

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET UW-090516
TRANSPORTATION)	
COMMISSION,)	ORDER 01
)	
Complainant,)	
)	
v.)	
)	
CRISTALINA LLC,)	
)	ORDER GRANTING SURCHARGE
Respondent.)	TARIFF
.....)	

BACKGROUND

- 1 On April 8, 2009, Cristalina LLC (Cristalina or Company) filed with the Washington Utilities and Transportation Commission (Commission) a revision to its currently effective Tariff WN U-1, designated as First Revision Sheet No. 24, cancelling Original Sheet No. 24. The stated effective date is June 1, 2009.

- 2 Cristalina filed the surcharge tariff to service a \$555,000 Drinking Water State Revolving Fund (DWSRF) loan approved by the Public Works Board (PWB). Proceeds from the loan will be used for capital improvement projects. The Company serves 84 customers in King County. The system is at full capacity and no new customers are anticipated.

- 3 The loan contract is a low-interest (1.5 percent), 20-year loan approved by the PWB with the condition that Cristalina obtain Commission approval to charge rates to repay the loan. This surcharge filing, if approved, meets that condition.

- 4 The DWSRF loan program provides low-interest loans to water systems for capital improvements that increase public health protection and comply with drinking water regulations. The Department of Health (DOH) and the PWB jointly administer the DWSRF program. The DOH Staff evaluates all loan applications and, using a scoring method designed to measure the health risk that each project will address, assigns points to each application. The applications are then ranked according to their scores.

- 5 The PWB Staff determines the available funding for each annual loan cycle, and the ranked project list shows this funding cutoff. Projects below the funding cutoff line do not receive funding. The PWB approves the final recommended funding list each spring.

PWB Staff also conducts an underwriting and readiness-to-proceed evaluation of each approved loan project.

- 6 DOH is responsible for evaluating and approving Water System Plans (WSP) or Small Water System Management Programs (SWSMP), which are requirements of both the DOH and DWSRF loan projects. DWSRF loan projects must be included in a WSP or SWSMP. In addition, the DOH evaluates and approves the project reports and construction documents for all DWSRF-funded loan projects.
- 7 Staff has reviewed the cost estimates for the proposed projects, the terms and conditions of the DWSRF loan, and believes the proposed surcharge tariff Cristalina requests is reasonable and should be granted.
- 8 On March 27, 2009, Cristalina notified its customers of the surcharge by mail. The Commission has received two customer comments on this filing. Both are opposed to the proposed increase. One customer commented that improved maintenance, water pressure, and a back-up generator that were promised in a previous rate increase had not yet been provided. A customer stated that water meters were unnecessary in order to turn off water to delinquent customers. Another comment received was that the company is upgrading for a sale of the system to Covington Water District. One customer stated the company should pay for upgrades, and one customer believes the amount of the increase is excessive and it will create a hardship for the water system's customers.
- 9 This is the Company's first rate increase request since it became regulated in 2003. The Commission has no jurisdiction over matters that took place prior to regulation. The DWSRF loan is the proper funding mechanism to pay for capital improvements and the surcharge is the proper rate mechanism for customers to pay for the capital improvements.

FINDINGS AND CONCLUSIONS

- 10 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including water companies.

RCW 80.01.040, RCW 80.04, RCW 80.08, RCW 80.12, RCW 80.16 and RCW 80.28.

- 11 (2) Cristalina is a water company and a public service company subject to Commission jurisdiction.
- 12 (3) This matter came before the Commission at its regularly scheduled meeting on May 28, 2009.
- 13 (4) WAC 480-110-455 allows companies to file surcharge tariffs for capital improvements.
- 14 (5) Staff has reviewed the tariff revisions Cristalina filed in Docket UW-090516, including related work papers.
- 15 (6) The priorities for investment of DWSRF loan funds are determined by the Department of Health and the Public Works Board, and are entitled to deference by the Commission.
- 16 (7) The surcharge tariff filed in this docket is to fund capital projects required by the Department of Health as part of an approved Water System Plan. It is therefore mandatory and not subject to customer approval.
- 17 (8) Staff has reviewed the cost estimates for the proposed projects, together with the terms and conditions of the DWSRF loan, and believes the proposed surcharge tariff Cristalina requests is reasonable and should be granted, subject to the following conditions:
- a) This surcharge is to apply to all water customers served by the Company. The surcharge will expire on June 1, 2029, or upon recovery of \$555,000 in principal, whichever occurs first.
 - b) Funds received from the surcharge, including interest earned on the funds while held in a separate reserve account, will be treated as contributions in aid of construction.
 - c) Surcharge funds and facilities charge funds (if any) collected and interest earned upon such funds must be held in a separate reserve account by the Company for

the benefit of customers. Such funds do not become the property of the Company or Company owners and may not be disbursed, alienated, attached, or otherwise encumbered by the Company or its owners. In the event of a sale or transfer of the Company, the trust obligations established in WAC 480-110 regarding any unspent surcharge or facilities charge funds will be transferred to the new owner of the Company.

- d) The water Company must report the following information to the Commission within 45 days of the end of each calendar quarter:
 - i. Beginning balance;
 - ii. Amounts received, detailed by source;
 - iii. Amounts spent, detailed by project or expense;
 - iv. Ending balance;
 - v. Reconciliation of bank balance to general ledger.
- e) The Company will immediately deposit any one-time payments in the same reserve account specified in condition (c) above.
- f) Excess funds held in the reserve account will be remitted annually, at the time of the annual loan payment, to be applied to the principal of the DWSRF loan. "Excess funds" means money accumulated in the reserve account in excess of 10 percent of the amount of the DWSRF loan payment for the following year.
- g) Upon completion of the construction projects, which is expected by November 2009 according to the Company's DWSRF loan application, the Company shall provide a complete accounting to the Commission of all costs expended relative to the capital improvement projects. This filing will be submitted by Cristalina no later than March 30, 2010, so the surcharge amount can be adjusted to the actual costs of the capital improvement projects, not to exceed the original loan amount of \$555,000.

ORDER

THE COMMISSION ORDERS:

- 18 (1) Cristalina LLC's request for a surcharge tariff to service a \$555,000 Drinking Water State Revolving Fund loan approved by the Public Works Board is granted.
- 19 (2) This authorization is subject to conditions (a) through (g) set forth in paragraph 17 of this Order.

- 20 (3) This Order shall not affect the Commission's authority over rates, services, accounts, valuations, estimates, or determination of costs, on any matters that may come before it. Nor shall this Order granting a surcharge tariff be construed as an agreement to any estimate or determination of costs, or any valuation of property claimed or asserted.
- 21 (4) The Commission retains jurisdiction over the subject matter and Cristalina LLC to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective May 28, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner