

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION,	)	DOCKET UW-132013
	)	
Complainant,	)	COMPLAINT
	)	
v.	)	
	)	NOTICE OF PREHEARING
CRISTALINA LLC,	)	CONFERENCE
	)	(Set for July 1, 2014, at 1:30 p.m.)
Respondent.	)	
	)	
.....	)	

1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its Staff, alleges as follows:

**I. BACKGROUND**

2 On April 9, 2009, Cristalina LLC (Cristalina or Company) filed a proposed revision to its tariff to add a surcharge that would allow the Company to make payments on a \$555,000 Drinking Water State Revolving Fund (DWSRF) loan approved by the 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 and required in paragraph 19 of that Order.

3 Condition (8)(d) from Order No. 01 of docket UW-090516 requires Cristalina to track surcharge activity and report several details to the Commission within 45 days of the end of each calendar quarter.<sup>1</sup>

<sup>1</sup> Specifically, condition (8)(d) in paragraph 17 of Order No. 01 in docket UW-090516 refers to a required separate bank account for surcharge revenue and reads:  
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.

4 Cristalina's report for the second quarter of 2013 was due to the Commission on August 14, 2013. The Company filed its second quarter 2013 report on October 17, 2013. The report was 64 days late.

5 Cristalina's report for the fourth quarter of 2013 was due to the Commission on February 14, 2014. The Company has not filed this report. As of March 21, 2014, the report is 35 days late.

## II. PARTIES

6 The Washington Utilities and Transportation Commission is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including water companies, under RCW Title 80.

7 Cristalina LLC is a water company subject to regulation by the Commission under RCW Title 80.

## III. JURISDICTION

8 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 80.04.110, RCW 80.04.380, chapter 80.28 RCW, and chapter 480-110 WAC.

## IV. COMPLAINT AND CAUSE OF ACTION

### (Violation of RCW 80.04.380, compliance with commission order)

9 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 8 above.

10 Pursuant to RCW 80.04.380, water companies subject to Commission regulation must comply with commission orders.

11 In Commission Order No. 01 in Docket UW-090516, the Commission approved Cristalina's proposed surcharge to service a DWSRF loan. As a condition of approval, the Commission required the Company to provide detailed reports to the Commission no later than 45 days after the end of each calendar quarter.

12 The Commission received Cristalina's report for the second quarter of 2013 on October 17, 2013, or 64 days late. This results in 64 separate and distinct violations.

- 13 The Commission has yet to receive Cristalina's report for the fourth quarter of 2013. As of May 7, 2014, the report is 82 days late. This results in 82 separate and distinct violations.
- 14 Cristalina violated RCW 80.04.380 by failing to comply with the deadlines to file the required reports set forth in Commission Order No. 01 in Docket UW-090516. As of May 7, 2014, the Company has committed 146 separate and distinct violations.

#### IV. APPLICABLE LAW

- 15 Under RCW 80.04.380, a public service company violating any order or rule of the Commission or any provision of RCW Title 80 is subject to a penalty up to one-thousand dollars for each violation. In the case of a continuing violation, every day's continuance represents a separate and distinct violation. *Id.*
- 16 The term "public service company" includes water companies. RCW 80.04.010.
- 17 The Commission is authorized to file a complaint on its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. RCW 80.04.110.

#### VI. REQUEST FOR RELIEF

- 18 Staff requests that the Commission find that Cristalina committed 146 violations of Commission Order No. 01 in docket UW-090516, as set forth in the allegations above.
- 19 Staff further requests that the Commission, pursuant to its authority under RCW 80.04.380, impose a maximum monetary penalty on Cristalina for each of the Company's violations.

#### VII. PROBABLE CAUSE

- 20 Based on a review of Staff's report on its investigation of Cristalina, and all supporting documents, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

### VIII. NOTICE OF PREHEARING CONFERENCE

- 21 The COMMISSION GIVES NOTICE that it will hold a prehearing conference in this matter at **1:30 p.m., on Tuesday, July 1, 2014**, in Room 206, the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 22 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.431, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.
- 23 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence and workpapers, to identify the issues in the proceeding and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.
- 24 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2).
- 25 Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.
- 26 **The COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**
- 27 The names and mailing addresses of all parties and their known representatives are as follows:

Complainant: Washington Utilities and Transportation  
Commission  
1300 S. Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

Representative: Brett P. Shearer  
Assistant Attorney General  
1400 S. Evergreen Park Drive S.W.  
P.O. Box 40128  
Olympia, WA 98504-0128  
(360) 664-1187  
bshearer@utc.wa.gov

Respondent: Cristalina LLC  
PO Box 4055  
Bellingham, WA 98227  
(360) 296-7318

- 28 Administrative Law Judge Gregory J. Kopta, from the Commission's Administrative Law Division, will preside during this proceeding
- 29 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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DENNIS J. MOSS  
Administrative Law Judge

**NOTICE**

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired: (Yes)\_\_\_\_\_ (No)\_\_\_\_\_

Do you need a certified sign language interpreter?:

Visual\_\_\_\_\_ Tactile\_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_

English-speaking person who can be contacted if there are questions:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: (\_\_\_\_)\_\_\_\_\_