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BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

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MIKE AND GLENDA BECK, ) Docket UW-132268  
 ) Pages 48-95  
 Complainants, )  
 )  
 v. )  
 )  
 CRISTALINA, LLC, )  
 )  
 Respondent. )

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PREHEARING CONFERENCE, VOLUME II

Pages 48-95

ADMINISTRATIVE LAW JUDGE ADAM E. TOREM

3:03 P.M.

FEBRUARY 10, 2014

Washington Utilities and Transportation Commission  
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Olympia, Washington 98504-7250

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A P P E A R A N C E S

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OLYMPIA, WASHINGTON, FEBRUARY 10, 2014

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3:03 P.M.

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P R O C E E D I N G S

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JUDGE TOREM: Then let's be on the record.

8

9 It is now a little after three o'clock on February  
10 10, 2014. We're resuming Docket UW-132268. This is Judge Adam  
11 Torem. I'm at the headquarters in Olympia of the Washington  
12 Utilities and Transportation Commission. I have a court  
13 reporter and a variety of Commission Staff members here  
14 observing the proceeding today.

14

15 On the line I have Barry Kombol, representing the  
16 Complainants, and Eric Gillett, representing Cristalina Water,  
17 the Respondent.

17

18 Today we're having a prehearing conference as set by  
19 originally a notice that went out setting it for tomorrow and we  
20 moved it up to this afternoon, so thanks to both counsel for  
21 agreeing on a time that worked for both of you.

21

22 The issues need to be set for hearing, and we also  
23 need to adopt the procedural schedule. Those are the two items  
24 on my agenda for today.

24

25 Mr. Kombol, did you have any other issues that we  
needed to take care of today?

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1           MR. KOMBOL: No. I think they were -- the issues  
2 that we felt would be on at hearing were those that were set  
3 forth in the document that was sent to you.

4           And I think -- Mr. Gillett, I think those were sent  
5 to you. I think you got a -- received a copy of those, didn't  
6 you, with my letter?

7           MR. GILLETT: I think I know what you're talking  
8 about, and I guess I would say, yes, I think I received them.

9           JUDGE TOREM: Mr. Gillett, you got a little bit faint  
10 there.

11          MR. GILLETT: Oh, I'm sorry. Yeah.

12          Is it better?

13          JUDGE TOREM: Yes.

14          MR. GILLETT: Yes, I think I received them.

15          JUDGE TOREM: All right. So, Mr. Gillett, besides  
16 the issues themselves and the hearing schedule, was there  
17 anything else we needed to take up for Cristalina today?

18          MR. GILLETT: No, Your Honor.

19          JUDGE TOREM: Okay. So turning to the January 23rd  
20 letter, that was the deadline I set back before Christmas for  
21 both parties to send in a list of issues. I got those from the  
22 Becks, and I did not receive any additional or other issues from  
23 Cristalina.

24          Mr. Kombol, I think in that list, there were four,  
25 maybe more, issues. Several ran for a couple of pages because

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1 you quoted WAC citations, and in my initial review -- I'm just  
2 counting to make sure. No. There were five -- six different  
3 issues that you enumerated on the January 23rd document, and in  
4 our notice to you for today's proceeding, the Commission stated  
5 its preference to take up the amount owed and a payment schedule  
6 and any other issues that we determine to be relevant.

7 So I think your first question -- your first issue  
8 was reopening the informal complaint that was numbered by the  
9 Commission 117759.

10 MR. KOMBOL: Yes.

11 JUDGE TOREM: So I interpreted that to be the  
12 question of how much was owed over any given time period. We'd  
13 have to set that time period and a payment schedule, so that  
14 would be the two. That No. 1 issue, the Commission has already  
15 thought would be relevant.

16 MR. KOMBOL: Well, I guess I'm confused, and I was  
17 not a part of that initial appeal. It was what would be in  
18 legal -- in court called a "pro se appeal," and I didn't know  
19 that that was what was resolved in that initial 117759.

20 JUDGE TOREM: Let me interrupt you, Mr. Kombol,  
21 because I think we're misunderstanding each other.

22 I'm happy for you to take that informal appeal and  
23 bring the evidence separately to me to decide for the Commission  
24 in a more binding fashion. My understanding is that Steven  
25 Elliott looked at the Becks' submissions and looked at

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1 Mr. Gillett's client's, Cristalina Water, submissions, and came  
2 out with his calculation to resolve that informal complaint.

3 MR. KOMBOL: I see.

4 JUDGE TOREM: And that Mr. Gillett's client then  
5 acted on the numbers in Mr. Elliott's file, 117759, and reissued  
6 a bill, which led to the events of December, which had everybody  
7 in front of me as to the emergency disconnect.

8 So, again, restated, I'm happy for the Commission to  
9 formally take this up in this docket and determine de novo what  
10 are the facts, what are the amounts owed. Starting from there,  
11 that could end up in a higher amount for your clients or a lower  
12 amount or it could be the same, so, yeah, I'm willing to take  
13 that up.

14 So that's Issue No. 1 on your list. And as described  
15 in the notice, the amount owed and a payment schedule to  
16 maintain service conditioned on prompt payments and timely  
17 payments, that's something I'm happy to take up in the hearing.

18 MR. KOMBOL: Okay. Well, so I can understand, the  
19 Commission wanted to do that anyway, so that just -- it's the  
20 same thing. Basically, the Commission wanted to do it, and that  
21 former informal complaint was on the same issues, so we're  
22 really talking about the same thing both from their standpoint  
23 and from the Commission's standpoint.

24 JUDGE TOREM: I agree with the caveat that the  
25 Commission is taking this up not because it wanted to

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1 independently, but because of the petition to get reconnected.  
2 And looking at the underlying issues, there was a request made  
3 back in December that we take this up, so that's the subject  
4 matter.

5           The other five issues that you've listed, I'd have to  
6 be convinced as to whether we have jurisdiction to take those up  
7 and whether they're relevant to the overall dispute.

8           MR. KOMBOL: Okay.

9           JUDGE TOREM: So let me hear from Mr. Gillett first  
10 as to his thoughts, if any, on the issues that need to be taken  
11 up, and then we'll go back down your list.

12           MR. GILLETT: Yeah. Thank you, Your Honor. I agree  
13 with the Court's assessment on the -- as you've described the  
14 first issues, that being the amount owed since in Cristalina's  
15 view the Commission did, maybe not in as formal a process as  
16 we're talking about here, but in at least an informal process to  
17 determine what the Becks owed and then also a payment schedule  
18 for that.

19           And then as to the other issues, it was my question  
20 as well as to whether or not those were relevant for this body  
21 to take up, so...

22           JUDGE TOREM: Did Cristalina have any other  
23 independent issues that it wanted the Commission to take up?

24           MR. GILLETT: No, Your Honor.

25           JUDGE TOREM: Okay. So, Mr. Kombol, let me put the

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1 microphone back to you, essentially, and the next one you had on  
2 your list was a question of whether the water company violated a  
3 WAC provision, WAC 480-110-335, by the removal of the water  
4 meter and deciding to terminate them as customers of the water  
5 company.

6                   Was that already resolved by the order I entered on  
7 December 24th?

8                   MR. KOMBOL: The water meter was returned and the  
9 Becks are not terminated, and so I guess it would be was there a  
10 violation.

11                   Now, that may be a technical question, but was there  
12 a violation of that code in the removal and the termination, and  
13 I think the relevance of that would, I guess, go to the  
14 violations, the other violations, set forth in Paragraph 4.

15                   So I don't know whether they would -- I was trying to  
16 identify, for purposes of clarity, what my clients believed were  
17 violations, and so whether it was corrected or not, I'm not  
18 certain would be -- I mean, the findings that the Commission  
19 might make might be it was corrected. I think it would be  
20 important for my clients to bring forward violations or repeated  
21 violations of WAC codes.

22                   Am I being clear there?

23                   JUDGE TOREM: You are, and I think we'll get to the  
24 root of that as we go through the next couple of issues that  
25 you've raised.



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1           So that we're clear, the removal of the water meter  
2   has been remedied by its replacement as ordered, and the  
3   termination of the Becks as customers has been remedied by them  
4   being reinstated on Christmas Eve as ordered.

5           MR. KOMBOL: That is an undisputed finding. If you  
6   would like to put it that way, that is undisputed.

7           JUDGE TOREM: So the question you have left is  
8   whether there is a violation by the removal of the water meter  
9   and the termination of them as customers?

10          MR. KOMBOL: That's right.

11          JUDGE TOREM: Okay. So No. 3 on your list was  
12   another question: Had the water company violated its settlement  
13   agreement with the Commission in a separate docket number,  
14   UW-101818?

15          MR. KOMBOL: Yes.

16          JUDGE TOREM: And that would be related to the same  
17   underlying conduct?

18          MR. KOMBOL: That conduct that relates to that  
19   settlement that was a public settlement what my clients would  
20   like the Board to take up whether their -- the conduct in 2013,  
21   and, specifically, the fall of 2013, were in violation of that,  
22   whether the Court -- whether the Commission would find that  
23   docket or the settlement agreement was violated in conduct  
24   specific to the Becks.

25          JUDGE TOREM: Now, remind me whether your clients,

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1 the Becks, were parties to that docket and its ultimate  
2 settlement agreement.

3 MR. KOMBOL: They were not parties. I discovered  
4 that settlement agreement with the Commission in reviewing  
5 Commission prior orders which were, I guess, of interest to me  
6 to see compliance or noncompliance by the -- Cristalina with WAC  
7 codes, and I guess from a legal standpoint, why that would be  
8 relevant or why I even looked into that would be supportive of  
9 repeated violations and evidence of the water company's failure  
10 to abide by rules and regulations that pertain to water  
11 companies, but my clients were not a party.

12 MR. GILLETT: If I could add a little bit to that,  
13 Your Honor?

14 JUDGE TOREM: Go ahead, Mr. Gillett.

15 MR. GILLETT: Yeah. Thank you. You know, that  
16 settlement agreement had to do with a situation where Cristalina  
17 had credited certain customers when they were -- when they had  
18 problems with -- or credited all customers when they had  
19 problems with water service but mistakenly did not get the  
20 Commission's approval before issuing those credits, and the  
21 Commission found that that was a violation.

22 And, you know, so it has nothing to do with the Becks  
23 and the issues that have been raised that we've been dealing  
24 with with you, so I don't think it has anything to do with, I  
25 guess, for lack of a better phrase, anything to do with this

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1 case.

2 MR. KOMBOL: I would beg to differ. I haven't got  
3 that rule -- I'm sorry. I'm sorry to interrupt.

4 Do you want me to interrupt or...

5 JUDGE TOREM: Go ahead, Mr. Kombol. I think  
6 Mr. Gillett was done making his case on that one.

7 MR. KOMBOL: I don't believe my reading -- and I  
8 haven't got it in front of me, but I believe that the settlement  
9 agreement had a number of parts to it, not just -- I think one  
10 of the parts was credits to customers without authority, but I  
11 recall that there were a number of violations, and I believe  
12 that some of those violations had to do with billing practices.

13 But, again, I'm talking from memory, and to the  
14 extent those practices related to what happened to the Becks, I  
15 think it would be relevant in terms of past violations and then  
16 continuing violations.

17 JUDGE TOREM: Okay. But my understanding is this was  
18 a general settlement between the Commission and the Company, and  
19 your clients were not parties. And my recollection of reviewing  
20 the file also showed it was various billing and credit issues,  
21 but nothing specific to the Becks.

22 MR. KOMBOL: The Becks were not mentioned, and they  
23 were not one of the accounts that I recall having been a part of  
24 the settlement. And I don't even know, Hearing Examiner, how it  
25 came up. I think it came up not by complaints by any

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1 independent -- I think that came up by way of an audit done by  
2 the Commission, not by complaints of any particular customers,  
3 and so there were no customers a part of that specifically made  
4 parties. It was a Commission action with respect to  
5 Cristalina's violation of billing and credit practices.

6           So I guess I -- in the framework of who could bring  
7 it up, I suppose the only ones -- if a party was necessary, the  
8 only one that could ask that it be even reviewed would be the  
9 Commission, itself, or Cristalina, and I would differ with that.  
10 I would think that my view would be past violations and a  
11 violation of a settlement agreement would have relevance to this  
12 particular complaint of the Becks. I hope I have summarized  
13 that fairly clearly.

14           JUDGE TOREM: All right. And I think that's going to  
15 be the same with your issue No. 4. You have listed a number of  
16 various WAC provisions, and I'm not going to reiterate them out  
17 loud today. But it looks like you had at least five different  
18 WAC provisions that you were asking me to consider whether  
19 Cristalina Water violated, and that was your No. 4 that runs  
20 from page 2 to page 8 of your submission; is that correct?

21           MR. KOMBOL: That's right. And I'm not certain  
22 whether every one of those WAC provisions were a part of the  
23 settlement. I hate to go back to that, but it's likely that  
24 those were all addressed in the settlement agreement.

25           But I'm speaking from memory, and I didn't go and use

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1 the settlement agreement as a template. But my recollection of  
2 reading it was the -- that settlement agreement had to do with  
3 all those that were listed, so, yes, they duplicate and would be  
4 particular -- would be personal or particular to the Becks.

5 Is that -- am I summarizing -- am I responding  
6 correct -- am I responding to your question?

7 JUDGE TOREM: Yes, that's more than responsive.

8 What I'm seeing here, Mr. Kombol and Mr. Gillett, is  
9 a listing of WAC provisions that have to do with denying  
10 service, dealing with customer complaints, refusal of service,  
11 discontinuing of service, and the form of bills. Those were all  
12 the subject matter that we dealt with back in December as to  
13 whether the disconnection was legally sufficient, and what  
14 course of action Cristalina Water had at its disposal to deal  
15 with its, at the time, feeling that the Becks had fallen into  
16 arrears in a sufficient amount that merited a permanent  
17 disconnection.

18 So I think the WAC provisions you've cited in your  
19 No. 4 are related to the decision I made back in December, and  
20 may be related to some of the remaining issues as to how much is  
21 actually owed. But the way you phrased it here, Mr. Kombol, is  
22 to make a separate finding as to whether the Company again  
23 violated a WAC provision.

24 Mr. Gillett, did you want to comment on that, No. 4?

25 MR. GILLETT: Well, I think you have summarized it

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1 accurately, and, yeah, as you said, the issue -- the underlying  
2 issue was decided back in December. The Commission ordered  
3 Cristalina to take certain action, that action was taken.

4 And, you know, as to the amount owed, well, that  
5 comes up in No. 1, so...

6 JUDGE TOREM: Okay. Mr. Kombol, I just want to get  
7 down the rest of the list.

8 Number 5 was a question of all the conduct we have  
9 been talking about in this docket violated Washington's Consumer  
10 Protection Act, and No. 6, whether the water company should bear  
11 any of your clients' legal fees for making this a more formal  
12 complaint and filing which you did back in December.

13 So those are the six issues. Let's work backwards on  
14 the last two, because neither of No. 5 or No. 6 did you support  
15 with a citation to indicate how I, as an administrative law  
16 judge or the Commission overall, would have jurisdiction to  
17 enforce the State's Consumer Protection Act or to award  
18 attorneys' fees. And if you're not able to tell me a legal  
19 citation that gives me the authority, then, clearly, I can't  
20 take those up in this proceeding, and they'd have to be in  
21 another forum.

22 MR. KOMBOL: You're correct. In my research, I  
23 researched the statute, and I was looking at prior rulings by  
24 the Commission when I was going through the Commission list of  
25 orders, and I couldn't find where a private party complaining

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1 had ever been awarded. So I could not find Commission precedent  
2 for an award of fees, and I could not find a Commission  
3 precedent for -- or a WAC provision or code that allows for an  
4 award of attorney fees.

5 I do believe, however, as to 5, that a finding could  
6 be made of a violation of the Consumer Protection Act. That's  
7 not requesting any affirmative relief. It's just a  
8 determination of whether the practices engaged in that violated  
9 the WAC code, was also violative of the Consumer Protection Act.  
10 What that would have to do in another forum wouldn't have  
11 anything to do with the Commission ruling, it just would be a  
12 violation.

13 And I would say my view is that the Commission's in  
14 the best position to determine whether the violations, if  
15 proven, would rise to a violation of the Consumer Protection  
16 Act. That's my view that you folks, and you, in particular,  
17 would be in a good position to determine that.

18 But I don't know a jurisdictional question whether an  
19 administrative board can or cannot determine violations of  
20 consumer protections that aren't -- well, I do think that the --  
21 I do believe that there are WAC provisions that I have seen that  
22 indicate there are certain actions by a water company that can  
23 violate the Consumer Protection Act, but I can't cite them. It  
24 seems like I saw them, and I'm sorry if I can't add anything  
25 more.

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1                   JUDGE TOREM: Mr. Gillett, did you want to weigh in  
2 on either of the Consumer Protection Act questions or the  
3 attorneys' fees issues?

4                   MR. GILLETT: Your Honor, I'm unable to locate any  
5 authority that gives the Commission authority to decide to award  
6 attorneys' fees, as Mr. Kombol has indicated in his search  
7 through administrative decisions and the statutes and case law,  
8 and he's also unable to find any authority to support that, and  
9 almost sounded like he was agreeing that that's probably not  
10 appropriate for this judicial body.

11                   And then as to No. 5, I think the same is true.  
12 There's no information that I have been able to come across that  
13 indicates that this body has jurisdiction to decide a Consumer  
14 Protection Act complaint. That's a civil complaint brought in  
15 one of our courts.

16                   JUDGE TOREM: Yeah. My understanding from the  
17 Consumer Protection Act issues I've been involved with in  
18 private practice, it's a Superior Court jurisdiction. It's  
19 quite often enforced by the Attorney General's Office in  
20 Superior Court. Many of those issues are resolved through  
21 mediation or other fora because of the threat of triple damages  
22 under the Consumer Protection Act, and that many of those cases  
23 don't make it to trial and are settled ahead of time. But  
24 they're certainly not settled by an administrative tribunal and  
25 not by this Commission, so, Mr. Kombol, I'm not going to take up



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1 the fifth and sixth issues in your list.

2           Turning to the third and fourth issues, and for that  
3 matter, what's left of No. 2, all of these are asking for the  
4 Becks to act, essentially, as I would call it, informally as a  
5 private attorney general, and to enforce on their own some kind  
6 of allegations as to violations of the administrative code by  
7 which this Commission regulates Cristalina.

8           And as you noted, the Commission is not unfamiliar  
9 with the Company and has brought its own formal complaints  
10 against them in the past and has weighed in resulting in that  
11 settlement agreement. And as I indicated when we started this  
12 case, a number of the Commission's Staff, including some  
13 investigators, are present observing today's hearing and were  
14 also in the room as I recall, back in December.

15           So the Commission is paying attention to this case,  
16 and I'm trying to sort out why you think the Becks' situation  
17 individually should result in a larger investigation of  
18 Cristalina, if that's what you are asking for, or perhaps to  
19 understand what relief you're seeking if we make those issues in  
20 the case.

21           And before you answer, I want to call your attention  
22 back. I'm not sure how much you were involved in the original  
23 filing, but the Becks filed a pleading back in December, and the  
24 relief they requested was that we reopen their informal  
25 complaint, which I have already agreed to do, to order the

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1 Company to immediately reconnect their water service, to award  
2 damages for being disconnected, and, if possible, impose  
3 punitive or other sanctions against Cristalina and to award  
4 attorney's fees.

5           So those were the four requests they made at that  
6 time. I think what we're asking now is -- the second one has  
7 already been taken care of. They have been reconnected. The  
8 first one we're going to take up with evidence brought in, and,  
9 if necessary, an evidentiary hearing. The third is the award of  
10 damages, and I think that's what you're going for with all of  
11 these other WAC violations that have been alleged as relevant  
12 issues.

13           So if you can tell me what relief would be obtained  
14 potentially by your clients if I decide to make that an issue in  
15 this case, then I can decide whether I would rather leave those  
16 sorts of investigative functions to the Commission's regulatory  
17 staff or make them an issue in this particular case.

18           MR. KOMBOL: Forgive me if I didn't follow along. I  
19 hate to guess what you're asking.

20           I heard a question as to whether the Becks should or  
21 could be a private attorney general. I heard that. And I think  
22 I heard you ask -- and I'm going to be -- I like to be kind of  
23 informal in my questions because that's how I understand the  
24 questions -- what does it matter sort of. There's been an  
25 allegation of five separate WAC codes, and I heard you say,

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1 Well, assuming that was found, were there damages, what would it  
2 matter, what consequence could be imposed, I think that's what I  
3 understood you to ask me.

4 JUDGE TOREM: Close enough. Tell me your answer.

5 MR. KOMBOL: Okay. All right.

6 I think that a customer -- my belief is that a  
7 customer can, if they so desire, ask the Commission to review  
8 whether a water company is engaging in violations, some serious,  
9 that pertain (phone beeps) --

10 Are you there? Did I lose you?

11 JUDGE TOREM: No, still here.

12 MR. KOMBOL: Okay. -- that pertain to specifically  
13 to what happened to these folks.

14 I guess I'll say it in another way. If WAC code --  
15 WAC 480-110-38, which I have recited in my page 2, contains  
16 obligations of a water company to deal with complaints in  
17 disputes, well, I think that's exactly what the Becks faced and  
18 if the WAC code was not followed, then it would be enough for my  
19 clients to have a determination made that it wasn't done.

20 And the Commission, I believe, has ability to enter  
21 findings as to that particular violation of, say, for example,  
22 not dealing with complaints. What good is it? I don't want to  
23 say we're tilting at windmills for no reason or no value, but  
24 these people feel aggrieved. I think it would suffice for them  
25 to have the Commission decide was that particular WAC code

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1 followed.

2 WAC Code 410-110-345, which is the permanent  
3 disconnection, the fact that there was a reconnection, as you  
4 have indicated and I have conceded, doesn't mean that  
5 prospectively the same thing couldn't happen either by this  
6 particular company or a successor company.

7 And, Hearing Examiner Torem, I would suggest that my  
8 clients would hate to be involved in a situation where a future  
9 water company, not a party, could say I wasn't bound by a  
10 finding there, or I wasn't bound by -- there was no testimony  
11 taken, and so we can come back to the same issue.

12 It is important for my clients to determine if, on  
13 the facts they brought forward and are prepared to bring  
14 forward, whether a denial of service is appropriate. So I'm  
15 talking about a precedent, a stare decisis, if you will, that my  
16 clients are willing to bear the burden of trying to establish.

17 I guess -- I guess that summarizes my clients' desire  
18 in a number of the WAC code violations. It would suffice for  
19 their purposes to have a finding that one or more were violated,  
20 and if they were violated that would help them be protected in  
21 the future.

22 Of course, no other party who received service from  
23 this company would be a party to that, but I guess I'll say  
24 this, and I -- as I -- as I researched the Commission's rules  
25 and orders, I was looking for precedent of whether the

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1 Commission on its own established precedence of violations of  
2 rules and regulations that its hearing examiners look at, and  
3 I'm familiar with other Commissions that I have been in front  
4 of, and it's valuable for attorneys and consumers to know what  
5 the Commission rules, because I would assume that on a similar  
6 set of facts by anyone else who might file a complaint, it would  
7 be valuable to the public to say or review, do these things meet  
8 the standard and can they be done or not?

9           Now, I don't know if the Commission -- I'll just say  
10 I don't know if the Commission has ever been found it -- whether  
11 the Commission's ever found that its rules and regulations --  
12 or its rulings, rather, are -- are precedent for future issues.  
13 I haven't researched that, I don't know, but I would encourage  
14 you to think about that.

15           JUDGE TOREM: All right. Thank you, Mr. Kombol.

16           Mr. Gillett, on these issues 2, 3, and 4, so much as  
17 they relate to the question of alleged violations by your  
18 client, the water company?

19           MR. GILLETT: Your Honor, our position is that this  
20 is just creating litigation out of old cloth. The analogy to  
21 the Becks becoming private attorney generals, I think, is apt.

22           I think if the Commission thinks it's appropriate to  
23 take up issues of violations of the WAC, then that's certainly  
24 the Commission's prerogative. And if the Becks are the impetus  
25 for the Commission taking up that investigation, well, that

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1 seems to me to be, you know, something that the Commission can  
2 consider.

3 But to make it an issue that Cristalina is forced to  
4 litigate with the Becks, especially in this context, is causing  
5 both parties and the government to spend money that is  
6 unnecessary.

7 JUDGE TOREM: Well, I hear both sides' concern  
8 that -- Mr. Kombol, your clients' concern in particular, that  
9 Cristalina adhere to the administrative code provisions that  
10 govern the Company's operations.

11 There will be some testimony, I'm sure, or some  
12 findings of fact and conclusions of law necessary here, that  
13 they complied with appropriate billing if we are going to  
14 establish the amount owed.

15 There will be, as was discussed back in December,  
16 some questions as to applying with rules for disconnection or  
17 reconnection of a client or permanent disconnection regarding a  
18 prior obligation, so those terms of art are set out in the  
19 administrative code provisions. And our foundational background  
20 issues, if you will, to the issues I've already said I would  
21 take up, the amount owed and a term of payment for the continued  
22 provision of service, I guess, essentially establishing what's a  
23 prior obligation for your clients, Mr. Kombol, and what would be  
24 the ongoing monthly bill for whatever the connection charges are  
25 each month and their consumption.

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1           All of the other issues as we discussed just now, I'm  
2 not willing to take up as to a separate investigation of  
3 Cristalina's practices overall, or as related to your client  
4 beyond the amount owed and how to establish the appropriate  
5 prior obligation going forward.

6           I don't want to suggest that those issues won't be  
7 separately investigated. Commission Staff has done so in the  
8 past and only recently in -- it was a 2010 filing -- Staff  
9 pursued Cristalina on the settlement agreement you list in your  
10 No. 3. It's entirely possible that Commission Staff is already  
11 investigating Cristalina or simply monitoring this case to  
12 determine what action, if any, to take.

13           I'm not going to call Commission Staff to suggest  
14 what they intend to do. That's a separate part of this  
15 Commission. And as much as they're watching the case and  
16 monitoring it, they're not a party today formally, nor are they  
17 represented.

18           So I'm going to leave those issues to Commission  
19 Staff to do their job and have my job be to resolve the dispute  
20 between a company that we regulate and one of its customers.  
21 I'm not -- the overall investigation of the company. That would  
22 be a much greater expense for your clients to be involved in,  
23 particularly when there's no jurisdiction to have them, your  
24 attorney's fees paid, and I don't want to subject Cristalina to  
25 have to spend money on attorney's fees that might be better

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1 instituted in making sure that the water system is up to speed  
2 and that the appropriate billing and other accounting and  
3 bookkeeping is done to ensure that other company clients don't  
4 end up in the same question as your clients, the Becks.

5           So I'm going to decline to take up those portions of  
6 No. 2, 3 and 4. That would be akin to the private attorney  
7 general. We've already said there's no -- I've said there's no  
8 jurisdiction for a Consumer Protection Act investigation or  
9 complaint here, nor is there any jurisdiction for me to award  
10 attorney's fees, so we're really back to No. 1 about the  
11 informal complaint previously filed and determining the amount  
12 owed and terms of payments and the prior obligation amount that  
13 will be established, and to some extent what Cristalina did in  
14 the past as foundational on these other WACs to set the scene.  
15 But I may or may not make a lot of findings on them depending on  
16 how the evidence comes out as to bills that are valid or invalid  
17 that you might be challenging.

18           So I will put those issues down into the prehearing  
19 conference order, and I think it's time to go to taking up a  
20 schedule for how to present this evidence.

21           MR. KOMBOL: If I could ask that we revisit  
22 something?

23           JUDGE TOREM: Go ahead, Mr. Kombol.

24           MR. KOMBOL: All right. Consistent with what you  
25 have determined, Hearing Examiner Torem, I -- I would -- I would



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1 argue -- well, first of all, I had no participation in the  
2 earlier complaint that was 117759, nor do I know precisely what  
3 that complaint had to do with. I know my clients were  
4 dissatisfied and they didn't, perhaps, think they owed as much,  
5 but as I looked at the work and extensive amount of work that  
6 was done by the Staff member, the question came to my mind, I  
7 don't -- and I didn't allege in our request for issues that the  
8 amount owed or our repayment schedule could be something in  
9 front of the Board. I would suggest that there is no  
10 jurisdiction for the Board to make determinations of amounts  
11 owed, nor is there any specific provision in the code that  
12 allows for the Commission to set a repayment schedule. I  
13 believe that the issue of amount owed is under the WAC code to  
14 be determined by a court, a court of law, and not the  
15 Commission --

16 JUDGE TOREM: So, Mr. Kombol, do you want to withdraw  
17 your clients' complaint here if that's the only issue I'm  
18 willing to take up?

19 MR. KOMBOL: Well, it's not withdraw. If the  
20 Court -- if the Commission on its own initiative, or pursuant to  
21 the request to reopen is inclined to set amounts due or a  
22 repayment schedule, it's our position that there's no  
23 jurisdiction.

24 But if the Commission's review -- Hearing Officer  
25 Torem, believes there is jurisdiction, then I would ask your

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1 order to set forth specifically why the Commission or the  
2 hearing examiner can do those two things.

3 JUDGE TOREM: Mr. Kombol, I'm happy to state the  
4 Commission's jurisdiction in any written order for any action  
5 taken, but your initial issue was should we reopen the case  
6 complaint that you now say you were never involved in, 117759.  
7 And if that's the only thing I'm willing to do, you're now  
8 questioning my jurisdiction to do so, you're tempting me to  
9 dismiss the entire case today without prejudice to be refiled  
10 once you can state jurisdiction for what you want the Commission  
11 to do.

12 We're here today because you filled the list of  
13 issues that remain. The only one I'm willing to take up, you're  
14 now questioning my jurisdiction to do so, so I'm tempted to  
15 simply dismiss the entire proceeding and have you go on your  
16 way.

17 It's starting to actually be a little bit annoying  
18 that we've danced around all these other issues. Back in  
19 December, I ordered your clients reconnected and ordered both  
20 sides to tell me what issues remain, and now one of the issues  
21 you put in front of me that I said would be establishing how  
22 much is owed, that's what your client asked Mr. Elliott to do as  
23 regs Staff, and now you're telling me we don't have jurisdiction  
24 to do that.

25 So tell me what it is what your clients really want

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1 today, Mr. Kombol.

2 MR. KOMBOL: Forgive me for irritating you. I  
3 haven't even received a copy of that initial complaint, and so I  
4 have reviewed that very, very lengthy workup by the Staff  
5 member. And forgive me. He may be there. I don't recall his  
6 name.

7 Do you mind telling me the Staff member's name?

8 JUDGE TOREM: Steven Elliott, and, no, he's not here  
9 today.

10 MR. KOMBOL: Well, I remember it's -- my, gosh. It's  
11 nearly a dozen pages, as I recall, and I don't recall that his  
12 analysis in that prior case dealt exclusively with the amount  
13 owed. I believe the issue was in that disconnections and  
14 conduct by the Company. When I reviewed his conclusions, I  
15 thought how -- how does a Staff member determine an amount owed  
16 in a -- in a hearing or request? I don't know what the appeal  
17 would be from that. I think the Court's general jurisdiction,  
18 or even possibly limited jurisdiction, are the ones that are  
19 directed to do that.

20 And I don't mean to irritate you, but I don't know  
21 from a standpoint of hearing how I could even deal with the  
22 amount owed or a repayment schedule. I don't know how I could  
23 do that. And I didn't request it. And my request to reopen, I  
24 think, had to do with all of the other issues that Mr. Elliott  
25 had looked into, but I'm at a disadvantage because I haven't

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1 looked it over very well.

2           So I guess if I could say, I -- if a party is unable  
3 to -- or the Commission -- the hearing officer is unwilling or  
4 believes that five different violations of the WAC code specific  
5 to this consumer is really not something you would entertain  
6 just to enter findings, I don't know what a consumer could do or  
7 what value would be other than to ask the Staff. I suppose we  
8 could have sent a letter to the Staff and said we think these  
9 have been violated. Would you investigate, please?

10           My clients have no problem spending the money. As  
11 you can probably see from the file, my clients are pretty  
12 motivated, and I don't think you should concern -- or the  
13 hearing officer should concern itself with my clients' principal  
14 violations. But to the extent you're not inclined to or don't  
15 believe you have jurisdiction, I don't -- I think there would be  
16 no jurisdiction for anything, I mean, consistent with what you  
17 have just indicated.

18           Am I clear there?

19           JUDGE TOREM: Yes, you are, Mr. Kombol.

20           Mr. Gillett, did you have anything to add to this?

21           MR. GILLETT: Your Honor, I had a hard time  
22 understanding Mr. Kombol's logic there, but -- I mean, the  
23 upshot of it is, is that the Becks are, you know, continuing to  
24 attempt to avoid paying what -- for water they received. The  
25 Commission investigated this very issue at their request. The

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1 findings were directly -- had everything to do with the amount  
2 owed based on what the -- you know, the Becks' position that  
3 they didn't owe anything, and Cristalina's position that it was  
4 owed, I think, somewhere eight or \$9,000.

5           After an extensive audit of that information,  
6 Mr. Elliott came to a very specific conclusion as to what the  
7 Becks owed, what Cristalina had to forgive, and -- and it was --  
8 it was on that basis that we found ourselves in front of you  
9 back in December with a disconnect, which, you know, the  
10 Commission found had not been handled appropriately.

11           So that's all that that case was about that the Becks  
12 have asked to reopen. I think that the -- Your Honor's  
13 suggestion that this matter be dismissed is appropriate. And if  
14 the Becks have issues, they can either take it up in court or  
15 they can take other action. But this is costing a lot of time,  
16 a lot of money to all concerned and as you've indicated, there  
17 is -- money is better spent in other ways.

18           JUDGE TOREM: Mr. Kombol, I want to make sure I  
19 understand your position. You asked me to reopen this water  
20 complaint, 117759, that was initiated by your clients back on  
21 June 6 of 2013, closed on October 3, 2013. It resulted, as  
22 Mr. Gillett just referenced, in a dramatic reduction in a bill  
23 from Cristalina Water Company to your clients by about \$5500,  
24 and based on the amount due, Cristalina took from there and  
25 alleged that your clients back in December had not paid on that

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1 amount and made the attempt, which I determined was unlawful to  
2 disconnect and make it a permanent disconnection from the  
3 system.

4 Back in December I ordered them reconnected, because  
5 that's the emergency issue that was there to get water to the  
6 Becks' home and decide if the water company's actions were  
7 lawful or legally sufficient. I determined they were not. I  
8 ordered them reconnected.

9 All of the underlying issues, as Mr. Gillett said in  
10 my review of their complaint and in my review of the provision  
11 of Mr. Elliott's work as described by both sides back in  
12 December, had to do with how much was owed.

13 Do the Becks want a formal review from the  
14 Commission, which goes through me as an administrative law  
15 judge? Do you want that accomplished? If you don't, then I'm  
16 not sure why we're here. If you think you can take this up in  
17 another court of a separate jurisdiction, there's nothing I can  
18 say to prevent you from doing so.

19 But if you want me to go forward with this case,  
20 those are the issues I'm going to take up and the others I'm  
21 not.

22 So I guess I need an answer from you today whether we  
23 need to set a schedule to take up those remaining issues, or  
24 whether the case should be withdrawn or dismissed.

25 MR. KOMBOL: Okay. I will ask that the case move

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1 forward, and if you are, Administrative Judge Torem, inclined or  
2 if you're going to open up Case No. 117757, then I would suggest  
3 that the issues that were raised by the Becks should all be  
4 before you and all the legal theories available to the Becks on  
5 those issues should be considered. And, specifically, I'm  
6 talking about the statute of limitations issue that, as I  
7 understand the Staff Member Elliott made a decision on and for  
8 purposes for any review of that by either you or any other body,  
9 the issue of statute of limitations would certainly come into  
10 play, and so I would ask that that be specifically reserved for  
11 hearing and briefing.

12           And I -- I -- the comment that the Becks are  
13 trying -- that their motivation is to try to avoid water bills,  
14 I find offensive and objectionable. I know you didn't find that  
15 or -- but I heard it, and it is -- it's disparaging and I don't  
16 appreciate it. But I think -- I would trust the hearing  
17 officer -- or I'm sorry -- the administrative law judge to  
18 inquire to the amount of bill and deal with all the legal issues  
19 that are attendant to it, as well as -- as well as anything else  
20 that was addressed by Mr. Elliott in Case No. 117759.

21           I hope I'm clear on what my concern -- or my desire  
22 is.

23           JUDGE TOREM: I think so, so we're back to taking up  
24 what's the amount owed by the Becks to Cristalina. Certainly,  
25 any underlying limitations would be taken up, and any terms for

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1 payment to set up that what will then become a prior obligation  
2 for all service going forward in the future.

3           So let's turn to scheduling and talk about how this  
4 case will be conducted. I don't think this case is directly  
5 necessarily to use what's called "prefiled testimony," but we  
6 could entertain that if the parties think that's going to be the  
7 most efficient way. We have two choices, really. In this forum  
8 we can take things up as witness testimony where direct  
9 examination is conducted, followed by cross-examination, as is  
10 the traditional courtroom approach, or the parties can each name  
11 their witnesses, file, essentially, friendly depositions which  
12 cover all of the direct testimony, have the witnesses adopt that  
13 testimony, and then be subject to cross-examination. It takes  
14 less time in the courtroom, and it gives an opportunity for both  
15 sides to prepare their testimony a little bit more formally.

16           Mr. Kombol, do you have a preference?

17           MR. KOMBOL: Well, I like the second. I agree with  
18 you, Judge Torem, that the second is in an administrative  
19 setting expeditious. And as I understand what you've said is  
20 anyone who would testify would need to be available at the  
21 hearing for cross-examination? Their testimony direct would be  
22 coming out in what has been referred to as a friendly  
23 declaration?

24           JUDGE TOREM: It would be a formal set of testimony,  
25 and you can find examples on our website for any number of



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1 cases, and I might, if necessary, direct you through our Staff  
2 to some examples. They'll be specific, of course, to the  
3 subject matter in those cases.

4 MR. KOMBOL: Right.

5 JUDGE TOREM: But sometimes it's more expensive to  
6 sit down with a client and not necessarily a court reporter, but  
7 with a potential witness, and draft their testimony. So it  
8 depends on -- again, on expense and on whether you just simply  
9 want that time to create a written testimony or bring them in  
10 for verbal testimony.

11 MR. GILLETT: Cristalina would --

12 MR. KOMBOL: Right. So I'm not familiar with your  
13 hearings, and I'm sorry.

14 But are you saying that there have been other prior  
15 hearings where this method was adopted and people or witnesses  
16 would file a declaration in writing with a certification or a --

17 JUDGE TOREM: It's not a declaration, sir. It's  
18 formal written testimony. If you would review our  
19 administrative procedural rules in WAC 480-07 --

20 MR. KOMBOL: Okay.

21 JUDGE TOREM: -- you'll see it's reserved for some of  
22 our more complex cases.

23 MR. KOMBOL: Mm-hm.

24 JUDGE TOREM: In a case like this that may have a lot  
25 of documentation, it's possible it could be appropriate.

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1           Mr. Gillett, did you have any thought on which would  
2 be most appropriate?

3           MR. GILLETT: I would prefer the live testimony, Your  
4 Honor. I think it's just going cost everybody a whole lot more  
5 money to do it otherwise.

6                                 (Reporter interruption for clarification.)

7           JUDGE TOREM: Mr. Gillett, you're trailing off. I  
8 think you said it would cost everyone a lot more money to do  
9 otherwise?

10          MR. GILLETT: Yeah. I would like to do live  
11 testimony. That was live testimony, not -- not prefiled.

12          JUDGE TOREM: Understood.

13          Mr. Kombol, I think that live testimony is probably  
14 the best for this case if the organization of documents is done  
15 well and if they're premarked and predistributed to both sides.  
16 I think that the witnesses you would present would be your  
17 clients; is that correct?

18          MR. KOMBOL: Right.

19          JUDGE TOREM: Are there other witnesses that you  
20 might be presenting?

21          MR. KOMBOL: I might. I might present witnesses in  
22 terms of accounting of the alleged obligation.

23                 If those parties were not willing to appear, does the  
24 Commission issue subpoenas?

25          JUDGE TOREM: That depends on who you want produced.

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1 We have recent precedential decisions that you can find stating  
2 as to whether or not we'll issue a subpoena for a third party.

3 MR. KOMBOL: Would you direct me to that so that I  
4 can follow that? That would probably be the best.

5 JUDGE TOREM: I'd suggest that you take a look at  
6 Order No. 06 --

7 MR. KOMBOL: Order 06?

8 JUDGE TOREM: -- in Docket TG-121597.

9 MR. KOMBOL: It's TG-121597?

10 JUDGE TOREM: That's correct. I think you'll find  
11 that the Commissioners upheld my decision not to issue a  
12 subpoena in that case and were able to articulate in our Order  
13 06 when they might and when they would not bring a third party  
14 before the Commission that's not under our regulation.

15 MR. KOMBOL: I see.

16 JUDGE TOREM: So I don't know who you want to call.  
17 I would have to make an initial decision on the request for  
18 subpoena.

19 MR. KOMBOL: And there would be, of course, a request  
20 you'd want to be made known to the -- Cristalina as well. A  
21 disclosure, or at least indication of what the request was made.  
22 You would want that, I'm going to assume, beyond a doubt?

23 JUDGE TOREM: I think that would be correct.

24 MR. KOMBOL: Right.

25 JUDGE TOREM: Let's turn back, then, to the

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1 procedural steps to get up to a hearing.

2 First off, other parties could have intervened,  
3 including Commission Staff. There have been no motions to  
4 intervene in this proceeding, so it's going to be the Becks as  
5 the Complainants, and Cristalina as the Respondent.

6 Formal discovery is probably not in order in this  
7 case, but informal discovery I'm going to authorize now. You  
8 can send each other informal data requests, but, Mr. Kombol, I  
9 want you to be aware. The rules of Superior Court don't apply  
10 here, so the typical discovery or depositions or  
11 interrogatories, anything else that would be in the tools under  
12 the Civil Rules, are not applicable here.

13 An informal data request, when you're asking a series  
14 of questions, it would be akin to a written interrogatory, those  
15 are allowed under the Commission rules.

16 And if you take a look at WAC 480-07-400, you'll see  
17 the distinction between informal discovery, which I'm  
18 authorizing here, and formal discovery, which I am not  
19 authorizing unless there's a showing of cause.

20 Seeing that much of this, the material is available  
21 in the informal complaint file that's been established, I'm not  
22 going to authorize formal discovery to run up the costs on  
23 either party unless there's some reason that necessary  
24 information can't be exchanged from the Commission's informal  
25 complaint file or by informal requests to each other to supply

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1 necessary and relevant information.

2 MR. KOMBOL: Very well.

3 And what you're suggesting -- and forgive me, again,  
4 for not knowing this -- what, Judge Torem, you're suggesting is  
5 the Commission's informal complaint file that resulted in the  
6 findings or Mr. Elliott's lengthy report contains a great deal  
7 of the information and the file is relatively thick, it seems to  
8 me. I haven't seen it all. All I have seen is Mr. Elliott's  
9 report.

10 And so there is a file that's lengthy and contains a  
11 lot of documentation. I'm hearing you suggest that's true, and  
12 so my job could be made much simpler by just getting a copy of  
13 what Mr. Elliott went through?

14 JUDGE TOREM: Yes. I think that would be the obvious  
15 place to start here. There's been some request by your clients.  
16 I haven't seen the file, only that that was handed to me at the  
17 December hearing, pieces of it. That's not evidence before me  
18 yet. That's simply documents that were submitted. They're not  
19 formally admitted as evidence.

20 I'd evaluate that, both you and Mr. Gillett, to  
21 determine what portions of that are relevant for making your  
22 case. But the question of what's the amount owed --

23 MR. KOMBOL: Yes.

24 JUDGE TOREM: -- and how it's going to get paid are  
25 going to be from Cristalina's accounting, from your clients'

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1 cancelled checks, from any number of things that could show me  
2 what are valid bills, what bills are being challenged and under  
3 what WAC provision, and what amounts have been paid or were not.

4 So those are the issues, and that's why I don't think  
5 formal discovery is necessary. Cristalina will have a burden to  
6 prove how much they think is owed, and the Becks will have a  
7 burden to dispute that and/or to show what they don't owe.

8 And since the Becks are bringing the complaint,  
9 you're going to get a chance to go first and produce what you  
10 think that your clients should or shouldn't pay.

11 MR. KOMBOL: Would you like to have copies of the  
12 informal data requests sent to you at the time they're made?

13 JUDGE TOREM: No. And I'm going to make it clear for  
14 you in a prehearing conference order.

15 What I want are copies of the exhibits, the witness  
16 lists, and the exhibit lists at the designated date before the  
17 hearing.

18 And I think what I'm going do this in the case is not  
19 have everybody prepare their own and then respond  
20 simultaneously. But because this is a formal complaint now  
21 brought by your clients, Mr. Kombol, I'm going to set a date by  
22 which you should have your witness and exhibit lists put in.  
23 You can conduct your informal discovery up until that point, and  
24 then I'm going to have Cristalina respond with its witness and  
25 exhibit lists.

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1                   And then if there's any rebuttal testimony, I'll give  
2 both sides an opportunity to file again rebuttal and reply  
3 testimony witnesses. I don't know that that will take a lot.  
4 You're just setting out the list and a brief summary, two,  
5 three, four sentences of what you think each witness will  
6 testify to in a general manner, and then you're including each  
7 of the exhibits that they would support with an actual copy of  
8 the exhibit, okay?

9                   MR. KOMBOL: You've been very helpful in what you  
10 like. And as I say, I've never been involved in one of these  
11 and it's far different than a Superior Court, which I'm familiar  
12 with, so thank you for letting me know the brief summary.

13                   JUDGE TOREM: How long do you think, Mr. Kombol, it  
14 will take you to prepare your witness list and to compile all of  
15 the exhibits you think you're going to need to prove your case?

16                   MR. KOMBOL: How long from now?

17                   JUDGE TOREM: Yes.

18                   MR. KOMBOL: Well, I think in order to get that  
19 informal complaint, I'm going to have to ask for that, and  
20 that's important for me.

21                   I would say it's going to take a couple months.

22                   JUDGE TOREM: If I give you until late March to file  
23 your witness and exhibit list, will that be sufficient time?

24                   MR. KOMBOL: Let me look at my calendar.

25                   Yes, it would.

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1 JUDGE TOREM: So I'm going to set Friday, March 28th,  
2 as your due date.

3 Mr. Gillett, if you receive at the same time that I  
4 do at the Commission on March 28th the Becks' witness and  
5 exhibit lists and a copy of each of their exhibits, how long  
6 would you need to prepare Cristalina's similar witness and  
7 exhibit lists?

8 MR. GILLETT: Probably not very long, Your Honor. I  
9 would say 30 days would be sufficient.

10 JUDGE TOREM: All right. I'll give you until the end  
11 of April, on Friday, the 25th of April.

12 MR. GILLETT: Okay.

13 JUDGE TOREM: And then what I would like to do is  
14 have a hearing probably toward the end of May, and in between  
15 the hearing date and that April 25th filing date, we'll have an  
16 opportunity for both sides to perhaps file rebuttal and reply  
17 testimony, but it'll be in very short turnaround, maybe one week  
18 each.

19 What is your availability the week of the 19th of  
20 May, or after the Monday holiday, the 27th of May, for the  
21 actual hearing?

22 MR. KOMBOL: You're saying 27th through the 30th of  
23 May?

24 JUDGE TOREM: That, or the week before.

25 MR. KOMBOL: I'm free all that time.



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1                   MR. GILLETT: The first week I have much better  
2 availability.

3                   JUDGE TOREM: All right. And we have a hearing going  
4 on Monday and Tuesday at the very least, the 19th and 20th, and  
5 that would take the Room 206 facility we were in last time. And  
6 I think it would easier for us to wait until Wednesday, the  
7 21st, and Thursday, the 22nd of May, as needed, to set the  
8 hearing for the 21st.

9                   MR. KOMBOL: What time would you like that, Judge  
10 Torem?

11                  JUDGE TOREM: Typically, we start at 9:30 here, and  
12 we would run until about 4:30 in the afternoon with a lunch  
13 break of some sort, and we would resume the next day on  
14 Thursday, if needed.

15                  MR. KOMBOL: So this would be the actual -- the  
16 actual hearing. There was not going to be a prehearing  
17 conference? Maybe I didn't understand, but this would be the  
18 actual hearing?

19                  JUDGE TOREM: Correct. This is the prehearing  
20 conference. There won't be another prehearing conference unless  
21 there's a discovery dispute that requires issuance of a subpoena  
22 that I would sign or some failure to exchange documents that has  
23 to come to my attention.

24                  MR. KOMBOL: Okay.

25                  JUDGE TOREM: All right. I will determine and I'll

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1 put it in the prehearing conference order in writing what the  
2 reply and rebuttal -- or rebuttal testimony and exhibit lists  
3 would be, but it will be in early May, at least 10 days ahead of  
4 the hearing on the 21st, so it may be as -- it may be it's May  
5 2nd and May 9th. I'm going to take a look at that and make sure  
6 if those will work.

7 But what I'm going to try to detail out, so there's  
8 not any questions as to exactly what a witness should include,  
9 what an exhibit list should include, and we'll worry about  
10 numbering the documents at the hearing. If I think there's a  
11 voluminous number of documents that need to be prenumbered  
12 before we get to the hearing itself, then I'll set up a separate  
13 status conference to do exactly that with you. I don't know if  
14 it'll be formal with a court reporter as we are today or an  
15 informal session where we simply prenumber the documents and I  
16 create an exhibit list that will help guide us at hearing so  
17 we're all looking at the same paper.

18 And I'm going to give you some -- if there's  
19 cross-examination exhibits that are not already going to be  
20 included in reply and rebuttal, I probably have a separate  
21 paragraph instructing you on how to file those so that all of  
22 the witnesses that are on the witness stand have a chance to  
23 look at those and be familiar and not to be surprised at the  
24 hearing.

25 I'm also -- Mr. Kombol, Mr. Gillett, you may not be

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1 familiar as well. We have a requirement typically to file an  
2 original plus a certain number of additional paper copies.  
3 Those go to a variety of spots around the Commission. Some of  
4 the Commission Staff maintain copies of hearing binders, and so  
5 do our Commissioners in the case of an appeal, so we build  
6 those. Under our current procedural rules, it's typically an  
7 original plus 12, unless I set a different number. We try to  
8 keep that number as low as possible. It could be an original  
9 plus five or six copies, so look for that in the prehearing  
10 conference order. So you make sure that you comply with all the  
11 filing rules, your staff should probably take a look WAC 480-07  
12 Rule 395 and 460. Those are the rules that document what format  
13 all of your submissions have to be in. So that there's no  
14 confusion, you should familiarize yourself with WAC 480-07, our  
15 procedural rules.

16           Mr. Kombol, do you have any questions? Again, we've  
17 got a hearing date of May 21st and possibly going on to May  
18 22nd. Your witness lists are due May 28th. The Company, the  
19 water company, will be due April 25, and I'll set the separate  
20 rebuttal and reply witness and exhibit lists, which should be  
21 pretty short, in early May.

22           MR. KOMBOL: To answer your question, no, you have  
23 been very thorough, and I appreciate your clarity and being  
24 patient with folks, or at least me, who don't have experience  
25 with your hearings, and I greatly appreciate it.

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1 JUDGE TOREM: Okay. Mr. Gillett, anything else? Any  
2 questions?

3 MR. GILLETT: No, Your Honor.

4 JUDGE TOREM: All right. There will be a standard  
5 paragraph I put in about alternative dispute resolution. If  
6 between the two of you you decide that you want to make use of a  
7 mediation service at the Commission, we can assign another  
8 administrative law judge to mediate this dispute and avoid the  
9 hearing. If that's something you want to do, make up your minds  
10 quickly so that there's not a lot of time spent compiling these  
11 witness lists and exhibits unnecessarily, or so that there's  
12 sufficient time to schedule that mediation before the hearing as  
13 set for May 21st.

14 MR. GILLETT: Can I just ask you a point of  
15 clarification? And maybe you can't answer the question for me,  
16 so let me know.

17 JUDGE TOREM: Yeah. Go ahead and speak up a little  
18 clearer, Mr. Gillett. You're fading there.

19 MR. GILLETT: I'm sorry. Yeah. If you can answer  
20 this question, I would appreciate it, but tell me if you can't.

21 If the parties agree to engage in alternative dispute  
22 resolution and if they are able to come to an agreement on a  
23 number, is that something that the Commission or you would be  
24 able to -- I'm not sure if the word is endorse, but approve or  
25 bless so that there's no issue between the Company and the

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1 customer as to a resolution of past obligations?

2 JUDGE TOREM: Yes. We have under our procedural  
3 rules at WAC I think it's -- 480-07-730 and 740 address  
4 settlement agreements. And quite often a mediation will result  
5 in the parties reaching a settlement agreement with the  
6 assistance either of the neutral third party or on their own.  
7 If the parties do want to reach a settlement, at this point,  
8 we're in an adjudication phase, and the Commission would have to  
9 release the parties from going forward, so we would do that by  
10 formally approving the settlement agreement. That happens more  
11 often when we have Staff bringing a complaint against the  
12 Company, and the Company and Staff both want it memorialized  
13 what the terms are and what further continuing jurisdiction the  
14 Commission might have and it prevents any misunderstandings in  
15 the future.

16 There's no reason that we couldn't do that in a  
17 private complaint as well. If the parties are able to resolve  
18 their issues short of a hearing, the Commission can certainly  
19 make a formal memorialization. And if that's the case and  
20 there's not a mediator involved, I can direct you to some  
21 additional dockets where settlement agreements have been drafted  
22 and what a narrative looks like. That's a required document by  
23 the Commission, the settlement agreement, as well as an  
24 accompanying narrative.

25 Done right, they're not redundant. We have been

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1 working with parties that appear before us to reduce the  
2 agreement to one set of documents and the narrative as the more  
3 explanation of why we got there, but I can direct you to some  
4 that were done well and some that were done not so well but  
5 nevertheless approved.

6 MR. GILLETT: Thank you. That answers my question.

7 JUDGE TOREM: Mr. Kombol, does that raise any other  
8 questions for you?

9 MR. KOMBOL: No. Your explanation is very  
10 appreciated. We appreciate that a great deal.

11 JUDGE TOREM: All right. Then I'm going to issue  
12 probably by midweek a prehearing conference order. It's going  
13 to recite, again, the issues that I want to hear that the  
14 Commission will take up. We'll set up the dates for the witness  
15 lists that we have gone over and set the hearing date and it  
16 will have a lot of other relevant information, especially if  
17 you're practicing before the Commission for the first time.

18 So review that. It'll have all the references you  
19 need to the WAC provisions in 480-07, and we'll go forward from  
20 there.

21 Look for that to come out probably on Wednesday.  
22 We've got some staffing issues. I'll probably have it written  
23 tomorrow, but you won't receive it by e-mail until tomorrow, and  
24 a hard copy will follow, hopefully, by Friday.

25 Any questions?

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1 MR. KOMBOL: Not from the Becks' standpoint.

2 MR. GILLETT: Not from Cristalina. Thank you, Your  
3 Honor.

4 JUDGE TOREM: All right. Then I think we're  
5 adjourned for today. Thank you. It's 4:15, and we'll be  
6 adjourned.

7 (Proceeding concluded at 4:15 p.m.)

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