

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of

OLYMPIC PIPE LINE COMPANY, TESORO
REFINING AND MARKETING COMPANY
AND CONOCOPHILLIPS COMPANY

For an Order Approving Terms of a Settlement
Agreement Amendment Between Olympic, Tesoro
and ConocoPhillips and Approving Rates Set
Pursuant to Said Agreement.

Docket No. TO-031973

PETITION OF OLYMPIC PIPE
LINE COMPANY FOR
APPROVAL OF AMENDMENT
NO. 7 TO TARIFF SETTLEMENT
AGREEMENT OF 2003

IDENTITY OF PETITIONER

1. Petitioner is Olympic Pipe Line Company ("Olympic"). Olympic is engaged in the business of transporting petroleum products within and beyond the State of Washington as a common carrier. Petitioner's name and address are shown below. Please direct all correspondence related to this Petition as follows:

For Olympic Pipe Line Company

Olympic Pipe Line Company
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For Tesoro

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For ConocoPhillips Company

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RELEVANT STATUTES AND REGULATIONS

2. This Petition is based upon, or may bring into issue, the following statutes and rules: RCW 81.04.130, RCW 81.04.250, RCW 81.28.010, RCW 81.28.050, WAC 480-07-305, WAC 480-07-370, WAC 480-07-375, WAC 480-07-510, and WAC 480-73-050.

RELIEF REQUESTED

3. Olympic respectfully petitions the Washington Utilities and Transportation Commission (the "Commission") for an order (a) approving Amendment No. 7 to the Settlement Agreement ("Agreement") previously approved by the Commission in its December 23, 2003, Order, said Amendment No. 7 ("Amended TSA") having been entered into on or about September 22, 2008, by and among Olympic, Tesoro Refining and Marketing Company ("Tesoro"), and ConocoPhillips Company ("CP") and (b) allowing the initial rate filing under the terms of the Amended TSA to go into effect by operation of law without suspension on January 1, 2009.

4. Olympic, Tesoro and CP, which are all signatories to the Agreement and to the Amended TSA, are sometimes referred to herein collectively as the Parties and, individually, as a Party.

5. The Amended TSA is the result of extensive negotiations among the Parties that have taken place over approximately the last nine months. The Amended TSA is in the public interest and should be approved by this Commission. A copy of the Amended TSA is attached to this Petition (Ex. 1), as is a "redline" comparing its provisions with those of the Agreement (Ex. 2). Also attached are the previous six amendments to the Agreement, all of which consist only of agreed extensions to the deadline that would otherwise have applied for notice of termination of the Agreement, and were intended to allow the Parties time to negotiate the Amended TSA (Ex. 3).

6. Subject to approval by the Commission (and by the Federal Energy Regulatory Commission ("FERC")), the Amended TSA provides for new rates for Olympic's intrastate services and a methodology for determining future intrastate rates during the term of the Amended TSA.

7. If approved, the immediate impact of the Amended TSA on rates for all shippers will be to reduce rates below those that would apply under the Agreement as of January 1, 2009, primarily as a result of the provision in the Amended TSA that Olympic's Bayview facility will be substantially removed from the rate base for the purpose of the tariff calculation called for under the Amended TSA. *See* Ex. 4 (1/1/09 COS Variance). This reduction in rate base will apply throughout the term of the Amended TSA.

8. Under the Amended TSA, as was the case under the Agreement, future rates during the term will vary based on Olympic's actual costs and throughput.

9. Simultaneously with this Petition, Olympic has provided the Commission with notice that it has entered into a storage agreement ("Lease") with an affiliate, BP West Coast Products, LLC ("BPWCP"), for the portion of the Bayview facility that is excluded from the rate base under the Amended TSA. *See* Ex. 5. Olympic also has requested Commission approval of that disposition via its separate Petition for Approval of Transfer of Property, filed under separate docket. Because the Lease in its original form contains trade secret and proprietary information of BPWCP, Olympic has moved for a protective order, filed under this Docket. A redacted copy of the Lease is filed publicly with this Petition as part of Ex. 1. Olympic will submit an unredacted copy of the Lease upon issuance of an appropriate order.

10. The Amended TSA also provides for a mechanism for resolving disputes among the Parties through negotiation and arbitration. Nothing in the Amended TSA is intended to supplant or affect the authority of the Commission to review and approve or disapprove rates.

STATEMENT OF FACTS

11. Olympic is a Delaware corporation that owns and operates a common carrier pipeline transporting petroleum products both within and outside the State of Washington. Olympic is a stock company owned by ARCO Midcon LLC, a business unit of BP Pipelines (North America) Inc., and Enbridge Holdings (Olympic) L.L.C.

12. Olympic, Tesoro and CP entered into the Agreement on November 7, 2003. The Agreement arose from a series of events that included: (a) a contested proceeding before the Commission in 2002 that resulted in a Final Order lowering certain intrastate rates that had been allowed on an interim basis and calling for refunds to shippers; (b) Olympic's filing for reorganization under Chapter 11 of the United States Bankruptcy Code on March 27, 2003; and (c) other, related proceedings.

13. The Parties entered into the Agreement in order to end years of contentious litigation in multiple forums and to provide a framework for stable and consistent rate regulation of Olympic by allowing Olympic's rate to be readily adjusted as Olympic's throughput varies, as Olympic's investment increases, or as Olympic's project and operating costs vary.

14. The Commission approved the Agreement on December 23, 2003, by its Order Granting Relief Requested in Joint Petition; Approving Settlement Agreement.

15. Under the terms of the Agreement, any Party could terminate the Agreement effective December 29, 2008, by giving at least one year's advance notice.

16. The Parties (and Olympic's other customers) have now had nearly five years' experience with the Agreement's rate-setting methodology. As the date for potential termination of the Agreement approached, the Parties agreed to extend the termination notice deadline in order to permit them to address certain concerns that had arisen and to endeavor to reach agreement on the terms of a second, five-year rate-setting methodology.

17. A total of six extension amendments were entered into. The TSA Amendment is the seventh amendment to the Agreement and embodies the results of the Parties' negotiations.

18. Attached as Ex. 2 is a "redline" comparing the language of the Agreement to the Amended TSA. Many of the language changes reflect the passage of time—for example, a provision relating to deadlines for Olympic to achieve 100% Maximum Allowable Operating Pressure operation is obsolete now that Olympic has done so. Others are clarifications.

19. The Amended TSA contains the following main substantive changes to the rate-setting elements of the Agreement (these summaries do not replicate the provisions in detail and are not intended to be definitive):

- Tariffs will be established under the Amended TSA without including in Olympic's rate base 85% of Olympic's Bayview facility (*see* especially Sections 1.2 and 2.2), resulting (excluding the effect of other factors) in a tariff reduction of approximately 2.7%.
- Pipeline taxes have been expressly included in Pass-Through Operating Expenses (*see* Section 3.3(a)).
- Normal right-of-way maintenance shall be an Other Operating Expense (*see* Section 3.3(e)).
- Capital expense for each year will include an estimate of known, measurable and reasonably expected capital expenditures to be made during that year (*see* Section 3.7(a)).

20. Other significant provisions of the Amended TSA include the following:

- The termination notice period has been reduced (*see* Section 4.1(b)).
- Olympic agrees to continue to use its best efforts to operate at 100% Maximum Allowable Operating Pressure (*see* Section 2.1).
- Olympic agrees to seek economic means to enhance throughput capacity in the Renton to Portland segment (*see* Section 2.1).

- The Parties agree to support Commission approval of the Lease and of the Amended TSA, including removal of Bayview from the rate base for purposes of tariff-setting under the Amended TSA (*see* Sections 2.2(h) and 4.1(a)).
- The Amended TSA will automatically terminate if it has not become effective (i.e., if all regulatory approvals are not in place) by February 1, 2009 (*see* Section 4.1(b)).
- Olympic may terminate the Amended TSA if the Commission does not approve the Lease (*see* Sections 4.3 and 4.13(a)).
- Tesoro or CP may terminate the Amended TSA if the Commission or FERC does not allow Bayview to be removed from the rate base for tariff-setting purposes under the Amended TSA (*see* Sections 4.3(a) and 4.13(b)).

NOTIFICATION TO SHIPPERS

21. Simultaneously with filing this Petition, Olympic has notified all its customers of the Amended TSA, of the Lease, and of the requests for regulatory approval of both. The notice that has been sent is attached as Ex. 6.

ARGUMENTS IN FAVOR OF RELIEF

22. Olympic attaches as Ex. 7 the Joint Petition of December 2, 2003, which sets forth the arguments in favor of adopting a substantially similar tariff-setting methodology. All of those arguments are largely applicable to the merits of approving the Amended TSA. They will be repeated only insofar as their application to the amendment and extension of the Agreement has changed.

23. Although the disputes and proceedings that preceded the Agreement were resolved by the Agreement, the potential for similar disputes and proceedings would exist if the Agreement were terminated. Continuing an agreed rate-setting method for an additional five years benefits the shippers, Olympic and Olympic's regulators through avoiding the monetary and resource costs attendant upon such disputes and proceedings.

24. It was anticipated that the Agreement would provide a framework for stable and consistent rate regulation of Olympic, and it has. The Parties have had one dispute that required invocation of the arbitration mechanism of the Agreement, which resolved the matter. Other issues that have arisen have been addressed without arbitration. The rates that have resulted from the implementation of the Agreement have been fair, though both Olympic and the other Parties have had certain concerns about elements of the Agreement that they have now resolved through the Amended TSA.

25. One of the concerns of the shippers was the impact on rates of Olympic's Bayview facility. As the Commission is aware, its decision to include Bayview in the rate base embodied in its Final Order of September 27, 2002, was subject to later review based on certain criteria. This potential source of disagreement is addressed, at least for the next five years.

26. In consideration of the removal of Bayview from the rate base for purposes of setting tariffs under the Amended TSA, Tesoro and CP have agreed to address certain concerns of Olympic. One of these concerns was the subject of the arbitration referred to above--the timing of recognition of capital expenditures. The others include clarification of the treatment of right-of-way maintenance costs and pipeline taxes.

27. The other main substantive changes are listed above. For example, Tesoro and CP preferred to shorten the termination notice period because of the timing of Olympic's provision of the financial information that determines rates that are effective on July 1 of each year. Olympic agreed to this change.

28. Except for the listed changes, the basic mechanism of the Amended TSA parallels that of the Agreement. The best argument in favor of approval of the Amended TSA is that this method has worked well, and that the Parties' experience with it has

enabled them to improve upon it in certain respects in the Amended TSA. The Amended TSA, like its predecessor, provides a rational methodology for the continued economic regulation of Olympic based upon agreed criteria that enable Olympic's shippers to understand and to predict the transportation costs associated with transporting their refined products to the marketplace. As in the case of the Agreement, the method is fundamentally the depreciated original cost method previously approved by this Commission.

29. Olympic's facilities perform a vital function. It is important for Olympic's rates to be set in a manner that is fair and efficient, and that results in rates that yield a fair return and provide the funding necessary to assure safe, efficient operation. The Agreement has produced these results. There is every reason to anticipate that the Amended TSA will do so.

30. As in the case of the Agreement, the negotiation of the Amended TSA took place only among the Parties. Tesoro and CP's interests are aligned with those of the other shippers with respect to tariff-setting methodology. In the approximately nine months of negotiations, Tesoro and CP effectively represented those interests.

31. This Petition does not directly address the Lease, which is the subject of a separate petition (under separate docket) for Commission approval – Petition of Olympic Pipe Line Company for Approval of Transfer of Property. The Lease is a direct outgrowth of Olympic's agreeing to remove Bayview from the rate base. Approximately 85% of the Bayview facilities are removed under the Amended TSA, and only that portion of Bayview will be subject to the Lease. It is anticipated that the Lease will provide the revenue necessary for Olympic to be able to accommodate the tariff revenue reduction inherent in Bayview's removal from the rate base. Tesoro and CP have indicated their recognition of this fact in their agreement to support regulatory approval of the Lease.

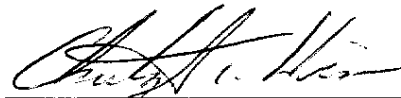
PRAYER FOR RELIEF

33. Petitioner respectfully requests that the Commission issue an order (a) allowing the Initial Tariff Rates for intrastate shipments as defined in the Amended TSA to go into effect on January 1, 2009, without suspension and by operation of law, (b) approving the methodology for preparing future rate filings and for setting rates under the Amended TSA, and (c) stating that the Amended TSA and the Commission's approval of the Amended TSA and any subsequent rate filings made pursuant to the Amended TSA shall have no precedential effect in any future rate proceeding regarding rates in effect beyond the term of the Amended TSA.

DATED this 30th day of September, 2008.

Respectfully submitted,

OLYMPIC PIPE LINE COMPANY



Arthur W. Harrigan, Jr.

Christopher T. Wion

Danielson Harrigan Leyh & Tollefson LLP

VERIFICATION

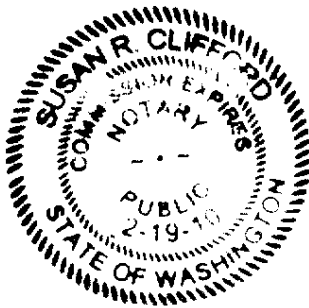
STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

Christopher T. Wion, being first duly sworn, on oath deposes and says:

That he is the legal representative of Olympic Pipe Line Company, that he has read the foregoing Petition of Olympic Pipe Line Company for Approval of Amendment No. 7 to Tariff Settlement Agreement of 2003, that he knows the contents thereof, and that he believes the same to be true to the best of his knowledge and belief.

Christopher T. Wion

SUBSCRIBED AND SWORN to before me this 30 day of September, 2008.



Susan R. Clifford
Print Name: *Susan R. Clifford*
Notary Public in and for the State of Washington,
Residing at *Lake Stevens*
My Commission Expires: *2-19-10*