

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION)	
)	DOCKET NO. TO-011472
Complainant,)	
)	FIRST SUPPLEMENTAL ORDER; PREHEARING CONFERENCE ORDER;
v.)	
)	NOTICE OF PREHEARING CONFERENCES (Dec. 3 and 4 and Dec. 14, 2001; Jan. 3, 2002)
Respondent.)	
.....)	NOTICE OF HEARING (January 7, 2002)

- 1 **Proceeding:** Docket No. TO-011472 is a filing by Olympic Pipe Line Company on October 31, 2001, for a general increase in its rates and charges for providing pipe line transportation service within the state of Washington.
- 2 In its filing, the Company asked for three separate Commission actions. It included a request for a substantial – 62% -- increase in its rates; it included a petition for immediate (December 1, 2001) implementation of the rates it requested, subject to refund; and it included a request for a determination in a policy statement or declaratory order of the methodology to be used to calculate the company’s need for a rate increase: rate base/rate of return methodology customarily used in determining the rates of regulated companies, or the methodology used in calculating rates for oil pipeline companies by the Federal Energy Regulatory Commission (FERC).
- 3 At its open public meeting of November 16, 2001, the Commission suspended the operation of the tariff that would effect the general rate increase. In addition, it determined to consider the request for immediate implementation of rates (referred to as “interim” in this order) and to address the question of methodology in the context of the general rate proceeding. The Commission entered an order on November 20, 2001 effecting the suspension and – because it had committed to address the issue of methodology in the context of the rate proceeding – denying the requested processes, policy statement or declaratory order.
- 4 **Conference:** The Commission convened a prehearing conference in this docket at Olympia, Washington on November 21, 2001 before Chairwoman Marilyn

Showalter, Commissioners Richard Hemstad and Patrick Oshie, and Administrative Law Judge C. Robert Wallis.

- 5 **Appearances.** The following persons entered appearances. Respondent Olympic Pipe Line Company appeared by Steven Marshall and William Beaver, attorneys, Seattle. Intervener Tesoro appeared by Robin Brena, attorney, Anchorage, AK, and intervener Tosco Corporation appeared by Edward Finklea, attorney, Portland, OR. Commission Staff appeared by Donald T. Trotter and Lisa Watson, Assistant Attorney Generals, Olympia, WA. Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.
- 6 **Petitions for Intervention.** The Commission received requests for intervention from Tesoro and Tosco, customers of the respondent for pipe line transportation. No party objected to either of the petitions for intervention, which were granted.
- 7 **Protective order.** The parties asked the Commission to enter a protective order in this docket pursuant to RCW 34.05.446 to protect the confidentiality of proprietary information. The request was granted, and a protective order will be entered. The Commission on November 23 circulated a draft protective order for comments from the parties and will enter a protective order as soon as feasible. The parties recognize that the Commission's disclosure of material designated confidential is not governed by the standard stated in RCW 80.04.095.
- 8 **Discovery.** Parties desire to engage in discovery of information in this proceeding. The Commission in its order of suspension has already determined that this proceeding qualifies under WAC 480-09-480 as a proceeding in which inquiries may be made to the extent provided in the rule. The discovery rule is invoked.
- 9 **Interim Rate Request.** Olympic filed a request for interim rate relief along with its general rate increase filing on October 31. The Company amended its request at the prehearing conference, stating that the amendment would not change the amount of the request, but that it would limit the basis for the request. The Company stated that it expected the amendment to simplify the interim proceeding and related discovery. Other parties had insufficient opportunity to examine the proposed amendment and accompanying amended testimony, so the parties did not respond in detail.
- 10 **Data Requests Related to Interim Rate Request.** Parties will make a good faith best effort to respond to data requests within three days. The schedule for reviewing the interim rate relief request is based on a three-day turnaround. Accomplishing that turnaround requires parties to
- limit the requests to information necessary for review of the interim request;

- commit the resources that are needed to fulfill the commitment to respond fully to requests within three days; and maintain and use lines of communication to resolve ambiguities; address and limit scope; explain limitations of available data, and otherwise facilitate the provision of data. We expect that counsel, and to the extent necessary and appropriate, alternate counsel and staff, will be available on extremely short notice for these purposes during the week of Nov. 26.

11 **Technical Conference.** A technical conference is tentatively set. A technical conference is an informal opportunity for parties to ask clarifying questions of others' witnesses, not on the record, to assist in parties' understandings and to form the basis for further examination or for written statements of understanding. Because there is no record, and because parties have the opportunity to obtain written agreements as to matters discussed, responses at the conference may not be cited and the Commission will not be in a position easily to resolve differences among parties' recollections.

12 **Schedule for Initial Discovery on Interim Request.** Parties agreed to file the bulk of needed interim-related data requests by the close of business on Monday, November 26, 2001, to implement the discovery aspects of the following schedule. Responses are due by the close of business on Thursday, November 29.

13 Parties will communicate with each other by the close of business on Friday, November 30, to designate persons to be available for a technical conference to be held over no more than eight hours during Monday and Tuesday, December 3 and 4, 2001.

14 Persons not made available for technical conference discussions must be made available for depositions during the week of December 3, 2001 at opposing parties' request. A motion for a deposition of any witness participating in the technical conference may be made orally and will be promptly resolved.

15 The following schedule will govern the interim rate request:

<u>Deadline for</u>	<u>Date</u>
Data requests associated with the interim, not to preclude later requests	November 26, 2001
Responses to Nov. 26 data requests	November 29, 2001
Scheduling witnesses for technical conference or deposition	November 30, 2001

Technical conference ¹	December 3 and/or 4, 2001
Prehearing conference to address any discovery or procedural issues	December 3, 2001, 4:00 p.m. December 4, 2001, 4:00 p.m.
Motions to schedule depositions of witnesses who were present at the technical conference	December 4, 2001
Prefile of Commission Staff and Intervener Direct Testimony	December 14, 2001
Administrative prehearing conference to address procedural and administrative issues such as numbering of and objections to exhibits (conference subject to cancellation if not needed)	January 3, 2002, 1:00 p.m.
Prefile of Company Rebuttal	December 21, 2001
Prehearing memoranda – electronic distrib. Prehearing memoranda – paper filing	January 4, 2002, noon January 7, 2002, 9:30 a.m.
Hearing convenes (blocked out for two days)	January 7, 2002, 9:30 a.m.
Oral argument as necessary to supplement memoranda in light of testimony at the hearing	Conclusion of the hearing

16 **Hearing schedule for General Rate Case.** The Company waived the July 1, 2002, suspension date by one month, extending the deadline to August 1, 2002, in light of its failure to file its direct evidence on the date stated in the order of suspension. It committed to file its direct evidence with the Commission no later than December 13, 2001, to coincide with its filing with FERC. Parties agreed to pursue a schedule meeting the original suspension date of July 1, 2002.

17 Parties agreed to discuss among themselves a preferred schedule for the proceeding. They will present an agreed proposed schedule, or individual parties' preferred alternative schedules, no later than December 13, 2001.²

¹ The Administrative Law Judge will be available as needed during the days established for the conference to rule upon procedural matters and the scope of questioning.

² Inquiries about the availability of Commission facilities or the Commissioners for hearing dates or processes must be made through Ms. Kippi Walker at 360-664-1139 or kwalker@wutc.wa.gov or, if she is not available, through the administrative law judge assigned.

18 Parties should also address whether a hearing to receive testimony from members of the public is necessary in light of the nature of the issues and the nature of the Company's customer base.

19 **Notice of Prehearing Conferences.** The Commission hereby gives notice of prehearing conferences in this matter, subject to cancellation if no need appears, as follows. Each conference will be held in Room 206 of the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, at the time specified, unless the conference is rescheduled or cancelled by the presiding administrative law judge or the Executive Secretary of the Commission. Parties who cannot attend in person may, subject to its availability, participate via the Commission's teleconference bridge line at 360-664-3846. Persons desiring to participate via the bridge line must make advance reservations, by calling Margret Kaech at 360-664-1140, no later than 11:00 a.m., two business days prior to the scheduled prehearing conference.

- December 3, 2001, at 4:00 p.m. to address discovery issues and any other administrative or procedural matters that the parties or the Commission may raise.
- December 4, 2001, at 4:00 p.m. to address discovery issues and any other administrative or procedural matters that the parties or the Commission may raise.
- December 14, 2001, at 1:30 p.m. to address discovery, scheduling of the general rate proceeding, and any other administrative or procedural matters that the parties or the Commission may raise.
- January 3, 2002, at 1:30 p.m. to address administrative details of the hearing on interim rates, including, as needed, the numbering of exhibits and the scheduling of witnesses, and any other procedural matter that the parties or the Commission may raise.

20 **Notice of hearing.** The Commission hereby schedules a hearing in this matter to address the issues relating to Olympic's request for interim rate relief. The hearing will be held in Room 206 of the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, on January 7, 2002, beginning at 9:30 a.m.

21 **Document preparation and process issues.** Parties must file the original plus 14 copies of each document filed with the Commission, and must file each document in digital format if the document is available in digital format. Appendix B states relevant Commission directions for the preparation and submission of evidence and

for other process in this docket. Parties will be expected to comply with these provisions.

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Transcript options. The reporting firm serving the Commission offers both expedited transcript delivery and real-time transcript availability at additional fees. If any party will be asking for these services for a hearing session, parties are asked to advise the presiding officer or Ms. Walker two days in advance of the hearing or conference in question so any necessary logistical arrangements may be made in a timely manner.

Dated at Olympia, Washington, and effective this 26th day of November, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

C. ROBERT WALLIS
Administrative Law Judge

NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review

Appendix A

Olympic Pipe Line Company, 2001-2002 Rate Case TO-011472				
Party	Rep.	Address	Tel. (voice)	Fax/E-mail
Olympic Pipe Line Co.	Steven C. Marshall	Perkins Coie LLP, One Bellevue Center, Ste. 1800, 411-108 th Ave. NE., Bellevue WA 98004-5584	425-453-7314	425-453-7350 marss@perkinscoie.com
	Patrick W. Ryan	Same		ryanp@perkinscoie.com
	William H. Beaver	Karr Tuttle Campbell, 1201 Third Ave. Ste. 2900 Seattle, WA 98101	206-224-8054	wbeaver@karrtuttle.com
Tesoro, Inc.	Robin O. Brena	Brena, Bell & Clarkson, P.C., 310 K St., Anchorage AK 99501	907-258-2000	907-258-2001 brenalaw@brenalaw.com
Tosco	Edward A. Finklea	Energy Advocates, LLP, 526 NW 18 th Avenue, Portland OR 97209-9118	503-721-9118	503-721-9121 efinklea@energyadvocates.com
Commission Staff	Donald T. Trotter	1400 S. Evergreen Park Drive SW, Olympia, WA 98504	360-664-1189	360-586-5522 dtrotter@wutc.wa.gov
	Lisa Watson	Same	360-664-1186	lwatson@wutc.wa.gov
Commission Records Center	Lisa Lloyd, manager	1300 S. Evergreen Park Drive SW, Olympia WA 98504- 7250	360-664-1234	records@wutc.wa.gov
Administrative Law Judge	C. Robert Wallis	1300 S. Evergreen Park Drive SW, Olympia WA 98504- 7250	360-664-1142	bwallis@wutc.wa.gov
Lead Support	Ms. Kippi Walker	Same	360-664-1139	kwalker@wutc.wa.gov

Appendix B

I. Requirements for ALL paper copies of testimony, exhibits, and briefs

The following requirements are restated from and clarify the Commission's rules relating to adjudications.

A. All paper copies of briefs, prefiled testimony, and original text in exhibits must be

- On 8-1/2x11 paper, punched for insertion in a 3-ring binder,
- Punched with **OVERSIZED HOLES** to allow easy handling.
- Double-spaced
- 12-point or larger text and footnotes, Times New Roman or equivalent serif font.
- Minimum one-inch margins from all edges.

Other exhibit materials need not be double-spaced or 12-point type, but must be printed or copied for optimum legibility.

B. All electronic and paper copies must be

- **SEQUENTIALLY NUMBERED** (all pages). **THIS INCLUDES EXHIBITS**. It is not reasonable to expect other counsel or the bench to keep track of where we are among several hundred (or sometimes even just several) unnumbered pages.
- **DATED ON THE FIRST PAGE OF EACH ITEM** and on the label of every diskette. If the item is a revision of a document previously submitted, it must be clearly labeled **AREVISED,** with the same title, and with the date it is filed clearly shown. Electronic files must be designated **R** for revision, when applicable, with an ordinal number showing the revision number.

II. Identifying exhibit numbers; Exhibits on cross examination.

A. **Identifying exhibits.** It is essential to mark documents so you, opposing counsel, and the Commission can find them. We ask you to comply with this clarification of prior practice, based on recent experience:

- **Use the witness's initials and add an ordinal number for each exhibit.** Identify testimony with a T and confidential exhibits with a C. Example: Witness Jane Quintessentia Public. Her original testimony would be JQP-1T or JQP-1TC, her first attached exhibit would be JQP-2, etc. NEVER identify the attachments merely with a single ordinal number, as that will provide the maximum confusion to everyone, including your witness.

B. Prepare a list of your exhibits with their title and AJQP@ designation in digital form and in a format specified by the Commission. Send it to the presiding officer before the appropriate prehearing conference. That will simplify identification and ease administrative burdens.

NOTE: Be prepared to submit all of your possible exhibits on cross examination several days prior to the hearing. We will attempt to schedule a prehearing conference to deal with the exhibits as close as possible to the hearing itself, but we have administrative needs that require pre-filing.