

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

OLYMPIC PIPE LINE COMPANY, INC.,

Respondent.

DOCKET NO. TO-011472

COMMENTS ON BEHALF OF
COMMISSION STAFF
REGARDING RECOMMENDED
SANCTIONS

Commission Staff responds to the recommended penalty sanctions outlined in the Thirteenth Supplemental Order in this docket.

Judge Wallis recommends the Commission impose a monetary penalty totaling \$30,000 against Olympic Pipe Line Company (Olympic), pursuant to RCW 81.04.380. Thirteenth Supplemental Order at 22, Conclusion of Law No. 7. This penalty is based on Olympic's refusal to answer certain data requests made by Tesoro Refining and Marketing, Inc. (Tesoro). Thirteenth Supplemental Order at 21, Conclusion of Law No. 3. Judge Wallis found that Olympic's refusal to answer the data requests violated the Commission's order to compel, as expressed orally during the April 4, 2002, prehearing conference, and as memorialized in the Tenth Supplemental Order in this docket. *Id.*

Under RCW 81.04.380, the Commission may impose a penalty not to exceed \$1,000 per violation on a public service company that violates or fails to comply with any Commission rule

or order. In the case of a continuing violation, each day may be deemed a separate offense. Here, Olympic repeatedly violated the Commission's order on each day it failed to timely answer Tesoro's data requests. *Id.* As Judge Wallis found, the Commission could impose a penalty as high as \$350,000 based on Olympic's repeated violations. Thirteenth Supplemental Order at 18.

Discovery problems have been pervasive in this docket. Five long-term Commission employees are assigned to this case, and the discovery issues have been far more difficult than in any other case they have experienced. In fact, the discovery problems motivated Staff to file a motion to dismiss in March 2002, based on Olympic's unwillingness or inability to provide responsive information to reasonable and essential data requests. It was only after Staff filed the motion that Olympic provided responsive information.

The requirements under which discovery is conducted are clearly set forth in WAC 480-09-480, and those requirements have been brought to Olympic's attention on many occasions. Despite this, Olympic did not comply with the Commission's discovery rule and relevant orders. In light of Olympic's continued failure to comply with the discovery rule and the Commission's orders, Staff believes that the recommended penalty is reasonable.

DATED this 10th day of June, 2002.

CHRISTINE O. GREGOIRE
Attorney General

LISA WATSON
Assistant Attorney General