

**BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION	)	
	)	DOCKET NO. TO-011472
Complainant,	)	
	)	
v.	)	
	)	
OLYMPIC PIPE LINE COMPANY, INC.	)	
	)	
Respondent.	)	
_____	)	

**TESORO REFINING AND MARKETING COMPANY'S  
STATUS REPORT ON DISCOVERY COORDINATION EFFORTS**

*I* Tesoro Refining and Marketing Company (ATesoro@), by and through its attorneys, Brena, Bell & Clarkson, P.C., hereby files with the Washington Utilities and Transportation Commission (ACommission@) its status report on discovery coordination efforts. In accordance with WAC 480-09-420(3), the name and address of the pleading party is set forth below. Please direct all service and correspondence regarding the above-captioned docket to the following:

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2      **Introduction**

Olympic and its owners are seeking rate increases that will cost shippers millions of dollars in future transportation costs. Olympic and its owners are the only source for the information that the FERC and the WUTC need in order to evaluate the 62% increase. In order to provide relevant evidence to both commissions, the Staff and intervenors must be given access to the relevant information through discovery. Tesoro has patiently waited for meaningful responses to its requests. Instead, Tesoro has been asked to and has withdrawn requests, revised requests, and coordinated its requests with the Staff and the intervenors. Nevertheless, to date, Tesoro has received less than token responses to its requests.

3      **WUTC**

Tesoro has made significant concessions in order to minimize the discovery burden upon Olympic. It originally reduced the number of requests in half prior to even serving its initial request. Then, after not receiving a timely response it identified requests that it needed on a priority basis so that all parties could receive responses to their priority requests prior to having to file their case in chief. Again, Tesoro did not receive any response to the following priority requests: 110, 114(b), 127(i), 127(j), 164, 166, 169, and 170. Tesoro received only untimely objections to the following priority requests: 112(b), 112(c), and 120.

4              Tesoro received an inadequate response to the following requests:

102(a) The lists requested were not provided.

108              The detailed accounting information was not provided.

- 112 The computer file referenced was not provided.
- 117 The computer file requested was not provided.
- 119 We did not receive the general ledgers from 7/2000 to the present. We also need the codes in order to be able to understand the reports.
- 120 Request asked for all Aplant@ replacement and response discusses Apipe@ replacement.
- 122 Information for prior to 2001 is illegible, and the projects are not identified by name.
- 123 The computer file referenced was not provided. The AFUDC, ADIT, and CWIP information was not provided.
- 125 The AFUDC, ADIT, and CWIP information was not provided.
- 126 The Exhibit provided no clarifying or explanatory language. Does not answer the question at all. Also, the monthly information for Bayview provides no information prior to April 1999.
- 127 None of the requested information was provided.
- 131 Response did not list service providers nor did the response explain the nature of their service.
- 133 None of the requested information was provided, and the Exhibit was not responsive.
- 158 None of the requested information was provided.
- 168 No list was provided.

5 Tesoro received no responses from Olympic's experts on the requests that were directed to them. These requests did not require any of Olympic's resources to respond. They were as follows: 100, 118, 128, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147,

148, 149, 150, 151, 153, 154, 155, 156, and 157 (134-157 are addressed to Dr. Schink). Instead of providing a response, Olympic simply stated that ADeferred-not identified as a Tesoro priority.@ This is not accurate. In our letter of February 21, 2002, we specifically acknowledged that Athese requests require a relatively simple response from Olympic=s witnesses regarding the basis for their testimony or production of the documents upon which they rely and there is no justification for delaying the response.@ We are aware of no reasons why Olympic=s experts could not respond to these requests in the 21 days between service and the pretrial hearing on February 22, 2002.

6 Tesoro has contacted Staff and Tosco counsel to coordinate future discovery requests. Tesoro has only filed two additional discovery requests: 172 and 173. Request 172 sought service of any discovery provided in the FERC proceeding. Request 172 did not impose any additional burden because Tesoro agreed to accept the copies it was already receiving as a party in the FERC proceeding in satisfaction of this request. Request 172 was designed to eliminate the duplication that arises because each proceeding has its own protective order that prevents the use of confidential discovery responses served in one proceeding from being used in the other proceeding. Request 173 simply incorporated by reference the other parties=requests so that Tesoro did not need to file an additional request. Request 173 became obsolete when Judge Wallis ruled that any party could file a motion to compel responses to another party=s discovery requests. Request 173 now merely requests copies of responses to other parties=requests, thereby eliminating duplication.

7           It is inevitable that the intervenors and the Staff's requests seek discovery of information of similar subject matters since the issues are the same in this case. However, the requests are unique and each party seeks answers to different questions within that subject matter. Nevertheless, to the extent that a request of one party seeks the same information as a request of another party, Olympic can do what it did in the interim proceeding when it merely referenced its response by stating "See response to WUTC Staff Data Request No. 6."

8           **Coordination with FERC**

          The parties were ordered to provide discovery responses on a rolling basis and respond within 10 business days. Olympic has not provided discovery on a rolling basis. In fact, Olympic did not respond to any of Tesoro's requests until last night almost 21 days after they were served.

          Instead, Olympic only responded to the Staff and Tosco requests.

9           Tesoro also requested copies of any responses made to the other parties' requests so that Tesoro could evaluate whether or not to withdraw its request if the other response provided the information requested. FERC counsel for Olympic did not serve any of its responses to the other parties' requests on Tesoro. Tesoro was informed yesterday that these responses were forthcoming by Federal Express and has not had the opportunity to evaluate whether or not FERC requests can be streamlined or withdrawn.

10          **Cooperation with Opposing Counsel**

          We have been attempting for the past week to arrange a teleconference to resolve the problems we have with discovery. Olympic's FERC counsel has still not responded to our most

recent request to discuss these problems. And, today Olympic's WUTC counsel sent us a letter stating that they wanted us to talk to their FERC counsel prior to us talking to them today at 3 p.m.

We have been unable to reach Olympic's FERC counsel so far today.

*11*     **Suggestions for Minimizing Discovery Problems**

1.       Olympic could either respond to the requests or identify the problems it is having and indicate the date upon which it will serve its response.

1.       To the extent that Olympic thinks that responses in the WUTC proceeding are duplicative it need only ~~cut~~ and ~~paste~~ the same response and then supplement it with any additional information requested.

2.       Olympic could instruct its FERC and WUTC counsel to stipulate that any documents or discovery produced in one proceeding could be used in the other proceeding irrespective of the protective orders in place.

3.       Olympic could stipulate to a delay in the deadline for the intervenors and Staff to file their testimony in the FERC proceeding in order to give Olympic more time to provide ~~a~~ meaningful responses to discovery requests.

4.       The Commission could require compliance filings regarding audit records, affiliated transactions, Whatcom Creek expenses, updated financial statements, and Adjustments to Test Year Expenses listing all extraordinary expense items that were not removed from test year expenses.

5. The parties could provide Judge Wallis with detailed motions to compel. A hearing could be set where Olympic's witnesses and Staff are available. All objections and compel issues could be resolved once and for all. Then a detailed order to compel could be issued with identified deadlines. If discovery is still not provided, then sanctions can be imposed.

DATED this 1st day of March, 2002.

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Attorneys for Tesoro Refining and  
Marketing Company

By

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 1, 2002,  
a true and correct copy of the foregoing  
document was faxed, emailed, and mailed  
to the following:

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