

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

OLYMPIC PIPE LINE COMPANY, INC.,

Respondent.

DOCKET NO. TO-011472

COMMISSION STAFF'S ANSWER
TO OLYMPIC PIPE LINE'S
MOTION TO AMEND HEARING
SCHEDULE

On March 21, 2002, Olympic filed its Motion to Amend Hearing Schedule (Motion to Amend). Olympic's Motion to Amend mostly reiterates the arguments Olympic made in its March 11, 2002, letter regarding case schedule. Staff's March 19, 2002 letter responded to most of Olympic's arguments. For the sake of brevity, Staff adopts the arguments it made in its March 19 letter, and incorporates that letter herein by this reference.

Staff's March 19 letter noted that any definitive comments about schedule must necessarily await Olympic's responses to the parties' priority data requests. The Commission required that Olympic respond by March 22, 2002. Olympic failed to comply with that deadline. The result is that Staff is unable to proceed. Staff has filed a motion today seeking dismissal of this case based on Olympic's failure to comply.

If Staff's motion is not granted, some accommodation to the schedule is now required, if this case is to go forward. For the reasons stated in Staff's March 19 letter, and below, Staff still opposes Olympic's proposal to delay this case until October 22, 2002. Given the inability of

Olympic to respond to reasonable requests for discovery, Staff can only suggest that if the case is not dismissed, no schedule be set at this time. Instead, the Commission should set a schedule for discovery motions, and proceed to determine appropriate sanctions.

Responding to the new points made by Olympic in its Motion to Amend, Staff notes one important difference between the position Olympic took in its March 11 letter compared to its Motion to Amend. In its March 11, 2002, letter, Olympic asked that hearings in the instant case take place after the FERC hearings were completed. (March 11 letter at 3). FERC hearings are scheduled to start July 9, 2002. In its Motion to Amend, Olympic now asks that hearing in the instant case occur after the FERC ALJ issues her proposed decision, which is scheduled to occur about three months later (October 22, 2002). (Motion to Amend at 4, 5 and 10).

There is no reason to await a FERC ALJ decision. A FERC decision, let alone a FERC ALJ decision, is not binding on this Commission in any respect. A FERC ALJ decision is not even binding on FERC. Olympic justifies delay until October 22, 2002, because it thinks how FERC applies its own methodology will be useful in the instant case. Even if that is true, how FERC applies its own methodology will not be known until FERC itself rules. Obviously, that will not occur when the FERC ALJ rules (presumably on October 22, 2002).

Another of Olympic's new arguments is that delay will enable Olympic to complete its outside audits. Olympic cites Staff's concerns regarding Olympic's need for an *unqualified* auditor's opinion. (Motion to Amend at 7-8)(emphasis added). Olympic now says it should have audited financial records "by late November or December 2002." *Id.*

But Olympic's Mr. Fox states Olympic is trying to expedite those audits "by trying to *remove the need for an unqualified opinion...*" (Fox Declaration at 2, ¶ 6)(emphasis added).

What Olympic thinks it will get by late 2002 is a *qualified* audit opinion, not an *unqualified* audit opinion. Thus, delay until late 2002 will not be responsive to Staff's concerns.

Olympic alleges no prejudice to customers since the interim rates are subject to refund. (Motion to Amend at 10-11). What Olympic fails to point out is that interim rate relief is intended to be a short term, stop gap solution. It was never intended to last up to a year or more. Customers are entitled to an efficient resolution of a rate filing, resulting in cost based rates that are fair, just, reasonable and sufficient. The Company's approach would unduly delay that determination.

But the key issue here is whether there is a basis to proceed further in this docket at all. Staff has filed a Motion to Dismiss today, based on repeated failure of Olympic to timely or completely respond to Staff data requests. The result is that Staff cannot proceed.

As noted above, if Staff's motion to dismiss is not granted, Staff can make no recommendation at this time other than to recommend no schedule be set now. If this case is to proceed, the Commission should set a schedule for hearing on discovery motions, and proceed to determine sanctions for violations of Commission rules and orders.

DATED this 27th day of March, 2002.

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