

- 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 1st 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. Olympic asked the Commission to allow the proposed rates to go into effect on a temporary basis subject to refund and to permit the dispute resolution process in the Settlement to run its course. In a letter dated June 25, 2004, Olympic told the Commission that if the arbitrator determined that its rates were to be lower than those currently on file, Olympic would promptly file such reduced rates and ask the Commission for authority to make the appropriate refunds.

8 On June 30, 2004, the Commission signed a Complaint and Order suspending the proposed tariff revisions and allowed the proposed rates to become effective July 1, 2004, on a temporary basis subject to refund. The Commission retained jurisdiction over the matter

9 Tesoro presented its objections to Olympic's rate filing in a three-day arbitration proceeding. The parties agreed that the Settlement provided the rules for Olympic's annual tariff calculation, but they disagreed about the meaning of the Settlement's provisions. The arbitrator rendered a written decision. Briefly, the arbitrator interpreted the Settlement Agreement to require two changes to Olympic's rate calculation: (a) Olympic was not entitled to any Net Carryover relating to calendar year 2003; and (b) Olympic was required to use prior calendar year data as its estimate for future tariff year revenues and expenses.

10 Olympic has revised its tariff calculation in accordance with the arbitrator's ruling. The original 18.6% (\$3,796,000) proposed increase would be reduced to a .13%(\$26,531) increase. Olympic must also refund a portion of the rates it has

collected for shipments between July 1, 2004, and September 30, 2004. These refunds will be paid by October 31, 2004, with interest as defined in the Settlement for over-collections. Olympic's refunds for shipments from October 1, 2004, through the effective date of the Commission's order will be paid with interest within a month of being known. On October 26, 2004, Olympic filed revised rates in tariff 27 asking for a November 1, 2004, effective date with Less Than Statutory Notice treatment.

- 11 Staff has analyzed the revised rate calculations and is of the opinion the proposed revised rates and refund proposal are fair, just, reasonable, and sufficient. The arbitrator did not change the Settlement Agreement, but interpreted two elements; the net carryover provision does not apply to 2003 (the Commission approved the Settlement Agreement December 23, 2004) and Olympic must use previous calendar year data, instead of budgets, to estimate future tariff years revenues and expenses. The result of both interpretations is the proposed permanent rates more closely reflect traditional ratemaking theory and are less than the temporary rates allowed to become effective July 1, 2004, subject to refund. The four parties to the settlement agreement beside Olympic are Tesoro, Conoco Phillips, British Petroleum, and Shell. These parties have agreed to Olympics revised rate proposal and refund procedure.
- 12 In accordance with the Complaint and Order, Olympic has promptly filed a Petition seeking the Commission's approval of the revised rates and to allow refunds.

FINDINGS AND CONCLUSIONS

- 13 (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.*

- 14 (2) Olympic Pipe Line Company is a pipeline company and is a public service company subject to the jurisdiction of the Commission.
- 15 (3) On May 28, 2004, Olympic filed its first annual request as WUTC Tariff No. 26 in Docket TO-040992 seeking a general rate increase of \$3,796,000 (18.60%) annually on Washington intrastate traffic proposed to become effective July 1, 2004. This filing was filed under the terms of an earlier approved Settlement in Docket TO-031973
- 16 (4) Of the two other parties to the Settlement, Tesoro opposed the filing and therefore the Dispute Resolution procedures in Section 4.5 of the Settlement, including binding arbitration, became in effect. CP did not oppose the filing.
- 17 (5) A complaint and order suspending the filing was issued on June 30, 2004. The proposed rates were allowed effective July 1, 2004, on a temporary basis subject to refund.
- 18 (6) The dispute went to an arbitration proceeding and was ruled in favor of Tesoro. Olympic has revised its proposed rates pursuant to this decision and now proposes a \$26,531 (.13%) increase to become effective November 1, 2004, with Less Than Statutory Notice treatment. Olympic is also proposing to refund a portion of the temporary rates it charged for shipments from July 1, 2004, through October 31, 2004.
- 19 (7) The tariff revisions proposed herein are reasonable. The proposed rates allow the company the opportunity to earn its revenue requirement plus a reasonable return.

- 20 (8) It is in the public interest that the Complaint and Order Suspending Tariff Revisions in this docket be dismissed and that the proposed revisions to the respondent's Tariff No. 26 become effective November 1, 2004, with Less Than Statutory Notice treatment, and that Olympic be authorized to make appropriate refunds for shipments from July 1, 2004, through October 31, 2004.

ORDER

THE COMMISSION ORDERS:

- 21 (1) That the Complaint and Order suspending the tariff revisions in Docket TO-040992 dated June 30, 2004, is dismissed and the revisions filed herein will become effective November 1, 2004, with Less Than Statutory Notice treatment. The portion of temporary rates collected between July 1, 2004, and October 31, 2004, are to be refunded in the manner requested by Olympic Pipe Line Company.

DATED at Olympia, Washington, and effective this 27th day of October, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

PATRICK J. OSHIE, Commissioner