

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CRISTALINA LLC,

Respondent.

DOCKET UW-090516

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CRISTALINA LLC,

Respondent.

DOCKET UW-132013

In the Matter of the Penalty Assessment
Against

MARIA K. LINDBERG

In the Amount of \$14,600

DOCKET UW-140820

In the Matter of

CRISTALINA LLC

Joint Application for an Order Approving
Sale and Transfer of Assets and Removal of
Cristalina LLC from Regulation.

DOCKET UW-141301

COMMISSION STAFF'S MOTION
FOR AN ORDER:

- (1) APPOINTING RECEIVER,
- (2) TERMINATING COLLECTION
OF MONTHLY SURCHARGE,
- (3) REFERRING MATTER TO
LOCAL PROSECUTOR,
- (4) INVITING PARTICIPATION
OF DEPARTMENT OF HEALTH
AND PUBLIC WORKS BOARD,
AND (5) REQUIRING
ATTENDANCE AT DEPOSITION

I. INTRODUCTION

1 Commission Staff (Staff) files this motion pursuant to WAC 480-07-375, in which it requests the Commission enter an Order in all pending dockets involving Cristalina LLC (Cristalina or Company) or its owner, Maria K. Lindberg: (1) appointing a receiver, (2) terminating the collection of a \$32 monthly surcharge, (3) referring the matter involving the misappropriation of funds collected to the local prosecutor for the filing of criminal charges, (4) inviting the formal appearance and participation of the Department of Health and the Public Works Board, and (5) requiring Maria K. Lindberg's attendance at a deposition to be noted by Commission Staff.

2 Maria K. Lindberg's brazen disregard of the law and her legal obligations under the law must not be tolerated or condoned by this Commission.¹

II. COMMISSION STAFF'S MOTION TO APPOINT RECEIVER

3 The Commission may order improvements to the service of any water company after consultation with the Department of Health. RCW 80.28.040(2). Here, there are allegations

¹ On August 29, 2014, Commission Staff filed a motion to consolidate the several dockets involving Cristalina and Maria K. Lindberg. That motion is pending before the Commission. The several dockets with brief descriptions follow:

Docket UW-090516. On April 8, 2009, Cristalina LLC filed a request with the Commission to bill and collect a surcharge of \$32 per month from each customer. The requested surcharge amount corresponded to the Company's repayment obligations for a State Revolving Fund (SRF) loan for infrastructure improvements. The Commission granted the Company's request subject to a series of conditions outlined in Order 01 issued on May 28, 2009. Commission Staff plans to move to reopen this docket based on allegations of wrongdoing and diversion or misappropriation of these surcharge funds by Ms. Lindberg, as discussed at the Commission's August 28, 2014, Open Meeting.

Docket UW-132013. On May 21, 2014, the Commission issued a Complaint against Cristalina for failure to comply with Order 01 in Docket UW-090516. The Complaint alleges that the Company failed to file quarterly reports for the second- and fourth-quarter of 2013 in compliance with the Commission's order.

Docket UW-140820. On May 21, 2014, the Commission issued a penalty assessment against Maria K. Lindberg in her individual capacity as owner and manager of Cristalina for failure to comply with Order 01 in Docket UW-090516. The penalty alleges that Ms. Lindberg is responsible for failing to file quarterly reports for the second- and fourth-quarter of 2013 in compliance with the Commission's order.

Docket UW-141301. On June 17, 2014, Cristalina filed a joint application to allow the sale and transfer of substantially all of its assets to Washington Water Service Company. Cristalina further requested the Commission remove it from regulation.

that the water provided by Cristalina is inadequate in quantity and inferior in quality. If Cristalina fails to comply with a Commission order after hearing, the Commission may request that the Department of Health “petition the superior court of Thurston County to place the company in receivership pursuant to chapter 7.60 RCW.” *Id.*

III. COMMISSION STAFF’S MOTION TO TERMINATE COLLECTION OF MONTHLY SURCHARGE

4 The Commission should amend or revoke its Order in Docket UW-090516 to terminate Cristalina’s collection of a monthly surcharge in the amount of \$32 from each of its customers. By her own admission, Maria K. Lindberg has been diverting the monies intended to repay a loan from the State’s Drinking Water State Revolving Fund (DWSRF) to other purposes not authorized in the Commission’s 2009 Order establishing the surcharge for the express purpose of repaying that loan. At the very least, the Commission should reopen the 2009 Docket based on allegations of wrongdoing and diversion or misappropriation of these surcharge funds by Maria K. Lindberg, as discussed at the Commission’s August 28, 2014, Open Meeting. RCW 80.04.210.

5 To implement this change, the Commission should order Maria K. Lindberg to revise Cristalina’s customer bills and provide the Commission with a copy of the new bill format as soon as possible, although not later than Friday, September 5, 2014. The Commission should further order Maria K. Lindberg to contact each of Cristalina’s customers to instruct them not to pay the \$32 surcharge. Maria K. Lindberg should further return to her customers any such amounts that they may submit in the ordinary course of their respective monthly payments.

IV. COMMISSION STAFF'S MOTION TO REFER THE MATTER OF MISAPPROPRIATION OF FUNDS TO LOCAL PROSECUTOR

6 In Docket UW-140820, the Commission issued a penalty against Maria K. Lindberg in her individual capacity as owner and manager of Cristalina for her failure to comply with Order 01 in Docket UW-090516. Under RCW 80.04.385, the Commission has sought to impose such penalties. That statute provides:

Every officer, agent or employee of any public service company, who shall violate or fail to comply with, or who procures, aids or abets any violation by any public service company of any provision of this title, or who shall fail to obey, observe or comply with any order of the commission, or any provision of any order of the commission, or who procures, aids or abets any such public service company in its failure to obey, observe and comply with any such order or provision, shall be guilty of a gross misdemeanor.

7 Here, by her own admission, Maria K. Lindberg has not been making any payments on her DWSRF loan and has instead redirected the monthly surcharges she collects from her water customers, ostensibly to cover "other expenses." The cavalier attitude exhibited by Maria K. Lindberg in this regard is alarming. The Commission should refer the matter to the appropriate prosecutor's office for the filing of gross misdemeanor charges against Maria K. Lindberg personally.

V. COMMISSION STAFF'S MOTION TO INVITE THE FORMAL PARTICIPATION OF THE DEPARTMENT OF HEALTH AND PUBLIC WORKS BOARD

8 The Commission should invite the appearance and formal participation in Docket UW-141301, of the Department of Health and the Department of Commerce's Public Works Board, which involves Cristalina's application for approval of the sale and transfer of substantially all of Cristalina's assets to Washington Water Service Company. It is clear that Maria K. Lindberg has flouted and continues to flout the law regarding her DWSRF

loan repayment obligations. Surely, both the Department of Health and the Public Works Board have a vested interest in protecting and preserving the funds available to assist worthy drinking water systems in need of improvements to infrastructure.

9 The Department of Health offers “water system assistance” and promotes the Safe Drinking Water Act, which was amended in 1996 to establish the Drinking Water State Revolving Fund (DWSRF) to make funds available to drinking water systems to pay for infrastructure improvements. With regard to construction loans, the program provides:

- Low-interest construction loans to publicly owned (municipal) and privately owned drinking water systems. These loans cover capital improvements that increase public health and compliance with drinking water regulations.
- Terms up to 20 years to pay back and, in some cases, partial loan forgiveness.

This loan program is “funded through federal and state money and subject to state laws and additional federal regulations,” according to the Department’s website.

10 The Public Works Board’s mission is “to provide financial and technical assistance to Washington communities for critical public health, safety, and environmental infrastructure that supports community and economic vitality.” RCW 43.155 and RCW 70.119A.170. The Public Works Board “administers the four programs associated with the Public Works Trust Fund, the Drinking Water State Revolving Fund program, and the Water System Acquisition and Rehabilitation Program. The primary purpose of all of these programs is to provide financial assistance to local governments and private water systems to repair or expand their infrastructure systems,” according to its website.

11 The Commission should invite and welcome its sister agencies’ participation here.

VI. COMMISSION STAFF'S MOTION TO REQUIRE ATTENDANCE AT DEPOSITION

12 The Commission should issue a subpoena demanding that Maria K. Lindberg appear and give deposition testimony regarding her alleged malfeasance and misfeasance in her capacity as owner and operator of Cristalina water company. The Commission is authorized to issue such a subpoena pursuant to RCW 34.05.446 and WAC 480-07-410(1).

13 It simply cannot be disputed that Maria K. Lindberg “appears to possess information significant to [Commission Staff’s] case.”

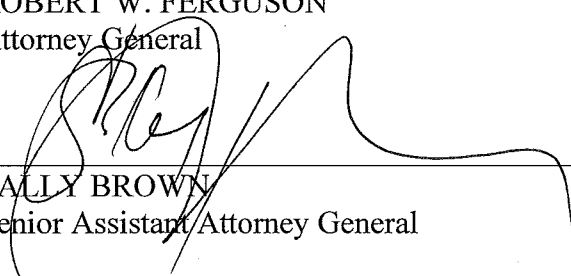
VII. CONCLUSION

14 For the above reasons, the Commission should grant Staff’s myriad motions. The facts and circumstances here demand the Commission put an end to the effrontery exhibited by Maria K. Lindberg on levels beyond measure.

DATED this 2nd day of September 2014.

Respectfully submitted,

ROBERT W. FERGUSON
Attorney General



SALLY BROWN
Senior Assistant Attorney General

Counsel for Washington Utilities and
Transportation Commission Staff