



STATE OF WASHINGTON  
**UTILITIES AND TRANSPORTATION COMMISSION**  
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • [www.utc.wa.gov](http://www.utc.wa.gov)

June 27, 2014

Steven V. King, Executive Director and Secretary  
Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P.O. Box 47250  
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Cristalina, LLC*

Commission Staff's Response to Application for Mitigation of Penalties UW-140840

Dear Mr. King:

On May 28, 2014, the Utilities and Transportation Commission issued a \$1,000 Penalty Assessment in Docket UW-140840 against Cristalina, LLC for 10 violations of Washington Administrative Code (WAC) 480-110-505, which requires water companies to furnish annual reports to the commission no later than May 1 each year.<sup>1</sup>

On June 13, 2014, Cristalina, LLC wrote the commission requesting mitigation of penalties (Mitigation Request).<sup>2</sup> In its Mitigation Request, Cristalina, LLC does not dispute that the violation occurred. The company states, "Due to the extensive amount of reporting required by the UTC and customer complaints this report deadline was missed by accident despite having been given notice by the UTC previously." The mitigation request also indicates Cristalina, LLC is working on a transfer of the water system.

It is the company's responsibility to ensure that the regulatory fee is paid and the annual report is filed by the May 1 deadline. On February 28, 2014, Annual Report packets were mailed to all regulated water companies. The instructions for annual report completion page of the annual report informed the regulated company that it must complete the annual report form, pay the regulatory fees, and return the materials by May 1, 2014, to avoid enforcement action.

On June 13, 2014, Cristalina, LLC filed its completed annual report and paid the regulatory fees and late payment penalty. On June 17, 2014, Cristalina, LLC filed documents regarding the transfer of assets to Washington Water Service Company in Docket UW-141301.<sup>3</sup> The company

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 28, 2014

<sup>2</sup>See attachment B for a copy of Cristalina's Mitigation Request received on June 13, 2014

<sup>3</sup>See attachment C for a copy of Cristalina's Notice of Sale received on June 17, 2014

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had prior violations of WAC 480-110-505 during the 2005 and 2011 reporting years. Staff does not support the company's request for mitigation due to prior violations.

If you have any questions regarding this recommendation, please contact Amy Andrews, Regulatory Analyst, at (360) 664-1157, or [aandrews@utc.wa.gov](mailto:aandrews@utc.wa.gov).

Sincerely,

Sondra Walsh, Director  
Administrative Services

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<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 28, 2014

<sup>2</sup>See attachment B for a copy of Cristalina's Mitigation Request received on June 13, 2014

<sup>3</sup>See attachment C for a copy of Cristalina's Notice of Sale received on June 17, 2014

## ATTACHMENT A

### WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

#### NOTICE OF PENALTIES INCURRED AND DUE FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: UW-140840  
PENALTY AMOUNT: \$1,000

Cristalina LLC  
1200 Old Fairhaven Parkway  
Bellingham, WA 98225

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-110-505, which requires water companies to file their annual reports and pay regulatory fees each year by May 1. You did not file an annual report or pay regulatory fees by May 1, 2014.

Revised Code of Washington (RCW) 80.04.080 authorizes the Commission to assess penalties of \$100 for violations of Commission rules. Each violation is a separate and distinct offense and, in the case of a continuing violation, every day's continuance is a separate and distinct violation. The Commission interprets noncompliance with WAC 480-110-505 beyond May 1 as a continuing violation, and assesses penalties of \$100 for each day a company fails to file its report or pay its regulatory fees after that date.

As a result, the Commission has assessed penalties against you in the amount of \$1,000 on the following basis:

On February 28, 2014, the Commission mailed the 2013 annual report forms and the 2014 regulatory fee packets to all water companies registered in Washington. The instructions page for the annual report form instructed these companies to file annual reports and pay regulatory fees by May 1, 2014. The instructions page also stated that failure to file the annual report by May 1 would result in penalties. The deadline for requesting an extension to file your annual report was April 17. You did not request an extension.

As of May 15, 2014, Cristalina LLC has not filed its 2013 annual report or paid its 2014 regulatory fee. May 15 is 10 business days from May 1, resulting in a total penalty of \$1,000.

Your penalty is due and payable now. If you believe the violation did not occur, you may request a hearing to contest the penalty assessment. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request.

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Failure to provide such a statement will result in denial of the request. If there is a reason for the violation that you think should excuse or reduce the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. A request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW80.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

**If you do not act within 15 days**, the Commission may refer this matter to the Office of the Attorney General for collection, which may file suit in state court to collect the penalty.

DATED at Olympia, Washington, and effective May 28, 2014.

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GREGORY J. KOPTA  
Administrative Law Judge

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<sup>3</sup>See attachment C for a copy of Cristalina's Notice of Sale received on June 17, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UW-140840

**PLEASE NOTE:** You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violations occurred. I have:

Enclosed \$\_\_\_\_\_ in payment of the penalty

Submitted my payment of \$\_\_\_\_\_ online at [www.utc.wa.gov](http://www.utc.wa.gov). My confirmation number is \_\_\_\_\_.

2. **Request for a hearing.** I believe that one or more of the alleged violations did not occur, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: \_\_\_\_\_ [month/day/year], at \_\_\_\_\_ [city, state]

\_\_\_\_\_  
Name of Respondent (company) – please print

\_\_\_\_\_  
Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 28, 2014

<sup>2</sup>See attachment B for a copy of Cristalina’s Mitigation Request received on June 13, 2014

<sup>3</sup>See attachment C for a copy of Cristalina’s Notice of Sale received on June 17, 2014

ATTACHMENT B

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UW-140840

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

[ ] 1. Payment of penalty. I admit that the violations occurred. I have:

[ ] Enclosed \$ \_\_\_\_\_ in payment of the penalty

[ ] Submitted my payment of \$ \_\_\_\_\_ online at www.utc.wa.gov. My confirmation number is \_\_\_\_\_.

[ ] 2. Request for a hearing. I believe that one or more of the alleged violations did not occur, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

[X] 3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

See attached

[ ] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR [X] b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: 6/10/14 [month/day/year], at Bellingham, WA [city, state]

Cristalina LLC
Name of Respondent (company) - please print

Signature of Applicant

RCW 9A.72.020:

"Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony."

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3See attachment C for a copy of Cristalina's Notice of Sale received on June 17, 2014

The 2013 report is attached to this letter.

Cristalina has been working on the transfer of the water system since late 2013. There have been complaints and bookkeeping issues that had to be resolved since the dismissal of Stephanie Opsteeph the previous bookkeeper in order to prepare this report.

Cristalina has run at a deficit for some times costing the owner a painful amount of time and money. Due to the extensive amount of reporting required by the UTC and customer complaints this report deadline was missed by accident despite having been given notice by the UTC previously. There are only two people working on the Cristalina accounts and both have been working part time due to limited funds.

It is requested that the UTC will forgive the fine and concentrate on approving the transfer of this company to Washington Water. Cristalina in turn has written a check to the UTC and included the late fee penalty and interest per the regulatory calculation schedule.

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ATTACHMENT C

Richard A. Finnigan  
(360) 956-7001  
rickfinn@localaccess.com

Law Office of  
Richard A. Finnigan  
2112 Black Lake Blvd. SW  
Olympia, Washington 98512

Candace Shofstall  
Legal Assistant  
(360) 753-7012  
candaces@localaccess.com

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June 13, 2014

VIA ELECTRONIC FILING AND HAND DELIVERY

Mr. Steven V. King, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive SW  
Olympia, Washington 98504-7250

Re: Sale of Assets of Cristalina LLC to Washington Water Service Company and related matters

Dear Mr. King:

This letter will serve as the application for approval under RCW 80.12.020, RCW 80.12.040, WAC 480-143-120 and WAC 480-143-130 of the transfer of substantially all of the assets of Cristalina LLC to Washington Water Service Company.

Under the Commission's rules, copies of the current financial statements of both companies are to be provided. The Commission already has possession of the most current financial statements of both companies in the annual reports submitted by each company. The two companies ask that the Commission refer to those annual reports for this purpose.

A copy of the instrument of transfer is enclosed with this application.

Cristalina LLC and Washington Water Service Company hereby respectfully request that the Commission approve the transfer of assets. In addition, Cristalina LLC respectfully requests that it be removed from the role of regulated companies.

Finally, pursuant to RCW 80.08.040, this letter informs the Commission of Washington Water's intent to assume the Safe Drinking Water (State Revolving Fund) loan obligations of Cristalina. The required certification of Mr. Ireland which describes the securities is enclosed.

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Steven V. King  
June 13, 2014  
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A copy of the customer notice is also enclosed.

Pursuant to the requirements of WAC 480-143-130, the undersigned certifies that the information included in this application is true and correct to the best of the undersigned's information and belief under penalty of perjury as set forth in RCW 9A.72.085.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Finnigan", with a stylized flourish at the end.

RICHARD A. FINNIGAN

RAF/ cs  
Enclosure

cc: Client (via e-mail)

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