

Exhibit No. ____ (TY-1T)
Docket UW-101818
Witness: Travis Yonker

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

MARIA K. LINDBERG,

Respondent.

DOCKET UW-101818

DIRECT TESTIMONY OF
TRAVIS YONKER
STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

June 23, 2011

TABLE OF CONTENTS

I. INTRODUCTION 1

II. SCOPE AND SUMMARY OF TESTIMONY 2

III. DISCUSSION 3

 A. Background 3

 B. Billed Rates 6

 C. Form of Bills 10

 D. Discounts and Credits..... 13

 E. Compliance with the Commission’s Order 03 in Docket UW-090839..... 16

IV. CONCLUSION 17

EXHIBIT LIST

- Exhibit No. ___ (TY-2) 2010 Annual Report for Cristalina
Exhibit No. ___ (TY-3) Maria Lindberg's Responses to UTC Staff Data Request Nos. 1 and 5
Exhibit No. ___ (TY-4) Consumer Complaint No. 108411 Activity Log, without attachments
Exhibit No. ___ (TY-5) Data Request to Cristalina, dated June 21, 2010
Exhibit No. ___ (TY-6) Cristalina's Response to June 21, 2010, Data Request
Exhibit No. ___ (TY-7) Cristalina Billing Records, June 1, 2009, through March 31, 2010
Exhibit No. ___ (TY-8) Cristalina Billing Records, April 1, 2010, through October 1, 2010
Exhibit No. ___ (TY-9) Staff Investigation Report
Exhibit No. ___ (TY-10) Tariff WN U-1, Original Sheet No. 21
Exhibit No. ___ (TY-11) Current Tariff WN U-1
Exhibit No. ___ (TY-12) Settlement Agreement, Docket UW-090839
Exhibit No. ___ (TY-13) September 14, 2010, Email and Attachments from Terryl Cooper to Travis Yonker
Exhibit No. ___ (TY-14) November 12, 2010, Email from Terryl Cooper to Travis Yonker and Ten Cristalina Invoices dated November 1, 2010
Exhibit No. ___ (TY-15) Cristalina Statement form dated September 30, 2010
Exhibit No. ___ (TY-16) Maria Lindberg's Supplemental Response to Supplemental UTC Staff Data Request No. 12
Exhibit No. ___ (TY-17) Offer of Settlement to Customer Van Kirk
Exhibit No. ___ (TY-18) November 19, 2010, Email from Terryl Cooper to Travis Yonker
Exhibit No. ___ (TY-19) Order 03, Docket UW-090839
Exhibit No. ___ (TY-20) Order 04, Docket UW-090839

1 I. INTRODUCTION

2
3 Q. Please state your name and business address.

4 A. I am Travis Yonker. My business address is 1300 S. Evergreen Park Drive S.W.,
5 P.O. Box 47250, Olympia, WA 98504.

6
7 Q. By whom are you employed and in what capacity?

8 A. I am employed by the Washington Utilities and Transportation Commission
9 (Commission) as a compliance investigator.

10
11 Q. How long have you been employed by the Commission?

12 A. I have been employed by the Commission since February 2010.

13
14 Q. Please describe your responsibilities as they pertain to this matter.

15 A. As part of my responsibilities, I investigate investor-owned water companies to
16 determine whether a company is complying with state laws and Commission rules.

17
18 Q. Did you investigate Cristalina LLC (Cristalina)?

19 A. Yes.

1 **Q. Are you acquainted with Maria Lindberg?**

2 A. Yes. When I began investigating Cristalina's business practices, I learned she was
3 the company owner and manager. I met her in person at the Commission on June 20,
4 2011..

5

6 **II. SCOPE AND SUMMARY OF TESTIMONY**

7

8 **Q. What is the purpose of your testimony?**

9 A. My testimony provides the Commission with the background of this case and
10 discusses the factual basis for the alleged violations.

11

12 **Q. Please summarize your testimony.**

13 A. My testimony provides background information on Cristalina and its owner-
14 manager, Maria K. Lindberg. I explain why I believe the Commission should
15 penalize Ms. Lindberg. In my testimony, I discuss my understanding of relevant
16 state law and Commission rules, how I concluded that Cristalina has violated these
17 laws and rules, and the facts supporting the violations relating to tariff charges, the
18 form of bills, rate discrimination, and the company's compliance with the
19 Commission's Order 03 in Docket UW-090839. Finally I recommend that the
20 Commission impose a penalty on Ms. Lindberg.

21

1 **Q. Is any other Commission Staff member filing testimony in this matter?**

2 A. Yes. Amy White is testifying in detail regarding the requirements of Order 03 in
3 Docket UW-090839, about her interactions with Cristalina, and about the technical
4 assistance she has provided to Cristalina related to Order 03.

5
6 **Q. Why do you believe these violations justify a penalty?**

7 A. Despite technical assistance from various members of the Commission's Staff
8 (Staff), Cristalina has failed to fully comply with Commission rules and state law.
9 Staff believes that Ms. Lindberg's management is the cause of Cristalina's
10 noncompliance. Accordingly Staff believes that it is appropriate to impose a penalty
11 against Ms. Lindberg based on the violations I identified.

12

13 **III. DISCUSSION**

14

15 **A. BACKGROUND**

16

17 **Q. Please describe the operations of the water company Cristalina LLC.**

18 A. Cristalina is a Class C regulated water company. In its 2010 Annual Report to the
19 Commission, the company reported intrastate operating revenue of \$71,836 and
20 reported a total of 84 customers. See Exhibit No. ___ (TY-2) – 2010 Annual Report
21 for Cristalina.

22

1 **Q. How long has the Commission regulated Cristalina?**

2 A. According to Commission records, Cristalina's initial tariff, filed in Docket UW-
3 030061, became effective on February 15, 2003. At that time, the Commission began
4 regulating Cristalina.

5
6 **Q. Please describe the ownership of Cristalina.**

7 A. According to Cristalina's 2010 Annual Report to the Commission, Ms. Lindberg has
8 a 100 percent ownership interest in Cristalina.

9
10 **Q. Is Ms. Lindberg involved in operating Cristalina?**

11 A. Yes. Ms. Lindberg manages Cristalina. As the manager, Ms. Lindberg is
12 responsible for hiring staff and for supervising their orientation and training. She
13 accounts for income, expenditures, and loan payments, and she controls records and
14 investments. She also is responsible for regulatory compliance. See Exhibit No.
15 ____ (TY-3) – Maria Lindberg's Responses to UTC Staff Data Request Nos. 1 and 5.

16
17 **Q. Where is Cristalina located?**

18 Cristalina's customers are located in the Ravensdale area of King County, but Ms.
19 Lindberg manages the company from Bellingham.

20
21 **Q. Why did Staff commence an investigation into the company's business**
22 **practices?**

1 A. On February 22, 2010, Consumer Protection Staff Rachel Stark began investigating a
2 consumer complaint filed against Cristalina. During the course of Ms. Stark's
3 investigation, she identified numerous violations of state laws and commission rules.
4 See Exhibit No. ____ (TY-4) – Consumer Complaint No. 108411 Activity Log,
5 without attachments. As a result, the Assistant Director Sharon Wallace assigned me
6 to investigate the business practices of Cristalina.

7
8 **Q. Please describe the investigation.**

9 A. I reviewed Commission documents relating to Cristalina including the company's
10 tariff on file, Commission complaint records, and Commission orders. I also
11 reviewed the responses to data requests the Commission issued to Cristalina.

12 On June 21, 2010, the Commission submitted an initial data request to the
13 company. See Exhibit No. ____ (TY-5) – Data Request to Cristalina dated June 21,
14 2010. On July 19, 2010, I received the response, including a document identifying
15 Terryl Cooper as the company's point of contact for my investigation. See Exhibit
16 No. ____ (TY-6) – Cristalina's Response to June 21, 2010, Data Request. In follow-
17 up data requests, I requested additional information from the company. In response
18 to the data requests, I received various documents from Cristalina. Two are entitled
19 "Customer Balance Detail," and describe the invoice and payment history for each
20 customer respectively from June 1, 2009, through March 31, 2010, and from April 1,
21 2010, through October 1, 2010. The earlier document contains hand-written
22 notations adjacent to some of the accounts. See Exhibit No. ____ (TY-7) – Cristalina
23 Billing Records, June 1, 2009, through March 31, 2010, and Exhibit No. ____ (TY-8)

1 – Cristalina Billing Records, April 1, 2010, through October 1, 2010. After
2 reviewing all of these documents, I identified areas of noncompliance and completed
3 a report of my investigation. See Exhibit No. ____ (TY- 9) – Staff Investigation
4 Report.

5
6 **B. BILLED RATES**

7
8 **Q. What is your understanding of the requirements of RCW 80.28.080?**

9 A. RCW 80.28.080 states that no water company “shall charge, demand, collect or
10 receive a greater or less or different compensation for any service rendered . . . than
11 the rates and charges applicable to such service as specified in its schedule filed and
12 in effect at the time.” My understanding of this statute is that a water company can
13 charge only the rates specified in the company’s tariff.

14
15 **Q. You mentioned that you reviewed Cristalina’s tariff. What did you find?**

16 A. Cristalina’s Tariff WN U-1, which took effect on February 15, 2003, required the
17 company to charge its customers a monthly flat rate of \$45. See Exhibit No. ____
18 (TY-10) – Tariff WN U-1, Original Sheet No. 21. Effective June 1, 2009, by
19 authority of Order 01 in Docket UW-090516, the company was authorized to add a
20 capital improvement surcharge of \$32 to its monthly flat rate, for a total monthly
21 charge of \$77. See the tariff currently in effect, Exhibit No. ____ (TY-11) – Tariff
22 WN U-1 at First Revision Sheet No. 24. Effective March 1, 2010, by authority of
23 Order 03 in Docket UW-090839, the company was authorized to reduce its monthly
24 flat rate to \$32 (see Exhibit No. ____ (TY-11) at First Revised Sheet No. 21) and

1 charge a capital repair surcharge of \$4.30 (See Exhibit No. ____ (TY-11) at Original
2 Sheet No. 24.1), for a total monthly charge of \$68.30. Further, the reduction of
3 monthly charges from \$77 to \$68.30 is specifically described in the settlement
4 agreement Ms. Lindberg signed in Docket UW-090839. See Exhibit No. ____ (TY-
5 12) – Settlement Agreement, Docket UW-090839.
6

7 **Q. Who signed the tariff in effect in 2009 and 2010?**

8 A. Maria K. Lindberg signed or initialed each original page of Tariff WN U-1 at the
9 time it became effective in 2003. Ms. Lindberg also signed the cover letter and
10 customer notice submitted as part of the request for a capital improvement surcharge
11 in Docket UW-090516, and the First Revision Sheet No. 24 indicates that the
12 revision was issued by “Maria Lindberg.”
13

14 **Q. According to the tariff sheets in effect in 2009 and 2010, what rate was the**
15 **company required to charge its customers?**

16 A. Cristalina was required to charge its customers \$45 for standard monthly service
17 until June 1, 2009. From June 1, 2009, until March 1, 2010, Cristalina was required
18 to charge its customers \$77 for standard monthly service. From March 1, 2010, to the
19 present time, Cristalina was required to charge its customers \$68.30 for standard
20 monthly service.
21

1 **Q. Did you examine the company's billing records?**

2 A. Yes, I examined the billing records submitted by the company. First, I reviewed the
3 billing records for the period from June 1, 2009, through March 31, 2010. See
4 Exhibit No. ____ (TY-7) – Cristalina Billing Records, June 1, 2009, through March
5 31, 2010. Later, I reviewed the billing records for the period from April 1, 2010,
6 through October 1, 2010. See Exhibit No. ____ (TY-8) – Cristalina Billing Records,
7 April 1, 2010, through October 1, 2010.

8

9 **Q. What rate did the company actually charge its customers?**

10 A. According to the billing records submitted by Cristalina, in August 2009, the
11 company charged 83 customers \$57 instead of the rate of \$77 required by the tariff.
12 Further, beginning on December 1, 2009, and continuing until October 1, 2010, the
13 company charged all 87 customers \$70 per month instead of charging the tariff rate
14 of \$77 per month until March 1, 2010, and then the revised tariff rate of \$68.30 per
15 month thereafter.

16

17 **Q. Did you request an explanation of the reason the company charged a different
18 rate than the rate required by the company's tariff?**

19 A. Yes. On August 19, 2010, I requested by email an explanation regarding the
20 incorrect monthly bill amounts from Terryl Cooper of Cristalina. After receiving no
21 response, I sent another email on September 9, 2010, again requesting an explanation
22 for the incorrect monthly bill amounts. On September 10, 2010, I received a response
23 from Terryl Cooper stating "I will try to get you that info next week." On September

1 14, 2010, I suggested setting up a conference call to discuss the issue with Maria
2 Lindberg. On that same date, I received an email from Terryl Cooper which included
3 a document responding to my questions. See Exhibit No. ____ (TY-13) – September
4 14, 2010, Email and Attachments from Terryl Cooper to Travis Yonker. Regarding
5 the incorrect billing of \$57 in August 2009, Ms. Cooper responded, “[t]his was due
6 to a huge problem with the water service. It was a one-time credit to all customers.”
7 The company provided no further support for this change in its monthly rate.
8 Regarding the incorrect billing of \$70 from December 2009 to October 2010, Ms.
9 Cooper responded, “I do not have any info regarding this.” Within a month of this
10 response, however, the company adjusted the monthly billing charge to the correct
11 amount of \$68.30.

12
13 **Q. Did the Commission provide any technical assistance on charging the tariff**
14 **rate?**

15 A. Yes. According to the record of Consumer Complaint No. 108411, Ms. Stark
16 questioned Cristalina’s billed rate of \$70 in an email to Ms. Lindberg on March 11,
17 2010, and advised that, as of March 1, 2010, the proper rate was \$68.30. Exhibit No.
18 ____ (TY-4) at pages 34 to 35. Nevertheless, Cristalina continued to charge \$70 until
19 October 1, 2010.

20
21 **Q. What did you conclude regarding the company’s compliance with RCW**
22 **80.28.080?**

1 A. I concluded that Ms. Lindberg failed to ensure that the company charged the rates in
2 its tariff in August 2009 and again from December 2009 to October 2010. As a
3 result, Cristalina charged 83 customers incorrectly in August 2009 and then charged
4 87 customers incorrectly between December 2009 and October 2010, for a total of
5 170 violations of RCW 80.28.080.

6
7 **C. FORM OF BILLS**

8
9 **Q. What is your understanding of the requirements of WAC 480-110-375**
10 **regarding the form of customer bills?**

11 A. WAC 480-110-375 sets forth the requirements with which all water companies must
12 comply in relation to the form of bills sent to all customers. In particular, WAC 480-
13 110-375(1)(g) requires water companies to include “the water company’s name,
14 business address, and telephone number.” WAC 480-110-375(1)(f) requires water
15 companies to “[s]how the date the bill becomes delinquent if not paid.” My
16 understanding is that a water company must ensure that all bills to customers contain
17 all required elements.

18
19 **Q. Did you examine any of Cristalina’s bills?**

20 A. Yes. First, on September 9, 2010, I requested “bills” for certain accounts. On
21 September 14, 2010, I received a response from Terryl Cooper in which she referred
22 to the company’s bills as “invoices” and included three “invoices” for the requested
23 accounts. All three “invoices” included a “paid” stamp over the form with the date of

1 payment. See Exhibit No. ____ (TY-13) – September 14, 2010, Email and
2 Attachments from Terryl Cooper to Travis Yonker. Then, on November 12, 2010, I
3 requested by email from Terryl Cooper ten recent invoices to review the format of
4 the company’s bills. On that same date, I received an email response from Terryl
5 Cooper, in which Maria Lindberg was copied, with ten invoices addressed to ten
6 customers and all dated November 1, 2010. See Exhibit No. ____ (TY-14) –
7 November 12, 2010, Email from Terryl Cooper to Travis Yonker and Ten Cristalina
8 Invoices dated November 1, 2010.

9
10 **Q. In your opinion, does the bill form used for these ten invoices comply with WAC**
11 **480-110-375?**

12 A. No.

13
14 **Q. What led you to form that opinion?**

15 A. I reviewed the 13 invoices, including the three I received in September and the ten I
16 received in November, and found that these invoices did not contain a physical
17 business address or a telephone number, and did not include a date upon which the
18 bill would become delinquent.

19
20 **Q. Please describe any technical assistance that the Commission provided to the**
21 **company regarding the form of bills to customers.**

22 A. The record of Consumer Complaint No. 108411 documents technical assistance
23 provided to Cristalina. According to this record, Ms. Stark discussed the rules for

1 the form of bills on March 11, 2010. See Exhibit No. ____ (TY-4) at p. 32. On
2 August 18, 2010, Consumer Protection Staff Rachel Stark notified Maria Lindberg of
3 numerous violations Ms. Stark had discovered during the course of her investigation
4 of the consumer complaint. Among these violations, Ms. Stark noted a violation of
5 WAC 480-110-375 for not including all required information in the company's bills.
6 On September 21, 2010, according to the complaint record, Terryl Cooper submitted
7 a "statement" form for Ms. Stark's review. See Exhibit No. ____ (TY-15) – Cristalina
8 Statement form dated September 30, 2010. The statement form includes all required
9 information, including the physical business address, telephone number, and the date
10 a past due amount became delinquent.

11
12 **Q. What conclusion did you come to regarding the company's compliance with**
13 **WAC 480-110-375?**

14 A. Cristalina has a "statement" form, which it corrected after receiving technical
15 assistance from Staff. The company appears to have sent another billing form called
16 an "invoice," to customers in the past. Maria Lindberg has stated that "[w]e have
17 never sent invoices to customers to my knowledge. We have always sent
18 Bill/Statements." See Exhibit No. ____ (TY-16) – Maria Lindberg's Supplemental
19 Response to Supplemental UTC Staff Data Request No. 12. Apparently, though,
20 Cristalina has used an invoice at some point and failed to make the corrections on the
21 invoice that it already had made to its "statement," as shown by the three invoices
22 marked "paid," that Staff received on September 14, 2010. See Exhibit No. ____
23 (TY-13) – September 14, 2010, Email and Attachments from Terryl Cooper to

1 Travis Yonker. Thus, Cristalina has failed to comply with WAC 480-110-375, even
2 after receiving technical assistance.

3
4 **D. DISCOUNTS AND CREDITS**

5
6 **Q. What is your understanding of the requirements of RCW 80.28.100 regarding**
7 **rate discrimination?**

8 A. RCW 80.28.100 states that no water company “shall, directly or indirectly, or by any
9 special rate, rebate, drawback or other device or method, charge” a greater or lesser
10 amount to one person than the amount charged to all other persons. My
11 understanding of this law is that all customers must pay the same rate for the same
12 type of service and must pay for all services they consume. Thus, a company cannot,
13 through the use of credits or discounts, allow some customers to be charged at a
14 different rate than other customers.

15
16 **Q. Did you examine the company’s billing records?**

17 A. Yes, I examined the billing records from June 1, 2009, through March 31, 2010, and
18 from April 1, 2010, through October 1, 2010. See Exhibit No. ___ (TY-7) and
19 Exhibit No. ___ (TY-8). As a result of my examination of the records, I found six
20 instances in which the company issued a credit or discount to a customer. First, on
21 June 15, 2009, the company gave customer Kimmel a discount of \$15. Second,
22 between August 29 and 31, 2009, the company gave customer Bryan four discounts
23 totaling \$8,157.16. On the billing record received from the company, there was a

1 handwritten notation that the amount was a “write off.” See Exhibit No. ____ (TY-7)
2 at p. 12. Third, on September 7, 2009, the company gave customer Barmore a
3 discount of \$100. Fourth, on October 23, 2009, the company gave customer Olson
4 two discounts totaling \$5.31. Fifth, on January 13, 2010, the company gave customer
5 Posey a credit memo of \$115. Finally, on May 3, 2010, the company gave customer
6 Cullinan a credit memo of \$57.

7 I also reviewed a settlement letter I received from Cristalina as part of its
8 response to the Commission’s data request. According to the settlement letter, on
9 January 8, 2010, the company, through its attorney, Richard E. Jonson, offered to
10 settle customer Van Kirk’s past due amount for \$4,500. See Exhibit No. ____ (TY-17)
11 – Offer of Settlement to Customer Van Kirk. On January 18, 2010, Ronald Van Kirk
12 and Julie Van Kirk both signed the settlement offer. A review of the account history
13 indicates that as of January 1, 2010, Customer Van Kirk owed a total of \$9,225.40,
14 and on January 29, 2010, a payment of \$4,500 was received by the company. While
15 the account history continues to show the remaining overdue balance still owing, the
16 signed settlement offer states that the \$4,500 payment would be “in full satisfaction
17 of the overdue billing.”

18
19 **Q. In your opinion, do these records evidence rate discrimination?**

20 **A. Yes.**

21
22 **Q. Please explain your understanding of why issuing these credits and discounts**
23 **constitutes rate discrimination.**

1 A. As a result of various credits and discounts, some customers apparently received
2 water service from the company at a lower rate than other customers. This is rate
3 discrimination.

4

5 **Q. What explanation did the company provide about the discounts and credits you**
6 **identified?**

7 A. On November 16, 2010, I sent an email to Terryl Cooper requesting an explanation
8 for the six discounts and credits identified by my examination of the company's
9 billing records and for the settlement offer to forgive the debt of one customer. On
10 November 19, 2010, I received an email response from Ms. Cooper which began, "I
11 do not know why those discounts and credits were issued. That was done before my
12 time." Ms. Cooper further stated, "I will ask Maria about the Van Kirk accounts. I
13 have no info on that." See Exhibit No. ___ (TY-18) – November 19, 2010, Email
14 from Terryl Cooper to Travis Yonker. On December 21, 2010, I sent another email
15 to Ms. Cooper in an attempt to obtain additional details about the discounts and
16 credits. I did not receive a response.

17

18 **Q. What did you conclude regarding the company's compliance with RCW**
19 **80.28.100?**

20 A. I concluded that the company failed to comply with RCW 80.28.100 by issuing
21 credits or discounts to six customers resulting in those customers receiving services
22 at a different rate than other customers. I also concluded that the company failed to

1 comply with RCW 80.28.100 by settling one customer's amount owed for less than
2 the full amount owed.

3
4 **E. COMPLIANCE WITH COMMISSION'S ORDER 03 IN DOCKET**
5 **UW-090839**
6

7 **Q. What did Order 03 in Docket UW-090839 require?**

8 A. Order 03 required Cristalina, among other things, to meet certain deadlines to
9 transition from flat rates to metered rates. See Exhibit No. ___ (TY-19) – Order 03 in
10 Docket UW-090839. One of the steps in this transition required Cristalina to file
11 temporary metered rates within 120 days of completion of a meter installation
12 project. The company reached substantial completion of the project on March 15,
13 2010, which resulted in a filing deadline of July 15, 2010. See Exhibit No. ___ (TY-
14 20) – Order 04 in Docket UW-090839. In Order 04 in Docket UW-090839, the
15 Commission subsequently granted Cristalina an extension of time until September 1,
16 2010, to file temporary metered rates.

17
18 **Q. Did Cristalina file temporary metered rates?**

19 A. No. Cristalina failed to file temporary metered rates by September 1, 2010, and still
20 has not made the filing.

1 **Q. How did you reach your conclusion?**

2 A. I reviewed all of the filings in Docket UW-090839 and consulted with Staff in the
3 Water section. There is no record of any filing by Cristalina of temporary metered
4 rates.

5

6

IV. CONCLUSION

7

8 **Q. Do you have a recommendation for the Commission in this matter?**

9 A. Yes.

10

11 **Q. Please discuss your recommendation.**

12 A. The Commission should penalize Maria K. Lindberg as requested in the Complaint
13 for her failure to operate Cristalina in compliance with state law and Commission
14 rules. Ms. Lindberg allowed Cristalina to charge its customers contrary to the rates
15 established in the company's tariff, and also allowed Cristalina to discriminate
16 against its customers by issuing credits and discounts to some customers. Further,
17 despite having received technical assistance on the required form of customer bills,
18 Ms. Lindberg failed to ensure that Cristalina corrected the deficiencies in the various
19 bill forms that the company sends to customers. Finally, notwithstanding the
20 technical assistance Cristalina received from Ms. White, which is detailed in Ms.
21 White's testimony, Ms. Lindberg failed to file or arrange for the filing of temporary
22 metered rates for Cristalina. For these failures and to encourage future compliance,
23 the Commission should issue penalties against Ms. Lindberg.

1 Q. Does this conclude your testimony?

2 A. Yes.

3