

**BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION )  
 )  
Complainant, )  
 )  
v. )  
 )  
OLYMPIC PIPE LINE COMPANY, INC. )  
 )  
Respondent. )  
\_\_\_\_\_ )

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**TESORO REFINING AND MARKETING COMPANY'S  
AND TOSCO CORPORATION'S  
PREHEARING MEMORANDUM**

*I* Tesoro Refining and Marketing Company (“Tesoro”) and Tosco Corporation (“Tosco”) (collectively “Tesoro/Tosco”) hereby files their Prehearing Memorandum pursuant to the Washington Utilities and Transportation Commission’s (“WUTC” or “Commission”) Sixth Supplemental Order, dated December 21, 2001. In accordance with WAC 480-09-420(3), the names and addresses of the pleading parties are set forth below. Please direct all service and correspondence regarding the above-captioned docket to the following:

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**I. INTRODUCTION**

2           This Commission should deny Olympic Pipe Line Company's ("Olympic") request for emergency interim rate relief. There is no "actual emergency where the relief is necessary to prevent gross hardship or gross inequity." There is no need for an "extraordinary remedy." There is not even a rational nexus between the financial hardship Olympic attempts to identify and the interim relief it requests.

3           Olympic's direct case completely fails to demonstrate the need for the Commission to grant emergency interim relief. Olympic has not alleged that the failure to receive emergency interim relief would impact the continued safe operation of the pipeline, the environment, or service. Olympic has not demonstrated that the failure to receive emergency interim relief would meet any unfilled need to preserve its existing assets or impact, in fact, its ability to finance new capital projects. Olympic turns a blind eye toward its recent dramatic improvements in throughput and revenues, its existing cash and receivables, its existing and fully adequate credit facility, the restrictions in its existing credit facilities which prevent the use of external debt, its financial and operational imprudence, the one-time nature of most of its recent expenses, and its owners' responsibility to properly capitalize its operations.

4           Instead of advancing a substantive case, Olympic builds its case around an implication—the Commission should send a "signal" to Olympic's owners by allowing it to collect emergency interim relief from its ratepayers. Tesoro/Tosco agree this Commission should send Olympic's owners a "signal" but disagree as to what the "signal" should mean.

Under the circumstances of this case, the correct regulatory “signal” to send is not that financial responsibility for imprudence should be shifted to Olympic’s ratepayers, but that Olympic and its owners should assume financial responsibility for their prior imprudence and properly capitalize Olympic’s future operations.

5           The circumstances which demand the correct regulatory “signal” be sent seem obvious. Since 1990, Olympic’s owners have exacted \$■■■■ million in dividends and have, on some occasions, even financed dividends with additional debt. Since 1990, Olympic’s owners have refused to invest a single penny of equity capital into Olympic—even after the Whatcom Creek tragedy. In recent years, Olympic has paid, at least, \$■■■■ million due to its imprudent operation resulting in the Whatcom Creek accident; \$■■■■ million for the completely failed and speculative Cross Cascades Project; \$■■ million for the flawed and out-of-service Bayview Terminal; and \$■■■■ million in largely unexplained, affiliated payments, including \$■■■ million in management fees. The imprudent capitalization of Olympic and the one-time costs associated with its imprudent operation have extracted a staggering toll on Olympic--\$■■■■ million—and are the primary reasons for any financial hardship Olympic may face today.

6           Olympic attempts to transform the financial hardship arising from the imprudent capitalization and operation into a financial hardship arising from its concern for safety. While Tesoro/Tosco are willing to pay the costs appropriate to ensure the safe operation of Olympic’s pipeline, Tesoro/Tosco are not willing to pay for imprudence. Olympic’s attempt to transform the nature and causes of its financial hardship must be considered with its

owners' refusal to invest a single penny of equity investment to improve the safety or efficiency of Olympic for over a decade. Their concern for safety does not extend to actual, equity investment.

7           As it stands today, Olympic's owners have repositioned themselves from owners to secured creditors and have no net equity in Olympic—a company which transports petroleum products through the center of Washington. As it stands today, the largest single risk to the continued safe operation of Olympic does not arise from the need for a particular capital project, but from the need for equity investment. Owners who drain a common carrier pipeline of equity and then refuse to invest when equity is needed should not be permitted to leverage the financial hardship they create into higher rates under an emergency standard; particularly if the operational reasons underlying any financial hardship are the common carrier's own imprudence.

8           Owning a common carrier pipeline which transports petroleum products through the heart of Washington includes a responsibility which Olympic's owners should be asked to face—the responsibility to properly capitalize Olympic with equity investment. Public relations campaigns do not substitute for responsible ownership and equity investment. Undercapitalizing a common carrier products line through distributing dividends needed to ensure the continued safe operation of the pipeline and then balking at providing equity investment when it may be needed is not prudent or responsible ownership. Repositioning their ownership interests into secured creditor interests to avoid risk when equity investment is needed is also not prudent or responsible ownership. This Commission should not

condone much less reward Olympic and its owners for operating Olympic in such a fashion through granting emergency interim relief.

## II. THE STANDARD FOR GRANTING EMERGENCY INTERIM RATE RELIEF

9 Interim rate relief is considered to be an “extraordinary remedy” under Washington law. Washington Util. and Trans. Comm’n v. Pacific Northwest Bell, U-75-40 (Sept. 26, 1975). Interim relief stands as a “useful tool in an appropriate case to stave off impending disaster. However, this tool must be used with caution and applied only in a case where not to grant would cause clear jeopardy to the utility and detriment to its ratepayers and stockholders.” Washington Util. and Transp. Comm’n v. Pacific Northwest Bell Tel. Co., U-72-30 (Oct. 10, 1972) (hereinafter “Pacific Northwest Bell”).

10 In Pacific Northwest Bell, the WUTC set the standard to evaluating a request for interim relief and set forth six criteria which must be used when analyzing such a request. These criteria have been consistently applied in all interim rate relief cases before the WUTC and are summarized as follows:

(1) This Commission has the authority, in proper circumstances, to grant interim rate relief to a regulated utility; this should be done only after an opportunity for adequate hearing;

(2) An interim rate increase is an extraordinary remedy, and should be granted only where an actual emergency exists where the relief is necessary to prevent gross hardship or gross inequity;

(3) The mere failure of a utility’s currently realized rate of return to equal the rate of return previously authorized to the

utility by this Commission as adequate is not sufficient, standing alone, to justify a grant of interim relief;

(4) The Commission should review all financial indices as they concern the applicant. [fn] including rate of return, interest coverage, earnings coverage, and the growth, stability, or deterioration of each, together with the immediate and short-term demands for new financing and whether the grant or denial of interim relief will have such an effect on financing demands as to substantially affect the public interest;

(5) In the current economic climate the financial health of a utility may decline very swiftly, and interim relief stands as a useful tool in an appropriate case to stave off impending disaster. This tool, however, must be used with caution, and it must be applied only in cases where the denial of interim relief would cause clear jeopardy to the utility and detriment to its ratepayers and its stockholders. This is not to say that interim relief should be granted only after disaster has struck or is imminent but neither should interim relief be granted in any case where full hearing can be accomplished and the case in chief resolved without clear jeopardy to the utility;

(6) As in all matters before this Commission, we must reach our conclusion while keeping in mind the statutory charge to this Commission that we must “regulate in the public interest”. This is our ultimate responsibility, and a reasoned judgment must give appropriate weight to all relevant factors.

Id. at 9 (emphasis added).

11           Since Pacific Northwest Bell, Washington has consistently applied the six criteria as set forth in that order. See Washington Util. and Transp. Comm’n v Pacific Northwest Bell Tel., U-75-40 (Sept. 26, 1975); Washington Util. and Transp. Comm’n v. Alderton-McMillin Water Supply, UW-911041 (June 3, 1992); Washington Util. and Transp. Comm’n v. Puget Sound Energy, UE-011163 (Oct. 2001); Washington Util. and Transp. Comm’n v. Pacific

Northwest Bell Tel. Co., U-75-40, (Sept. 26, 1975); Washington Util. and Transp. Comm'n v. Ludlow Util. Co., U-87-1550-T (Feb. 19, 1998); Washington Util. and Transp. Comm'n v. South Bainbridge Water System, Inc., U-87-1355-T, (Apr. 7, 1998).<sup>1</sup>

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In two recent cases, the Commission has added context to Pacific Northwest Bell. See Re Avista Corp., UE-010395 (Sept. 24, 2001) (hereinafter "Avista"); Washington Util. and Transp. Comm'n v. Puget Sound Energy, UE-011163 (Oct. 2001) (hereinafter "Puget Sound Energy"). In Avista, the WUTC granted a 25 percent surcharge to Avista after determining that it was the minimum it believed to be immediately necessary to preserve Avista's ability to fulfill its service obligations to the public. Further, it found that Avista faced emergency conditions due, in significant part, to circumstances beyond its ability to control, such as drought conditions and the instability in the wholesale power market. It concluded that gross inequity or hardship was a foreseeable result unless the WUTC granted immediate rate relief. The WUTC not only looked to Avista's rate of return, which was a negative .7 percent, but it looked to a variety of financial indices, including interest coverage, immediate and short-term demands for financing, and other factors, such as the fact that without immediate rate relief it was highly likely that there would be a significant downgrade of the Company's credit ratings. Id. at 29-30. The WUTC found it important that the company had taken steps to improve its financial condition, including cutting management

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<sup>1</sup> While Pacific Northwest Bell was decided under Title 80 of the Revised Code of Washington, and oil pipelines are regulated as common carriers under Title 81 of the Revised Code of Washington, the statutory schemes are substantially identical with regard to policy issues and rate regulation. Accordingly, Pacific Northwest Bell should be directly applied to resolve the issues in this interim proceeding.

salaries, reducing other operating expenses, and deferring various planned capital expenditures resulting in roughly \$█ million of reduced expenditures. Id. at 56.

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The WUTC, soon after its decision in Avista, denied a request for interim relief by Puget Sound Energy (“PSE”) in Washington Util. and Transp. Comm’n v. Puget Sound Energy, Inc., UE-011163 (Oct. 2001). PSE requested “interim” or “expedited relief” outside the context of a filing of a general rate case and committed to filing a general case at a date several months after filing for the requested emergency relief. In denying the requested interim relief, the WUTC cited its decision in the earlier Avista case and directly distinguished PSE’s request for relief from Avista’s. The WUTC summarized some of the differences as follows: (1) Avista’s initial filing contained a much more detailed documentation of specific indicators which demonstrated the urgency of its need for a surcharge; (2) Avista stated that it was already taking extraordinary steps to preserve its financial integrity, including the reduction of management salaries and the deferral of substantial expenses and capital investment; PSE did not; (3) Avista contended that without relief it might not be able to receive *any* financing, and it named certain specific major construction projects for which it was currently unable to obtain financing for completion. PSE stated only that without relief, it would be unable in the future to obtain certain types of financing which it called “reasonable rates” in the event that the financing were needed; (4) Avista asserted that without relief it would lose access to capital markets which the need for financing was clear and immediate; PSE made no such assertion; (5) Avista asserted that without relief its rate of return would be negative. PSE asserted that without relief, its



overall return and its return on equity would be below its authorized level. Finally, this Commission concluded that PSE's filing as a whole did not demonstrate that it was in dire, emergency, or extraordinary need of rate relief. Id. at 14. It stated:

While cash shortfall or revenue lag may not be the only conditions upon which the Commission would consider extraordinary relief, a company seeking such relief must show a clear and present extraordinary need, beyond the needs inherent in any situation that may prove a need for general rate relief. A request for extraordinary relief must provide a clear showing of the adverse consequences that will reasonably flow from the lack of the relief requested, and must demonstrate why relief in a general rate case, or in an interim request associated with a general rate increase, would be inadequate to protect the Company and its ratepayers from severe financial consequences.

Id. at 15.

### **III. OLYMPIC'S DIRECT CASE FAILS TO MEET THE STANDARD FOR INTERIM RELIEF**

14 Olympic's direct case, assuming the facts it alleges are true, does not meet the legal criteria for emergency relief. Olympic's direct case speaks only in broad, general terms and does not give specifics as to either the nature of the financial crisis it is asserting or the impact of that alleged financial crisis on its operations or its ability to fund its 2002 capital budget. Olympic bases its request for interim relief upon two principal points. First, it asserts it is in a deteriorating financial position. See Direct Testimony of Bob Batch at 11-12. Second, it asserts it cannot raise the funds necessary to meet its 2002 capital budget. See Supplemental Direct Testimony of Bob Batch at 4.

Any fair comparison between Olympic's case with this Commission's clear standards of Pacific Northwest Bell, Avista, and Puget Sound Energy finds Olympic's case wholly lacking:

- Olympic has not made a clear showing of any adverse consequences that will reasonably flow from the lack of the relief requested. Instead, Olympic suggests it may not be able to raise the funds for capital projects, if it were to make an attempt. It suggests it may not be able to fund its proposed 2002 capital budget. Neither consequence has been clearly shown to reasonably flow from the lack of the relief requested.
- Olympic has not demonstrated that a gross inequity or hardship is a foreseeable result from the lack of relief requested.
- Olympic has not demonstrated why relief in its general rate case would be inadequate.
- Olympic has not demonstrated why relief is immediately necessary to fulfill its service obligations to the public. In fact, Olympic has not even asserted an impact to service.
- Olympic has not demonstrated that it faces emergency conditions due to circumstances beyond its control (such as a drought or market instability). In fact, Olympic and its owners are the primary cause of any financial hardship it may be experiencing.

- Olympic has not advanced detailed documentation of specific indicators which demonstrate the urgency for interim relief. In fact, Olympic's case contains no financial ratios or other analysis typically necessary to be demonstrated when justifying emergency interim relief.
- Olympic has not set forth any steps, whether extraordinary or not, it has taken to preserve its financial integrity. Olympic has not taken any steps to reduce costs, defer one-time expenses, or defer capital investment. Instead, it has increased its spending on one-time expenses, accelerated its capital projects, raised salaries, increased affiliated management fees, and mounted a multimillion dollar public relationship campaign to preserve BP's reputation.
- Olympic has not even stated an inability to obtain financing. Instead, Olympic has stated it would not qualify for an external credit facility if it were to apply. It has not applied for a single loan or talked with a single loan officer. Olympic has ignored its own existing internal credit facility with Atlantic Richfield Company ("ARCO"), which is more than adequate to solve its immediate capital needs. In fact, Olympic has not even requested funds under its own existing internal credit facility with ARCO. Also, Olympic does not demonstrate any nexus whatsoever between the interim relief requested and its ability to obtain financing from either external or internal sources. Olympic does not even state it can obtain financing if interim relief is granted.

- Unlike Avista, Olympic has not demonstrated that it will lose access to capital markets which it needs for financing. In fact, by contract, Olympic has previously put in place a credit facility which specifically prevents it from participating in all external capital markets. Moreover, the internal credit facilities it has operated through for the past two years continue to be available to Olympic.
- Olympic has not demonstrated an inability to fund capital projects from operations. Olympic has had \$[REDACTED] million in net income during the last three months and has existing cash and receivables of \$[REDACTED] million. This is more than sufficient to expect it to fund reasonable levels of capital improvements.
- Olympic has not demonstrated that it's financial hardship is anything other than the result of its own imprudent operation. In fact, Olympic has distributed in dividends, wasted through imprudent operation, or paid in unexplained affiliated payments in excess of \$[REDACTED] million—an amount which dwarfs its request for emergency interim relief. Under such circumstances, Olympic and its parents should bear the financial responsibility for their imprudent capitalization and imprudent operation and not Olympic's ratepayers.

**IV. STAFF SEEMS TO AGREE THAT OLYMPIC'S CASE FAILS TO MEET THE STANDARD FOR EMERGENCY INTERIM RATE RELIEF**

16 Staff sets forth the appropriate standard in evaluating a request for emergency interim relief. KLE-1T (marked as KLE-131T), Page 8. After setting forth the appropriate standard and its typical application, Staff concludes that Olympic's case does not provide an analysis establishing that failing to receive interim relief will have such an effect on the Company's financing demands as to substantially affect the public interest as required to support its request for interim relief. Id. at lines 18-20.

17 Toward such a demonstration, Staff points out that Olympic would first have to demonstrate that its requested additional capital expenditures for 2002 are essential and cannot be deferred. Id. at lines 1-2. Next, Olympic should indicate what actions it has taken to minimize its operating expenses to offset operating losses. Id. at lines 12-14. Also, Olympic should present a carefully thought out financial plan for evaluation by the Commission. Id. at lines 14-15. Finally, Olympic must make the connection between the interim relief it seeks and its ability to obtain the immediate financing it needs. Id. at lines 15-17. Instead of providing a substantive case, Staff acknowledges that Olympic's Petition and testimony simply assert that Olympic is suffering continued operating losses, is in default and unable to pay interest on its outstanding loans, and, as a result of these circumstances, is unable to raise additional capital to fund its 2002 capital budget. Id. at lines 1-7.<sup>2</sup> In

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<sup>2</sup> Tesoro/Tosco agree with Staff's evaluation of Olympic's case. Unfortunately, after demonstrating the failings of Olympic's case, Staff goes forward to assume there is an emergency by stating "Olympic has experienced losses and it appears that those past losses may be affecting its ability to obtain needed capital for essential new

conclusion, Staff acknowledges that Olympic does not provide support for its request for interim rate relief similar to the support required in recent dockets. Id.

**V. Olympic's Financial Condition Is Improving.**

18 Olympic alleges as the first of its principle reasons for needing emergency interim rate relief that it is a deteriorating financial position. Olympic's financial condition is improving. Olympic's throughput has increased by █ percent from the first six months of 2001 to the last six months of 2001. See Exhibit GG-2C (marked as GG-115C) to the Direct Testimony of Gary Grasso.

19 Olympic's revenues and cash flows have also increased substantially recently due to increasing throughput and increasing rates. See Exhibits GG-7C and GG-8C (marked as GG-120C and GG-121C) to Direct Testimony of Gary Grasso. Olympic's revenues increased █ percent from June to July 2001 as a result of increased throughput and █ percent from August to September 2001 as a result of increased rates. See Exhibit GG-3C (marked as GG-116C) to Direct Testimony of Gary Grasso. In the most recent three-month period, Olympic's revenues are more than adequate to meet its needs. Olympic has paid \$█ million for capital projects in the last three months alone while maintaining its

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facilities." Id. at lines 2-3. From this assumption, Staff goes forward again to derive a unique calculation as to what it believes would be an appropriate amount of interim relief. Tesoro/Tosco understand the Staff's dilemma in attempting to quantify the need for emergency interim relief under the unique circumstances of this interim proceeding, but they do not agree with Staff's admittedly preliminary calculation of Olympic's financial need.

cash position. Direct Testimony of Gary Grasso at . Olympic currently has cash and receivables of \$ [REDACTED] million. See Direct Testimony of Gary Grasso at 6.

20 While its revenues and cash flow are increasing, Olympic's operating costs may be expected to return to more normalized levels. Many of Olympic's recent operating costs are nonrecurring, extraordinary costs associated with the Whatcom Creek accident or its failed investments such as the Cross Cascade Project and the Bayview Terminal Project. See Exhibit GG-5C (marked as GG-118C) to Direct Testimony of Gary Grasso and Direct Testimony of John F. Brown at 15-16. Taken as a whole, Olympic's financial position is improving.

**VI. There Is No Need to Fund Capital Improvements In Advance Through Emergency Interim Relief.**

21 Olympic alleges as the second of its principle reasons for needing emergency interim rate relief that it may be unable to fund its capital budget for 2002. The funding for capital improvements should be Olympic's, its creditors', or its owners' responsibility and should not be funded in advance by its ratepayers through unsupported, emergency, interim rate increases. The normal process for funding capital improvements allows regulators to ensure that the capital expenditures meet the standards for inclusion in rates and are properly borne by ratepayers. Typically, a capital budget for a pipeline company is funded through retained earnings, a credit facility, or additional equity investment by its owners. If the subsequent capital investment meets the standards for inclusion in rates, the pipeline carrier is allowed to recover its investment through an increased depreciation allowance and is allowed a

reasonable return on its remaining, unrecovered investment through future rates. See Direct Testimony of John F. Brown at 9.

22 Olympic has the ability to fund its 2002 capital budget without interim relief. It has significant revenues and cash flow from which to fund the 2002 capital budget. Olympic's expected cash flow and revenues could readily provide funding for reasonable levels of capital improvements during 2002. In addition, Olympic has accounts receivable of \$ [REDACTED] million on its balance sheet as of November 30, 2001. See Direct Testimony of Gary A. Grasso at 2 & 6. And, Olympic has a preexisting \$ [REDACTED] million line of credit from ARCO with \$ [REDACTED] million of available credit remaining. Finally, Olympic has among the most sophisticated and well-financed owners in the world with cash on hand approaching \$ [REDACTED] billion and virtually limitless credit capacity. There should be no doubt whatsoever that, with any effort at all, Olympic can fund its 2002 capital budget.

23 Instead, Olympic wishes to have this Commission believe that its ratepayers are the only solution to any problem it may have funding its 2002 capital budget. Tesoro/Tosco strongly disagree. As a matter of sound regulatory policy, ratepayers' funds should not be used to solve the problems Olympic and its owners have created through their imprudent capitalization and operation of Olympic. Under these circumstances, Olympic and its owners should have financial responsibility to fund the 2002 capital budget.



**VII. UNDERCAPITALIZATION, IMPRUDENT OPERATION, AND PRIOR ONE-TIME EXPENSES SHOULD NOT FORM THE BASIS FOR EMERGENCY INTERIM RELIEF**

24 As suggested above, the Commission should consider the causes of Olympic's financial hardship so that it may consider whether Olympic, its owners, or its ratepayers should be held financially responsible.<sup>3</sup> Olympic's current financial position is not principally the result of matters which are properly borne by its ratepayers, either through interim or permanent rates. Instead, Olympic's current financial position is principally the

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<sup>3</sup> In Washington Util. Transp. Comm'n v. Alderton-McMillin Water Supply, UW-911041 (June 3, 1992), this Commission found that one of the salient factors that must be considered in evaluating a request for emergency interim relief is the safety and adequacy of the service the company provides, and whether the company has ignored its public service requirements or violated the public trust. This Commission stated that Alderton-McMillin, as a regulated public service company has the responsibility under RCW 80.28.010 to "furnish and supply such service, instrumentalities and facilities as shall be safe, adequate, and efficient, and in all respects just and reasonable" and denied any relief. Id. at 5.

In Alderton-McMillin, Staff's analysis concluded that the current operating revenue was equal to the total of the current monthly cash financial obligations, but felt the company would not have the ability to pay its financial obligations for the next few months because of a significant amount of overdue accounts, wages and taxes payable. Public Counsel argued that the cause of the company's inadequate operating income was self inflicted by its own mismanagement and therefore did not amount to an emergency. There was also large amounts of testimony from the public regarding the poor service provided by Alderton-McMillin.

result of the improper capitalization and waste amounting to, at least, \$144 million in recent years. Following is a breakdown of this total amount:

- \$ [REDACTED] million in dividends;
- \$ [REDACTED] million, at least, in imprudent costs associated with the Whatcom Creek accident;
- \$ [REDACTED] million in an improperly designed and not-in-service Bayview Terminal;
- \$ [REDACTED] million in its failed Cross Cascades Project; and
- \$ [REDACTED] million in largely unexplained and seemingly excessive affiliated payments to BP.

Exhibit No. GG-5C (marked as GG-118C)

25 Olympic's owners have undercapitalized Olympic by over \$ [REDACTED] million when compared with industry standards for the past decade should . During this time, they have distributed to themselves \$ [REDACTED] million in dividends and have even added debt to maintain their dividend payouts. The Commission should carefully consider this pattern of undercapitalization in assessing Olympic's interim rate request.

26 The costs associated with Whatcom Creek should not be borne by ratepayers. They arose from Olympic's imprudent management of the pipeline. They are also extraordinary one-time costs which reflect the realization of risks prudent management should have managed through self-insurance or regular insurance programs. Finally, the costs associated with the Whatcom Creek are speculative, are not associated with providing service, and are costs which Olympic has already been compensated for through its rate of return. The

Commission should carefully consider the impact of the Whatcom Creek costs in assessing Olympic's interim rate request.

27           The costs associated with the failed projects of Bayview and Cross-Cascades should also not be borne by the ratepayers because they are costs associated with a speculative investment by Olympic and are not related to providing service on Olympic's existing pipeline. The costs arose from imprudent management and are not the lowest cost alternatives relating to providing prudent service. In regard to the Cross Cascades Project specifically, it was a speculative investment on behalf of Olympic, and appears to be a completely failed project that is unrelated to the service which is presently being provided to Olympic's ratepayers. The Bayview Terminal Project is not in service and it is not apparent that it will ever be placed in service. The Commission should carefully consider the impact of the Bayview and Cross Cascades costs in assessing Olympic's interim rate request.

28           The costs associated with unexplained affiliated payments to BP should be carefully scrutinized when considering any rate relief, whether interim or permanent. Since BP has become the operator for Olympic, the costs associated with management have increased dramatically. Most of these costs are unexplained. The Commission should carefully consider the impact of the high level of unexplained affiliated payments in assessing Olympic's interim rate request.


## VIII. CONCLUSION

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Olympic has the burden to demonstrate clearly its need for extraordinary, emergency relief. It has failed completely. The failure of Olympic's case is grounded not only in the failure of its case to meet the evidentiary burden, but also in the failure of its case to reflect the underlying evidence this Commission should consider. Olympic's financial position is improving. After interest on all debt and all other expenses are taken into consideration (including many expenses which should not be borne by ratepayers), Olympic is currently making a net profit. Olympic also has the complete capacity to fund its 2002 budget, through cash flow, existing cash and receivables, an existing credit facility, and its well-financed and sophisticated owners. The simple truth of this proceeding is there is no emergency—other than the one Olympic has chosen to create in its efforts to raise interim rates.

DATED this 11<sup>th</sup> day of January, 2002.

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**CERTIFICATE OF SERVICE**

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