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BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

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WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION, )  
Complainant, )  
vs. ) Docket UW-101818  
) Pages 17-59  
MARIA K. LINDBERG, )  
Respondent. )

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EVIDENTIARY HEARING, VOLUME II  
Pages 17-59  
ADMINISTRATIVE LAW JUDGE PATRICIA CLARK

1:30 P.M.

AUGUST 26, 2011

Washington Utilities and Transportation Commission  
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OLYMPIA, WASHINGTON, AUGUST 26, 2011

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1:30 P.M.

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P R O C E E D I N G S

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JUDGE CLARK: Good afternoon. It's approximately 1:30 p.m., August 26, 2011, in the Commission's hearing room in Olympia, Washington. This is the time and the place set for a hearing in the matter of Washington Utilities and Transportation Commission versus Maria K. Lindberg, given Docket No. UW-101818.

Patricia Clark, Administrative Law Judge for the Commission, presiding.

This matter came before the Commission on April 8, 2011, when the Washington Utilities and Transportation Commission filed a complaint against Maria K. Lindberg, the owner and manager of Cristalina, LLC, a water company subject to the Commission's jurisdiction.

The complaint alleged 180 violations of the Commission's statutes and rules applicable to water companies and a violation of a Commission order. The complaint sought penalties in the amount of \$18,000.

On August 10, 2011, the parties filed a settlement agreement resolving all issues and a narrative in support thereof. By a notice issued August 16 of 2011, the Commission scheduled a hearing on the settlement for this date and time.

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1                   At this time I'll take appearances on behalf of the  
2 parties.

3                   Appearing on behalf of the Commission Staff?

4                   MS. CAMERON-RULKOWSKI: On behalf of Commission  
5 Staff, Jennifer Cameron-Rulkowski, Assistant Attorney General.

6                   JUDGE CLARK: Thank you, Ms. Cameron-Rulkowski.

7                   Appearing on behalf of Maria K. Lindberg?

8                   MR. FINNIGAN: Richard Finnigan.

9                   JUDGE CLARK: Thank you, Mr. Finnigan.

10                  The record should reflect that with prior approval,  
11 Maria K. Lindberg is appearing telephonically in this  
12 afternoon's hearing.

13                  As a preliminary matter, I would like to address two  
14 topics: First is the admission of the documents which have been  
15 marked for identification purposes as exhibits in this case.

16                  MR. FINNIGAN: Your Honor, the parties stipulate to  
17 the admission of those documents.

18                  JUDGE CLARK: All right. Thank you. Those  
19 documents, which have been previously identified for -- marked  
20 for identification purposes, specifically, Exhibit 1, which is  
21 the settlement agreement; Exhibit 2, which is the narrative in  
22 support thereof; the prefiled testimony of Travis Yonker, marked  
23 for identification purposes as Exhibit TY-1T, and TY-2 through  
24 20, as well as the prefiled testimony of Amy White marked AW-1T,  
25 and the exhibits marked AW-2 through 7; the prefiled testimony

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1 of Maria K. Lindberg, which was marked for identification  
2 purposes as Exhibit MKL-1T, are admitted.

3 (Exhibit Nos. 1-2; TY-1T, TY-2 through TY-20; AW-1T,  
4 AW-2 through AW-7; and MKL-1T were admitted  
5 into the record.)

6 JUDGE CLARK: The second preliminary matter that I  
7 have is if there is no objection, I would call the Commission  
8 Staff witnesses and Ms. Lindberg as a panel and have them answer  
9 questions at the same time. If I have a specific question posed  
10 to an individual, I would present it to that individual, or if  
11 one of the witnesses had something that they'd like to further  
12 add rather than calling and recalling witnesses.

13 Is there an objection by counsel to that process?

14 MR. FINNIGAN: No.

15 MS. CAMERON-RULKOWSKI: None from Staff, Your Honor.

16 JUDGE CLARK: All right. I only have questions for  
17 the individual who will be sponsoring the prefiled testimony of  
18 Travis K. Yonker, I do not have any inquiry for Ms. White, and I  
19 have a few questions for Ms. Lindberg.

20 So, Ms. Cameron-Rulkowski, who would you like to call  
21 for a witness?

22 MS. CAMERON-RULKOWSKI: Your Honor, I would like to  
23 call Ms. Sharon Wallace.

24 JUDGE CLARK: Thank you.

25 Ms. Wallace, if you would take the witness stand,



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1 please. Thank you. If you'd sit at the far -- yeah, that's  
2 perfect. We have two seats over there, but, actually, if you  
3 sit in one of them, I'm looking through the court reporter, and  
4 I can't see you very well. So thank you for accommodating me.

5 I would like at this time to swear the witnesses in.

6 Ms. Lindberg, I recognize you're appearing  
7 telephonically. I'm going to do my best to speak loudly, but  
8 when I rise and administer the oath, I will be away from the  
9 microphone, so, hopefully, I'll speak loud enough for you to  
10 hear it.

11 At this time I need you to rise and raise your right  
12 hand, please.

13

14 SHARON WALLACE and MARIA K. LINDBERG,  
15 witnesses herein, having been first duly sworn on oath, were

16 examined and testified as follows:

17

18 MS. WALLACE: I do.

19 JUDGE CLARK: Thank you. Please be seated.

20 Ms. Lindberg, Did you hear the oath?

21 MS. LINDBERG: Yes.

22 JUDGE CLARK: And?

23 MS. LINDBERG: And I do.

24 JUDGE CLARK: Okay. Great. Thank you.

25 All right. The testimony has already been admitted,

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1 and so I'm going to just jump in to asking my clarifying  
2 questions.

3           Hopefully, I will have a page and line reference for  
4 you in the prefiled testimony for each of those questions, so I  
5 want to make sure before we start that everyone has a copy of  
6 the documents they might need to answer those clarifying  
7 questions.

8           I'll start with you, Ms. Lindberg.

9           WITNESS LINDBERG: I don't. I didn't know I had to  
10 have stuff in front of me.

11           JUDGE CLARK: Okay. Well, then I'm just going to try  
12 to basically read you those portions of your testimony that  
13 would relate to the inquiry.

14           WITNESS LINDBERG: Okay.

15           JUDGE CLARK: And then ask you to respond, okay?

16           WITNESS LINDBERG: Great.

17           JUDGE CLARK: We'll see how that works.

18           MS. CAMERON-RULKOWSKI: Judge Clark?

19           JUDGE CLARK: Yes?

20           MS. CAMERON-RULKOWSKI: May I take a moment to  
21 qualify Ms. Wallace? She did not author the testimony.

22           JUDGE CLARK: Right. I -- no, I understand that. We  
23 haven't quite gotten there yet. I just want to make sure, first  
24 of all, that everybody had everything in front of them.

25           And I'm hoping you're going to ask the routine

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1 preliminary questions and also ask the witness to sponsor.

2 Okay. So we know that Ms. Lindberg doesn't have the  
3 testimony.

4 Ms. Wallace, do you have the testimony?

5 WITNESS WALLACE: I do.

6 JUDGE CLARK: Thank you.

7 Ms. Cameron-Rulkowski?

8 MS. CAMERON-RULKOWSKI: Thank you, Your Honor.

9

10 D I R E C T E X A M I N A T I O N

11 BY MS. CAMERON-RULKOWSKI:

12 Q. Please state your name and business address.

13 A. (Wallace) Sharon Wallace. 1300 South Evergreen Park  
14 Drive Southwest, PO Box 47250, Olympia, Washington 98504.

15 Q. Please state the name of your employer.

16 A. (Wallace) Washington Utilities and Transportation  
17 Commission.

18 Q. How long have you been employed by the Commission?

19 A. (Wallace) Since August of 2007. Almost exactly four  
20 years.

21 Q. Please state your current position and the length of  
22 time you have worked in that position.

23 A. (Wallace) Assistant Director, Consumer Protection  
24 and Communications. Four years.

25 Q. What are your responsibilities as they pertain to

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1 this matter?

2 A. (Wallace) I supervise the compliance investigators  
3 for the Commission who investigate the business practices of  
4 regulated companies.

5 Q. And did you supervise Travis Yonker's investigation  
6 in this matter?

7 A. (Wallace) I did.

8 Q. And did you supervise the preparation of Mr. Yonker's  
9 prefiled testimony in this matter?

10 A. (Wallace) Yes.

11 Q. Are you prepared to sponsor that testimony and answer  
12 questions concerning that testimony and about the settlement  
13 documents filed in this matter?

14 A. (Wallace) Yes.

15 MS. CAMERON-RULKOWSKI: Thank you.

16 JUDGE CLARK: Thank you.

17 Mr. Finnigan, do you have any preliminary inquiry of  
18 your witness?

19 MR. FINNIGAN: No, Your Honor.

20 JUDGE CLARK: Thank you.

21 MR. FINNIGAN: No, Your Honor.

22 JUDGE CLARK: Thank you. Just one additional  
23 question: Does anyone have any additions, corrections, or  
24 deletions to the prefiled testimony?

25 MS. CAMERON-RULKOWSKI: No, Your Honor.

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1 JUDGE CLARK: All right. Thank you.

2

3 E X A M I N A T I O N

4 BY JUDGE CLARK:

5 Q. All right my first question, then, is going to go to  
6 you, Ms. Wallace. And I'm on page 1 -- page 8 of TY-1T, and  
7 that's Mr. Yonker's prefiled testimony.

8 A. (Wallace) Yes.

9 Q. Okay. I'm a little bit confused. On page 3 -- and  
10 you don't need to go there.

11 On page 3, line 20, the testimony indicates that  
12 there are 84 customers. On page 8, line 13, the testimony  
13 indicates that there are 87 customers.

14 So my first question is: How many customers?

15 A. (Wallace) I do not know the answer to that question.

16 Q. Ms. Lindberg, do you know?

17 A. (Lindberg) We have 83 right now. Well, we have one  
18 that's not paying for -- one that's just -- you know, it doesn't  
19 have -- it's vacant, so they have asked not to pay for water.

20 So we have 83 total but one's checked out, so 82  
21 paying right now.

22 A. (Wallace) If I may, Your Honor?

23 Q. Please.

24 A. (Wallace) Occasionally, there is turnover in  
25 residential areas, and my assumption would be that in the two

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1 different time periods addressed that the number of customers  
2 changed at that time.

3 Q. Well, I appreciate that, but maybe I better have you  
4 turn to page 3, then.

5 On page 3, line 20, it indicates there's a total of  
6 84 customers. I do understand that in the discussion that  
7 commences on page 8, there is more than one time period, and I  
8 could understand some change in that time period. But in the  
9 general overall explanation of the number of customers, I would  
10 think that number would be constant for the overall summary.

11 MS. CAMERON-RULKOWSKI: Your Honor, may I assist?

12 JUDGE CLARK: Please.

13 MS. CAMERON-RULKOWSKI: It's my understanding that  
14 the number of customers did fluctuate, and that's the reason for  
15 the different customer numbers during the different time  
16 periods.

17 WITNESS LINDBERG: We only have 84 hookups.

18 Q. (By Judge Clark) Okay. So you only have 84 hookups.  
19 So it sounds like the reference to 87 customers was  
20 probably a typographical error?

21 A. (Lindberg) Yes.

22 Q. Would that be a reasonable assumption?

23 MS. CAMERON-RULKOWSKI: Your Honor, I did assist in  
24 preparing the testimony, and that was not a typographical error  
25 to my -- to my knowledge. And following the hearing, I will

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1 look through the documents and see if I can find where that  
2 number came from.

3 JUDGE CLARK: Okay. That would be helpful because  
4 I'm trying to figure out the total number of violations. And  
5 just let me kind of give you the little background on this.

6 What I'm looking at is the initial violations that  
7 were alleged by Staff, and I understand that Staff is no longer  
8 seeking recovery for these violations. This is just to put it  
9 in perspective for me to understand what Staff was originally  
10 asking for to determine the reasonableness of this settlement  
11 that was reached by all parties. And when I went through the  
12 testimony some time ago before the settlement, I had some  
13 confusion about these violations, so it sounds like I need to  
14 walk through those, just kind of almost one by one, to make sure  
15 that I have this straight.

16 Q. (By Judge Clark) So my first inquiry is going to be  
17 starting on page 8. And I am looking at the inquiry which  
18 starts on line 9, and the answer that indicates that in August  
19 2009, the Company charged 83 customers \$57 instead of the tariff  
20 rate of \$77.

21 And so the number of 83 is the correct number for the  
22 number of customers that were not billed the tariff rate; is  
23 that correct?

24 A. (Wallace) Correct.

25 Q. All right. And so if there's 84 hookups -- I'm

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1 assuming, Ms. Lindberg -- that there is one customer that was  
2 not billed \$57 a month.

3 Was that customer billed \$77?

4 A. (Lindberg) It's not a customer. It's somebody that  
5 has a hookup to his place but does not use our water services,  
6 so...

7 Q. So there was no violation because there was no  
8 service?

9 A. (Lindberg) Right.

10 Q. Correct. Thank you.

11 All right. Then beginning on December 1, 2009, and  
12 continuing until October 1, 2010, the customer -- the Company  
13 charged 87 customers \$70 per month; is that correct?

14 A. (Wallace) Yes, that's my understanding.

15 Q. All right. So I guess I need some understanding here  
16 of how you can charge 87 customers if there's 84 hookups.

17 A. (Wallace) It may be a question for Ms. Lindberg to  
18 inquire as to whether there were multiple customers in one  
19 dwelling changing over a period of time. I don't know.

20 Q. Well, I don't think Ms. Lindberg is going to be able  
21 to answer my question regarding Mr. Yonker's testimony. I mean,  
22 I can certainly ask her about how many customers she has and how  
23 many hookups she has.

24 But, you know, I'm having -- maybe after the hearing  
25 you can clarify how this can be that there is a disparity



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1 between these numbers because I'm honestly not getting it.

2 MS. CAMERON-RULKOWSKI: Your Honor, we'll get you an  
3 answer.

4 JUDGE CLARK: Excellent. Thank you. I appreciate  
5 that.

6 Q. (By Judge Clark) Then my next question relates to --  
7 it says charged 87 customers \$70 a month instead of the tariff  
8 rate until March 1, 2010, and then a revised tariff rate of  
9 sixty-eight thirty per month thereafter.

10 So how many violations is Staff alleging by the end  
11 of line 15 on page 8?

12 A. (Wallace) I would need some time to go back and take  
13 a look at the Staff investigation.

14 Q. Okay. All right. I'd appreciate that because I had  
15 some difficulty calculating that to reach the total number of  
16 violations.

17 All right. Ms. Lindberg, this question relates to  
18 Mr. Yonker's testimony, but it's actually for you. And the  
19 reason I'm asking you this is because, apparently, Cristalina  
20 charged customers less than the tariff rate, and the reason  
21 given for that was -- and I'm quoting -- a, quote, huge problem  
22 with the water service, end quote -- oh, and it was a one-time  
23 credit to all customers, end quote.

24 What was the water problem?

25 A. (Lindberg) We prorate -- we were -- they were --

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1 they didn't have water. We had --

2 Q. No service?

3 A. (Lindberg) No service. The main broke, and they did  
4 not have any water. And so we prorated the time they didn't  
5 have water and credited them the money.

6 Q. Okay. And that's how you calculated the amount of  
7 money? That was based on the proration of the monthly tariff  
8 rate?

9 A. (Lindberg) Right.

10 Q. Thank you. All right. My next question is on page  
11 10, and it's with the answer starting on line 1 and running  
12 through line 5. Again, I'm having difficulty calculating the  
13 number of violations.

14 I have, starting on line 2 and continuing on line 3,  
15 a statement that (as read): "As a result, Cristalina charged 83  
16 customers incorrectly in August 2009 and then charged 87  
17 customers incorrectly between December 2009 and October of 2010,  
18 for a total of 170 violations," and I'm having difficulty  
19 calculating the number of violations in the complaint.

20 And based on the prior answers, I'm assuming that you  
21 would probably like to get back to me?

22 MS. CAMERON-RULKOWSKI: Your Honor, I can assist on  
23 that question.

24 JUDGE CLARK: Excellent.

25 MS. CAMERON-RULKOWSKI: If you would like to refer to

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1 the original complaint in the case?

2 That's not as helpful as I thought it was going to  
3 be. At any rate, it does itemize the count of the violations,  
4 and that's on page 4 of the complaint. And there are 170  
5 violations of 80.28.080, and the violations that Mr. Yonker has  
6 testified to are based on customers.

7 So 83 customers in August of 2009, one violation per  
8 customer; and then 87 customers in this December 2009 to October  
9 2010 period, one violation per customer.

10 83 plus 87 equals 170; does that answer your  
11 question?

12 JUDGE CLARK: I think it does. I think that the  
13 testimony was somewhat confusing, and so now I just need to know  
14 how you can have 87 customers with 84 hookups. That's the only  
15 question I'll need clarified.

16 MS. CAMERON-RULKOWSKI: (Nods head.)

17 Q. (By Judge Clark) All right. My next question  
18 pertains to the -- page 13 of the prefiled testimony. And this  
19 relates to violations related to WAC 480-110-375, and I'm trying  
20 to figure out how many -- how many violations.

21 It might help to refer back to page 11, line 15,  
22 where Mr. Yonker indicates that he reviewed 13 invoices, so I  
23 don't know if we're talking about 13 violations here?

24 MS. CAMERON-RULKOWSKI: Your Honor, could I assist?  
25 And could I refer you to Mr. Yonker's testimony on page 17 in

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1 his recommendation?

2           And in his recommendation, in that first line of his  
3 answer, line 12, he states that the Commission should penalize  
4 Maria K. Lindberg as requested in the complaint, and in the  
5 complaint on page 4 where the violations are itemized, two  
6 violations are listed of WAC 480-110-375.

7           JUDGE CLARK: Right. And maybe I should clarify  
8 further.

9           Part of my difficulty with this is trying to  
10 reconcile what is alleged in the complaint with the testimony  
11 that's supposed to support that and explain to me.

12           If you recall 150 years ago or several months, at  
13 least, I required prefiled testimony in this case. And the  
14 reason I did was because of the number of violations, and  
15 because Staff has the burden of proof on each and every  
16 violation.

17           And I'm having some difficulty looking at testimony  
18 that explains a complaint and alleges review of 13 invoices  
19 without explaining that whether there is or is not a violation  
20 related to each of the invoices that are mentioned. And if that  
21 is the case, which of those invoices were the ones that created  
22 problems for Staff that prompted the complaint?

23           MS. CAMERON-RULKOWSKI: It was a form, Your Honor,  
24 and so the violations referred to particular items on the form.

25           JUDGE CLARK: The invoices are a form?

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1 MS. CAMERON-RULKOWSKI: That's right, Your Honor.  
2 And in the complaint on page 2, the issues that are alleged  
3 there are the Company's business address and the Company's  
4 telephone number.

5 JUDGE CLARK: Correct. So I hope you understand now  
6 the concern that I have.

7 Q. (By Judge Clark) If this is a form invoice that  
8 Cristalina sends to each and every customer, and if Mr. Yonker  
9 reviewed 13, why are there not 13 violations as opposed to 2?  
10 Were 11 of those invoices that were a form invoice not  
11 incorrect? Did they include the business address of the  
12 company?

13 A. (Wallace) Your Honor, frequently in consumer  
14 complaints and in Staff investigations, rather than attaching  
15 extra violations, it's sufficient to note that the form itself  
16 is incorrect. We want the form to ultimately be corrected.  
17 That's the goal, as opposed to adding additional violations.

18 Q. I agree. I think the goal is to make sure that  
19 regulated utilities under the Commission's jurisdiction comply.  
20 I understand that. So I'm just trying to figure out how you  
21 counted these things.

22 So now I'm looking at page 11, and I'm looking at  
23 lines 15 and through 18. And I appreciate Ms. Wallace's  
24 explanation, and so if that were true, I would assume that  
25 perhaps Staff would allege only one violation related to this

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1 form invoice, which would relate to, say, for example, business  
2 address, and perhaps one violation that would relate to  
3 telephone number. But, apparently, there are three deficiencies  
4 on this form, so I don't know how we come up with two and not  
5 three?

6 A. (Wallace) Not having the WAC in front of me, it  
7 occurs to me that it may be contact information and delinquent  
8 due date.

9 Q. It is delinquent due date, telephone number, and  
10 business address?

11 A. (Wallace) Right.

12 Q. And so are you thinking that the contact business  
13 address and telephone number, when the Staff calculated, that  
14 they consolidated those two violations and that they held  
15 separate the delinquent date?

16 A. (Wallace) Yes.

17 Q. All right. All right. Then maybe you can also  
18 assist me in -- on page 13, where there's discussion of the  
19 discounts and credits that were afforded to customers.

20 Do you have, perhaps, a general explanation of how  
21 those violations were calculated so that I can reach the number  
22 of violations that is listed in the complaint?

23 A. (Wallace) That would require a moment to review the  
24 Staff investigation.

25 Q. All right. That's fine. And that's something that

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1 you could certainly provide after the hearing, Ms. Wallace.

2 That would be fine with me.

3 A. (Wallace) Of course.

4 Q. All right. The next question that I have is with  
5 respect to the testimony relating to the compliance with  
6 Commission's Order No. 3 in Docket UW-090839. That testimony  
7 begins on page 16.

8 And according to the complaint, there was one  
9 violation of failure to comply with the Commission's order, and  
10 my understanding is that that order required Cristalina to file  
11 metered water rates in approximately September of 2010?

12 A. (Wallace) Correct.

13 Q. Thank you. And so I would like to know how that  
14 violation was calculated, whether -- whether you would consider  
15 that to be a continuing violation. And so each day or week or  
16 month or year, or whatever increment you might choose, that  
17 would be a violation, or whether Staff only considers the  
18 failure to file on that particular date to be a violation?

19 A. (Wallace) I would like to review the Staff  
20 investigation to answer that correctly.

21 Q. All right. That's fine.

22 All right. I think that really the majority of my  
23 remaining questions are for you, Ms. Lindberg.

24 A. (Lindberg) Okay.

25 Q. And I'm going to try to, you know, help you out with

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1 reading the questions so that we get to the testimony that I'm  
2 concerned about.

3 A. (Lindberg) Okay.

4 Q. All right. I'm looking at page 1 of your testimony,  
5 and on line 3 of your testimony, you're -- 3? -- no, line 5 of  
6 your testimony, you're asked, "ARE YOU AWARE THAT YOU WERE  
7 CHARGING THE WRONG AMOUNT TO YOUR CUSTOMERS?"

8 And on approximately lines 8 and 9, you respond, "Amy  
9 White states in her testimony that she was working with us on a  
10 monthly basis. Why did she not bring it to our attention that  
11 we were off by \$1.70 a month?"

12 And so my question to you based on that testimony is  
13 whether or not you believe that Staff has an obligation to  
14 monitor your rates and to notify you if you deviate from the  
15 tariff rates?

16 A. (Lindberg) Well, I don't -- well, we were working  
17 with them to try to get everything correct. I mean, that was  
18 what Amy was working with us on because as you know, the -- the  
19 forms weren't correct, so we were going back and forth to make  
20 sure everything was right.

21 And so I was curious if we were off, why she didn't  
22 say anything because we would have fixed it immediately.

23 Q. Okay. I understand that's what you said.

24 My question really is -- is related to that, but  
25 whether or not you think Staff has an obligation to inform you.



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1                   Do you think Ms. White had an obligation to let you  
2 know you're not charging the tariffed rates?

3           A.       (Lindberg) I think she should have told us if she's  
4 helping us put everything together.

5           Q.       Okay. I'm now taking a look at your testimony on  
6 page 2, and on -- let's see. This testimony relates really to  
7 the fact that Cristalina water company was -- should have filed  
8 a request for metered rates in September 2010, and that that  
9 filing was not made. And you talk in this about some problems  
10 that you had with meters and indicated that those problems were  
11 not fixed until actually the filing date in September 2010 and  
12 as a result, you're just now getting close to having sufficient  
13 information to make that filing.

14          A.       (Lindberg) Correct.

15          Q.       At any time did you request an extension of that  
16 filing deadline or a continuance or any other request to...

17          A.       (Lindberg) I was -- I'm aware that -- I mean, I  
18 was -- I was telling Amy what was going on. I was unaware that  
19 I needed to do a formal procedure. I didn't know.

20          Q.       All right. Did you receive a copy of Order No. 3  
21 issued in that docket?

22          A.       (Lindberg) In?

23          Q.       In the docket that required you to file metered rates  
24 by September 2010.

25          A.       (Lindberg) I don't know.

0042

1 Q. You don't know if you got a copy of the Commission's  
2 order?

3 A. (Lindberg) I'm sure I did. I can't...

4 Q. Okay. Did you understand that that order imposed on  
5 you an obligation to file a tariff for metered rates by  
6 September 2010?

7 A. (Lindberg) Yes, but I also knew that I was unable to  
8 do that because it wasn't -- we didn't have -- the metered rates  
9 were not being read, and we had several broken meters that  
10 weren't working. I mean, we were -- just put in these meters,  
11 and there was like a big learning curve. And then plus, once we  
12 put them in, not all of them weren't working. But we didn't  
13 know that until we started reading them, and then we had to get  
14 them replaced. So I can't do metered rates if I don't have  
15 proper -- if we're not even reading the rates yet.

16 And so I was informing Amy of that, and I did not  
17 know that I had to do a formal extension explaining what was  
18 going on. I didn't know.

19 Q. Okay.

20 A. (Lindberg) I don't know what you'd -- yeah, I just  
21 didn't know. I'm sorry.

22 Q. All right. Also on that same page, close to the  
23 bottom, you're talking about issues you've had with the accuracy  
24 of the bookkeeping system --

25 A. (Lindberg) Right.

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1 Q. -- and bookkeepers that you had.

2 So my question to you is: Do you believe it's your  
3 bookkeeper's job to ensure that your records are accurate?

4 A. (Lindberg) Well, yeah, because they're -- they're  
5 the ones that input the information.

6 Q. Okay.

7 A. (Lindberg) And I tell them what to do, and I expect  
8 that they should do it. I've only had one bookkeeper that I've  
9 ever had any problems with. I mean, I have to rely on a  
10 bookkeeper.

11 Q. Okay. My next questions relate to page 3 of your  
12 testimony, and that's about at line 15 where you're talking  
13 about the fact that you just received some training and ideas on  
14 how to handle some of the issues related to the delinquent  
15 accounts.

16 A. (Lindberg) Correct.

17 Q. And so do you believe that the lack of training  
18 excuses the Company from handling its bills in accordance with  
19 its tariff?

20 A. (Lindberg) No. That was -- no. I need to handle my  
21 bills in accordance to the tariff. That was -- that was -- that  
22 was about -- we have some huge billings ourselves, and I've been  
23 receiving different information on how to deal with those. In  
24 the last training we had, the gal that we talked to had some  
25 good ideas for us. That's all I was saying there.

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1 Q. Okay. On line 20 of that same page you indicate that  
2 you rely heavily on your bookkeepers to do bookkeeping.

3 A. (Lindberg) Correct.

4 Q. And so my question to you is: Do you think it's  
5 their job or your job to ensure that your regulated operations  
6 have accurate records?

7 A. (Lindberg) No, it's my job.

8 Q. All right.

9 A. (Lindberg) They just input the information.

10 Q. All right.

11 A. (Lindberg) But I need to believe they're doing what  
12 I tell them to do.

13 Q. On page 4, at approximately lines 6 through 8, you  
14 indicate that there are many helpful people at the Commission  
15 who have given some classes -- or offered some classes.

16 And your testimony says, quote, I am wondering why no  
17 one has mentioned these classes or training until January of  
18 this year, end quote.

19 And I'm wondering if at any time you asked the  
20 Commission if there were any classes or training that might be  
21 available for you if you felt there was an area in which you  
22 could benefit?

23 A. (Lindberg) Did I ask them if there were classes?

24 Q. Correct.

25 A. (Lindberg) I didn't know they existed, so it

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1 wouldn't occur to me to ask.

2 Q. Okay. So I guess kind of the follow-up --

3 A. (Lindberg) I would -- I would have taken -- I mean,  
4 I'm just saying if I knew they existed, I would have taken them  
5 long ago. That's my only point. It would have been very  
6 helpful to me.

7 Q. Okay. What I'm trying to understand is whether or  
8 not you think Staff has an obligation to ensure that you are  
9 properly trained to operate the utility.

10 A. (Lindberg) No. They don't have an obligation,  
11 but -- I mean, if we've been having problems -- anytime Staff  
12 tells me to do something, I do it. You know, it's -- it's just  
13 been a big learning curve.

14 Q. Okay. On page 5 of your testimony, you talk about  
15 the fact that you had -- apparently one bookkeeper was receiving  
16 calls from Mr. Yonker inquiring into issues, but you didn't know  
17 there was anything wrong because Staff didn't contact you. They  
18 contacted the bookkeeper.

19 And --

20 A. (Lindberg) Well, the bookkeeper didn't even tell me  
21 she was dealing with anything. I had no idea of the  
22 investigation or that she was talking to Travis or anything.

23 I mean, that was -- that was my -- like I said, I've  
24 only had a bookkeeper for about ten years, and I've only ever  
25 had one that was just so -- I don't -- out of control. I don't

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1 know. I don't know a good way to -- I mean, normally when you  
2 have an employer, if there's an issue, you tell them so you can  
3 deal with it. She thought she would deal with it on her own  
4 apparently. That was what I was talking about there.

5 Q. Okay. So my question is: Do you believe it's your  
6 obligation to monitor and supervise your staff to ensure that  
7 they're appropriately performing their duties?

8 A. (Lindberg) Correct. Absolutely. But also when  
9 they're not telling me stuff's going on, it's hard to help.

10 Q. Okay. So if in the hypothetical situation where an  
11 employee is doing something that's impermissible behavior like  
12 stealing funds from the Company --

13 A. (Lindberg) Correct.

14 Q. -- would you expect the employee to disclose that to  
15 you, or do you believe it's your job as the manager to discover  
16 those discrepancies?

17 A. (Lindberg) It would be my job to discover the  
18 discrepancies, but you don't always see it right away.

19 I mean, yes, she was fired as soon as everything was  
20 figured out. But it took a while to figure everything out.

21 Q. All right. A little further down on that page at  
22 approximately line 16, you indicate that you do not believe it  
23 should be a violation to credit customers as a management  
24 decision when they are receiving service that is not to the  
25 level that it should be, and that's end quote.

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1                   And so I want to know if you believe that these are  
2 items that are within management discretion, or whether or not  
3 you have to follow terms and conditions in your tariff if they  
4 permit this?

5           A.       (Lindberg) I thought -- I mean, I thought if we  
6 don't provide water, we credited them for the days they didn't  
7 provide water. I did not understand until this complaint went  
8 down that you are not -- that you can't do that; that  
9 the Commission -- I mean, that the Commission has to decide  
10 whether you can credit customers' water or not.

11       Q.       Okay. So you understand now that --

12       A.       (Lindberg) Yes.

13       Q.       -- this is not an item that is within management --

14       A.       (Lindberg) Correct.

15       Q.       -- discretion? Okay.

16       A.       (Lindberg) Correct. And anytime everybody --  
17 anybody's called me about anything, I say, "Call the UTC." I  
18 said, "I cannot do anything."

19                   You know, it was not -- it was not brought to my  
20 attention that you could not do that until this came down, and I  
21 have no longer done it ever once it's been known.

22       Q.       All right. The reason I'm asking you all these  
23 questions, Ms. Lindberg, is because while the Commission Staff  
24 initially sought a very significant amount of money in penalties  
25 from your utility for violations of tariffs and rules and

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1 statutes and an order, they're now -- are now seeking  
2 approximately 10 percent of that amount of the original penalty.

3 And I was very troubled by your testimony because it  
4 looked to me like you were sort of blaming everyone: The  
5 bookkeeper. The Commission Staff. It sort of seemed to me that  
6 everybody else was at fault because these violations occurred.

7 And so I want to give you the opportunity right now  
8 to convince me that that is not the case; and that you do  
9 understand that as the operator of a regulated utility that it  
10 is your obligation to supervise and manage staff to ensure that  
11 bills are completed and issued to customers in accordance with  
12 the tariff rates and the information that's required by the  
13 Commission's rules; and that if you receive an order from the  
14 Commission, including one in this docket regarding this  
15 complaint, that you understand you must comply with that order  
16 or seek relief.

17 A. (Lindberg) What does "seek relief" mean?

18 Q. I'm sorry?

19 A. (Lindberg) What does "seek relief" mean?

20 Q. I can't understand you.

21 MR. FINNIGAN: She asked what does -- what did you  
22 mean when you use the term "seek relief"?

23 Q. (By Judge Clark) Oh, "seek relief."

24 That you have to -- if you can't meet a deadline, for  
25 example, that you have to speak with your attorney and file a



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1 motion for a continuance or ask for a motion for extension of  
2 time or -- that's just an example.

3 When I say "seek relief," you might not want more  
4 time. You might want something else.

5 And so when I say "relief," you need to ask the  
6 Commission basically for permission to do whatever it is you  
7 want to do, as long as it doesn't comply -- if that doesn't  
8 comply with the statutes, the rules, the tariffs, or Commission  
9 orders.

10 A. (Lindberg) Okay. Because I am having some  
11 difficulty now with these rates. Amy's trying to see if we can  
12 get some extensions done because I don't have a calendar year of  
13 readings, you know? There's just --

14 Q. Okay. I don't want to go into that.

15 Ms. Lindberg, I don't want to go into that topic.  
16 I'm assuming that you're talking now about the upcoming  
17 filing --

18 A. (Lindberg) Right.

19 Q. -- due, I believe it is, September 15 for metered  
20 rates.

21 A. (Lindberg) Right.

22 Q. I'm not talking about that.

23 I'm talking simply about a general understanding  
24 that --

25 A. (Lindberg) Yes. I have general understanding of

0050

1 this.

2 Q. Let me put it in English: Where does the buck stop?

3 A. (Lindberg) It stops with me.

4 Q. Okay. I want to make sure that you understand that  
5 because the settlement is a very significant reduction from the  
6 amount of money initially sought in the complaint.

7 A. (Lindberg) Yes.

8 Q. Okay. All right. I have just one other question,  
9 and that relates to the settlement itself. And Ms. Wallace can  
10 probably answer that.

11 My understanding of the settlement is that Staff is  
12 willing to settle this matter for payment of a \$2,000 penalty;  
13 and that that amount of penalty would be payable in installments  
14 of \$200 over a ten-month period; and that a \$10,000 penalty  
15 would be suspended, provided Ms. Lindberg files in accordance  
16 with Commission rule, a request for metered rates by September  
17 15; is that correct?

18 MR. FINNIGAN: No. Your Honor, I --

19 WITNESS WALLACE: I believe the total was 8,000  
20 rather than 10,000.

21 Q. (By Judge Clark) So the total is -- ah, thank you.  
22 It's the suspended portion.

23 The suspended portion of the penalty is \$8,000 not  
24 10,000?

25 A. (Wallace) Correct.

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1 Q. Thank you very much. I see that now.

2 I misspoke. The settlement accurately relates what  
3 the parties' agreement is.

4 So my question relates to the suspension of the  
5 \$8,000 penalty if Ms. Lindberg files a case by September 15,  
6 2011, in accordance with WAC 480-07-530.

7 My question is why -- and I don't want any  
8 information about your negotiation on this settlement, but if  
9 there was a reason why the date of filing was selected rather  
10 than the date the rates would go into effect, if you are able to  
11 share that information?

12 A. (Wallace) My recollection is that we were trying to  
13 ensure the earliest possible implementation of rates that  
14 consumers could count on regularly.

15 Q. Okay. All right.

16 JUDGE CLARK: I think that concludes all the  
17 questions that I have. Thank you very much, Ms. Wallace. Thank  
18 you, Ms. Lindberg.

19 Ms. Cameron-Rulkowski, do you have any additional  
20 inquiry?

21 MS. CAMERON-RULKOWSKI: I don't, Your Honor.

22 JUDGE CLARK: Okay. Mr. Finnigan, do you have any  
23 additional inquiry?

24 MR. FINNIGAN: No, Your Honor. I would just point  
25 out that in looking at the amount of the settlement compared to

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1 the amount that was alleged in the complaint, there are various  
2 viewpoints as to how much that the -- that the amount that was  
3 alleged in the -- originally would have been successfully  
4 pursued if we had gone to hearing.

5 So it seems to me that some -- there may be a little  
6 bit of apples and orange comparison there, but that's the only  
7 thing I wanted to point out.

8 JUDGE CLARK: Absolutely, and I appreciate that  
9 clarification. Thank you.

10 And on that note, I'd like some information from  
11 Staff about when you can get the answers to my questions about  
12 how these original violations were calculated.

13 What would be a reasonable amount of time for Staff  
14 to respond? Would you like to confer before you respond?

15 MS. CAMERON-RULKOWSKI: I would like to respond --  
16 let me respond, and then if we need to confer, we can.

17 JUDGE CLARK: All right.

18 MS. CAMERON-RULKOWSKI: But what I would suggest is  
19 that we can -- is that we recess the hearing for approximately  
20 15 minutes. And I will see if we can get those answers to you  
21 quickly, and if not, then I would propose some additional time  
22 to get you the answers.

23 JUDGE CLARK: That sounds absolutely excellent.

24 Mr. Finnigan?

25 MR. FINNIGAN: I just thought it would be more

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1 efficient use of everyone's time if Staff went back and provided  
2 the responses in writing so that it was there and done. And it  
3 could be done in a few days I was guessing. That was what I  
4 would suggest, Your Honor.

5 JUDGE CLARK: Well, I don't have any problem with  
6 that, that approach either, but, you know, I do think it would  
7 be nice if we could get this sort of wrapped up today. And if  
8 you are able to respond to the questions in about 15 minutes or  
9 so, that would be very helpful.

10 I would also suggest that as far as I'm concerned,  
11 Ms. Lindberg, there are no further questions that I would have  
12 for you. And there would be no reason for you to need to stay  
13 on the bridge line, so you could go about your Friday afternoon.

14 MS. LINDBERG: Okay. Thank you, Judge.

15 MR. FINNIGAN: Thank you. I appreciate it.

16 JUDGE CLARK: All right. Then we will be at recess  
17 for approximately 15 minutes.

18 MS. CAMERON-RULKOWSKI: Thank you, Your Honor.

19 (A break was taken from 2:17 p.m.  
20 to 2:30 p.m.)

21 JUDGE CLARK: All right. We're back on the record.

22 Ms. Cameron-Rulkowski, have you had an adequate  
23 opportunity to confer with your client regarding the timing for  
24 a response to my inquiry?

25 MS. CAMERON-RULKOWSKI: Yes, Your Honor, and

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1 Ms. Wallace will provide the additional information that we have  
2 gathered.

3 JUDGE CLARK: Okay. Great. And she'll do that  
4 now --

5 MS. CAMERON-RULKOWSKI: Yes, Your Honor.

6 JUDGE CLARK: All right. -- orally?

7 Thank you very much.

8 Ms. Wallace, please proceed.

9 MS. WALLACE: Regarding the question about the 83  
10 customers versus the 87, there is, in fact, apparently, a typo,  
11 and not what you might think.

12 If you'll --

13 JUDGE CLARK: Of course not. That would be too easy.

14 MS. WALLACE: It would be too easy.

15 If you could look at Exhibit TY-9, which is the Staff  
16 Investigation, Appendix B.

17 JUDGE CLARK: Okay. Just one second. Okay. I have  
18 that.

19 And is there a particular page?

20 MS. WALLACE: This is the customer list, and it is  
21 page 18.

22 JUDGE CLARK: All right.

23 MS. WALLACE: Actually, first, please look at page  
24 19.

25 JUDGE CLARK: Page 19. All right.

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1 MS. WALLACE: You will see the total number of  
2 accounts examined by Mr. Yonker is actually 86, not 87, and,  
3 yes, this is still two connections more than Cristalina owns.

4 If you look at page 18 --

5 JUDGE CLARK: Just a second. Two accounts more than  
6 hookups. Okay. Go on.

7 MS. WALLACE: If you look at page 18, you will see  
8 there are two customers -- No. 44, Mersman, and No. 45,  
9 Palazzo -- with different amounts and that's because there was  
10 changeover in occupancy of the residences during this time  
11 period.

12 JUDGE CLARK: Thank you. I appreciate that  
13 clarification.

14 MS. WALLACE: Regarding your question about the  
15 number of violations for the Company's billing records?

16 JUDGE CLARK: Yes.

17 MS. WALLACE: The total number is seven. These were  
18 the discounts provided to six customers, plus one customer,  
19 whose debt was otherwise mitigated.

20 And regarding your question on Order 03, on how many  
21 violations, it was recommend one violation for violation of the  
22 Commission order.

23 JUDGE CLARK: So in response to my inquiry, Staff  
24 would not consider that a continuing violation?

25 MS. WALLACE: Again, it is a situation where Staff

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1 could have recommended continuing violations but rather prefer  
2 to stand on the point that the order was not complied with and  
3 just issued one violation.

4 JUDGE CLARK: Okay.

5 MS. WALLACE: I believe those were your questions.

6 If you have additional, I'd be happy to --

7 JUDGE CLARK: Well, there are a couple more.

8 MS. WALLACE: Okay.

9 JUDGE CLARK: And those pertain to -- I don't believe  
10 you discussed these with Ms. Cameron-Rulkowski off the record.

11 On -- where is it? Ah, here it is.

12 These were the violations that relate to the bill  
13 form where I was having some confusion about 10 -- 13 invoices  
14 being reviewed, and we ended up with two violations. And I was  
15 unsure how that had been calculated.

16 Did you have an opportunity to discuss?

17 MS. CAMERON-RULKOWSKI: No, Your Honor, we didn't.

18 JUDGE CLARK: Okay. That was one. And, hopefully,  
19 we can make this. I think there was one more, but let me look  
20 real quickly.

21 The credits you've answered. Yes, that's the only  
22 one. If we can take a moment off record and perhaps take a very  
23 brief recess, we can resolve this last question.

24 We're at recess until further call.

25 MS. CAMERON-RULKOWSKI: Thank you, Your Honor.



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1 MS. WALLACE: Thank you.

2 (A break was taken from 2:34 p.m.

3 to 2:36 p.m.)

4 JUDGE CLARK: Ms. Wallace, during the recess, did you  
5 have an adequate opportunity to research and get the information  
6 you needed to respond to my question?

7 MS. WALLACE: Yes, Your Honor. It is two violations  
8 of -- the first of WAC 480-110-375 -- "f" is the subsection --  
9 that requires that the bill show the delinquent date.

10 WAC 480-110-375(g) is an inclusive subsection,  
11 meaning that it requires the bill to include the water company's  
12 name, business address, and telephone number.

13 JUDGE CLARK: All right. So rather than segregate  
14 these into different violations, Staff interpreted these to  
15 include two?

16 MS. WALLACE: Correct.

17 JUDGE CLARK: Okay. All right. I believe that's all  
18 the inquiry I have.

19 Is there anything further to be considered on this  
20 afternoon's record?

21 MR. FINNIGAN: Nothing from here, Your Honor.

22 MS. CAMERON-RULKOWSKI: Nothing from Staff, Your  
23 Honor.

24 JUDGE CLARK: All right. Thank you very much for  
25 your testimony, Ms. Wallace.

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We are adjourned.

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(Proceeding concluded at 2:37 p.m.)

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C E R T I F I C A T E

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3 STATE OF WASHINGTON )  
4 COUNTY OF KING ) ss

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6 I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter  
7 and Notary Public in and for the State of Washington, do hereby  
8 certify that the foregoing transcript is true and accurate to  
9 the best of my knowledge, skill and ability.

10 IN WITNESS WHEREOF, I have hereunto set my hand and seal  
11 this 6th day of September, 2011.

12

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\_\_\_\_\_  
SHELBY KAY K. FUKUSHIMA, CCR

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16 My commission expires:  
17 June 29, 2013

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