

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Request of	)	DOCKET NO. TO-040992
	)	
	)	ORDER NO. 01
OLYMPIC PIPE LINE COMPANY	)	
	)	
	)	COMPLAINT AND ORDER
For a General Rate Increase of	)	SUSPENDING WUTC TARIFF NO.
18.6 per cent, Pursuant to the Terms of	)	26; ALLOWING RATES ON A
an Earlier Approved Settlement	)	TEMPORARY BASIS SUBJECT TO
Agreement in Docket TO-031973	)	REFUND
.....	)	

**BACKGROUND**

- 1     Olympic Pipe Line Company (Olympic) is a petroleum products pipeline company, currently in bankruptcy, offering intrastate transportation services in Washington. Olympic is subject to regulation by the Washington Utilities and Transportation Commission (Commission) under Title 81 RCW, including Chapters 81.28 RCW and 81.88 RCW.
- 2     Olympic’s pipeline transports refined petroleum products from four refineries in Whatcom and Skagit Counties, along the eastern edge of Puget Sound, and continuing south to Portland, Oregon. Olympic’s owners, ARCO Midcon LLC, (ARCO), a business unit of BP Pipelines (North America), Inc., (BP), and Shell Pipeline Company LLC, (Shell) each own a refinery served by the pipeline. Tesoro Refining and Marketing Company (Tesoro) and Conoco Phillips Company (CP) own the other two refineries. These four refinery owners also ship product on the pipeline, and their combined shipments account for approximately 80 percent of the pipelines throughput.
- 3     In December 2003, in Docket No. TO-031973, the Commission issued an order accepting a five-year Settlement Agreement (Settlement) between the above

parties, ending years of contentious litigation by establishing a consistent framework for the parties to resolve then-existing differences and propose rates cooperatively into the future. FERC and the United States Bankruptcy Court also approved the Settlement.

4 Among other provisions, the Settlement provided for annual rate filings to become effective on July 1<sup>st</sup> of each year, and to be made according to the procedures and formulas set forth in the Settlement.

5 In Section 1.4(c) of the Settlement, the signing shippers agree not to protest the rate filings called for, and calculated pursuant to, the Settlement. If there is a dispute, the signatories are to use the Dispute Resolution procedures in Settlement Section 4.5, up to and including binding arbitration if necessary. Settlement Section 4.5(d) further provides that:

**No provision of this Agreement is intended to nor shall be interpreted to limit the regulatory jurisdiction or authority of the FERC or the WUTC in any regard.** In the event that dispute arises under the terms of this Agreement that is not resolved prior to the termination of this Agreement, the dispute resolution provision of this Section 4.5 shall apply and shall survive the termination of this Agreement.

#### CURRENT CONDITIONS

6 On May 28, 2004, Olympic filed its first annual rate request under the Settlement seeking a general rate increase of \$3,796,000 (18.60%) annually on Washington intrastate traffic proposed to become effective July 1, 2004. The filing was new WUTC Tariff No. 26, and assigned Docket No. TO-040992. An identical, concurrent filing also was made with the Federal Energy Regulatory Commission (FERC) for interstate shipments terminating in Portland, Oregon.

7 On June 1, 2004, Olympic informed the Commission that Tesoro objected to the filings (both at the WUTC and at FERC), and the Dispute Resolution process called for in the Settlement was therefore in effect. CP does not object to the filing.

8 On June 25, 2004, the Commission received a letter from Olympic stating that all parties are committed to resolving their differences as soon as possible. If the arbitrator in the Tesoro objection matter determines that rates should be lower than those currently on file, Olympic is committed, by the terms of the Settlement, to file reduced rates with the Commission and to ask the Commission for authority to make the appropriate refunds. Olympic also asks that the Commission allow the proposed rates in WUTC Tariff No. 26 to go into effect, subject to refund, and to permit the Dispute Resolution process called for in the Settlement in Docket No. TO-031973 to run its course.

### FINDINGS AND CONCLUSIONS

9 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities, and transfers of public service companies, including pipeline companies. *RCW 80.01.040; RCW 81.04.010; Chapter 81.28 RCW and Chapter 81.88 RCW.*

10 (2) Olympic Pipe Line Company is a pipeline company and is a public service company subject to the jurisdiction of the Commission.

11 (3) On May 28, 2004, Olympic filed its first annual request as WUTC Tariff No. 26 under the terms of an earlier approved Settlement in Docket TO-031973, seeking a general rate increase of \$3,796,000 (18.60%) annually on Washington intrastate traffic proposed to become effective July 1, 2004.

- 12 (4) Of the two other parties to the Settlement, Tesoro opposes the filing and therefore the Dispute Resolution procedures in Section 4.5 of the Settlement, including binding arbitration, are now in effect. CP does not oppose the filing. Olympic is committed to resolve its differences with Tesoro.
- 13 (5) Olympic also asks that the Commission allow the current proposed rates in WUTC Tariff No. 26 to go into effect, subject to refund, and to permit the Dispute Resolution process called for in the Settlement in Docket No. TO-031973 to run its course.
- 14 (6) Per a letter received from Olympic on June 25, 2004, if the arbitrator in the Tesoro objection matter determines that rates are to be lower than those currently on file, Olympic, by the terms of the Settlement, will promptly file such reduced rates and ask the Commission for authority to make the appropriate refunds.
- 15 (7) This matter was brought before the Commission at its Open Meeting on June 30, 2004.

## ORDER

### THE COMMISSION ORDERS:

- 16 (1) The tariff provisions filed by Olympic Pipe Line Company on May 28, 2004, are suspended, and the proposed \$3,796,000 (18.30 %) rate increase in WUTC Tariff No. 26 contained in Docket TO-040992 is allowed to become effective July 1, 2004, subject to refund.
- 17 (2) In accordance with the Dispute Resolution procedures running their course per the earlier approved Settlement in Docket No. TO-031973, and

per a letter received from Olympic on June 25, 2004, if the arbitrator determines that rates need to be lowered, Olympic will promptly file reduced rates and ask the Commission for authority to issue the respective refunds.

- 18 (3) The Commission is not a signatory to the Settlement. According to the Settlement, particularly Section 4.5(d), and according to the Commission's order accepting the Settlement in Docket No. TO-031973, the Commission is not obligated to accept either the original tariff filing on a permanent basis, nor any revisions thereto. At the appropriate time, the Commission will review the filings, and determine what action is in the public interest.
- 19 (4) The Commission retains jurisdiction over this matter.

DATED at Olympia, Washington, and effective this 30th day of June, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD D. HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner