elam does not cooperate by providing access to those funds (or proof that such funds or accounts do not exist), the City will take whatever legal action is prudent.
- Q-3. The Asset Purchase Agreement in essence results in the City's taxpayers becoming responsible for any potential debt the ratepayers would have owed had the City not moved to acquire Elam. Will the City attempt to collect from Elam's principles the sums the City is borrowing to accomplish the purchase under the Asset Purchase Agreement? Will the City forego any such collection efforts? Did the transactions between the City and Elam involve any discussions to the effect that the City will not pursue collection against Elam's principles? Has the City, or anyone else to the City's knowledge, made a referral to any law enforcement agencies with regard to the customer deposits which the City acknowledges are missing? If so, please identify that agency.
- A-3. The City disagrees with the assertion, "The Asset Purchase Agreement in essence results in the City's taxpayers becoming responsible for any potential debt the ratepayers would have owed had the City not moved to acquire Elam." A utility's customers are not liable for its debts.

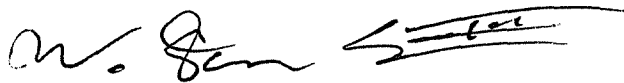
The City is not in a dispute with Elam or its principal. All of the consideration for the transaction is clearly stated in the Asset Purchase Agreement; there are no side agreements.

The City has referred the matter to the Morgan County Attorney. Because of certain conflicts, it is anticipated that the County Attorney will contact the Attorney General to request the appointment of a special prosecutor.

Jeff DeRouen  
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Should you have any questions please contact me at your convenience

Sincerely,

A handwritten signature in black ink, appearing to read "W. Duncan Crosby III". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

W. Duncan Crosby III

WDC:ec  
Enclosures  
cc: Parties of Record