

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UW-140820
PENALTY AMOUNT: \$14,600

MARIA K. LINDBERG
P.O. BOX 4055
BELLINGHAM, WA 98227

The Washington Utilities and Transportation Commission (Commission) believes that you, in your individual capacity as the sole owner and manager of Cristalina LLC (Cristalina or Company), have committed one or more violations of Commission Order No. 01 in docket UW-090516 (Order). The Order states, among other requirements, that Cristalina must file reports with the Commission regarding transactions and balances relating surcharge revenue no later than 45 days after the end of each calendar quarter. Revised Code of Washington (RCW) 80.04.405 authorizes penalties of one hundred dollars against any officer, agent or employee who violates or who procures, aids or abets in the violation of a Commission order. Under the statute, every day's continued violation is deemed to be a separate and distinct offense.

As a result, the Commission hereby notifies you that it has assessed penalties against you for violations of RCW 80.04.405 in the amount of \$14,600, as follows:

- **Sixty-four (64) violations of Condition (8)(d) listed in Commission Order No. 01 in docket UW-090516 relating to the second quarter 2013 report.** The Company's report for the second quarter of 2013 was due to the Commission no later than August 14, 2013. The Commission received the report 64 days late, on October 17, 2013.
- **Eighty-two (82) violations of Condition (8)(d) listed in Commission Order No. 01 in docket UW-090516 relating to the fourth quarter 2013 report –** The Company's report for the fourth quarter of 2013 was due to the Commission no later than February 14, 2014. The Commission has yet to receive the report. As of May 7, 2014, the report is 82 days late.

On April 9, 2009, Cristalina LLC (Cristalina or Company) filed a proposed revision to its tariff to add a surcharge to allow the Company to re-pay a \$555,000 Drinking Water State Revolving Fund (DWSRF) loan approved by the Washington State Public Works Board. On May 28, 2009, the Commission issued Order No. 01 in Docket UW-090516 allowing the Company's proposed revision subject to a set of conditions outlined in paragraph 17 of the Order.

Condition (8)(d) from Order No. 01 of docket UW-090516 requires Cristalina to track surcharge activity and report to the Commission as follows:

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.

Commission Staff began an investigation based on the absence of any report for the second quarter of 2013. Cristalina filed a 2013 second quarter report on October 17, 2013, or 64 days late. The Commission has yet to receive a report for the fourth quarter of 2013.

This information, if proved at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violations did not occur, you may request a hearing to contest the penalty assessment. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request. Failure to provide such statement will result in denial of the request. If there is a reason for the violations that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. A request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW 80.04.405.

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

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

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

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

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective May 20, 2014.

DENNIS J. MOSS
Administrative Law Judge

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT UW-140820**

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

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

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

Enclosed \$14,600 in payment of the penalty

Submitted my payment of \$14,600 online at www.utc.wa.gov. My confirmation number is _____.

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

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

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

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

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

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

Name of Respondent (company) – please print

Signature of Applicant

RCW 9A.72.020:

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