

**BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

In the Matter of the Application of )  
 )  
OLYMPIC PIPELINE COMPANY )  
 )  
For An Approval of Property Transfer ) Docket No. TO-020169  
to the Port of Seattle, Washington )  
\_\_\_\_\_ )

**TESORO REFINING AND MARKETING COMPANY=S  
CONDITIONAL NONOPPOSITION TO OLYMPIC PIPE LINE COMPANY=S  
APPLICATION FOR APPROVAL OF PROPERTY TRANSFER**

*I* Tesoro Refining and Marketing Company (~~A~~Tesoro@), by and through its attorneys, Brena, Bell & Clarkson, P.C., hereby files its Conditional Nonopposition to Olympic Pipe Line Company=s (~~A~~Olympic@) Application for Approval of Property Transfer (~~A~~Sea-Tac Application@) filed with the Washington Utilities and Transportation Commission (~~A~~Commission@ or ~~A~~WUTC@), on February 12, 2002.

The Commission=s approval of the sale of the Sea-Tac Terminal, conditioned upon Olympic=s use of the proceeds for the safety and capital improvements it has identified as necessary in its interim relief filing in WUTC Docket TO-011472, is in the public interest. Accordingly, given Olympic=s request for interim relief under the emergency standards of this Commission for safety and capital improvements, Tesoro respectfully requests the Commission ensure that the proceeds from the sale of the Sea-Tac Terminal are properly accounted for and directed toward those safety and capital improvements Olympic identified as necessary in its interim filing until such time as the

Commission may fully consider Olympic's general rate request in WUTC Docket No. TO-011472.

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 This motion may bring into issue the following rules or statutes: RCW 81.01.010; RCW 81.04.010; RCW 81.12, et. seq.; RCW 81.88.030; WAC 480-09-420; and WAC 480-12 et. seq

3 Olympic has requested interim relief under the emergency standards of this Commission and has justified that request based on the need to make further safety and capital improvements. Olympic has further argued that even greater amounts of interim relief should be granted than were allowed by the Commission. Given such requests, the Commission should temporarily restrict Olympic's use of the proceeds from the sale of the Sea-Tac Terminal to those identified safety and capital improvements until such time as the Commission may fully consider its general rate request in WUTC Docket No. TO-011472.

4 Tesoro raises this concern because Olympic has indicated that it intends to use the proceeds from the sale of the Sea-Tac Terminal to repay the Prudential debt and cites to Mr. Fox's testimony in the interim rate proceeding. Such a use of the proceeds is inconsistent with Olympic's representations supporting any need for interim relief and would not be in the public interest

5 In the interim proceeding, Mr. Fox testified that Olympic intends to pay off the existing \$14 million in Prudential debt. Fox Supplemental Rebuttal Testimony, at 3 (Olympic would arrange a negotiated by out of the Prudential note.)<sup>1</sup> On an estimated basis, the payoff of the Prudential loan would result in a net outflow in 2002 of \$.05 million (increase of \$11 million for Sea-Tac less \$14 million for payoff of the Prudential loan plus \$0.9 million on reduced interest costs on the Prudential loan plus \$1.6 million on avoided fees and charges from Prudential for issues involving NAIC and by calling the note.)<sup>1</sup>

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<sup>1</sup> With regard to Mr. Fox's calculation, it is important to point out that the entire \$1.6 million in avoided costs involving the NAIC is the additional amount Olympic may be required to pay unless it provides audited financial records. Stated differently, simply providing audited books and records would completely avoid the need to pay any of the additional \$1.6 million.

On cross-examination during the hearing on interim relief, Mr. Fox acknowledged that Prudential is owed \$14 million. Interim Hearing Tr., p. 856, l. 1-3 (AQ. [H]ow much do you owe Prudential? A. I believe -- I believe it's \$14,500,000 subject to checking on it.@ Subsequently, Olympic confirmed the correct balance was \$14 million.). He also acknowledged that Prudential has never sent any notice of default. Interim Hearing Tr., p. 850, l. 13-16 (AQ. Has Prudential sent any letter -- has Prudential sent any letter of default or notice of default to Olympic? A. I don't believe so.@). He also acknowledged that Olympic's failure to properly audit its financial books and records was the only potential default of the Prudential debt.<sup>2</sup> Interim Hearing Tr., p. 853, l.1-4.

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<sup>2</sup> It is important to also consider that Olympic has committed to this Commission that it will have and provide audited financial statements which may be used in WUTC Docket No. TO-011472. To quote the commitment directly:

COMMISSIONER HEMSTAD: I have one question for Mr. Marshall. Would the company be able to have available for the general rate case, in an appropriate time frame, an audit of the books?

MR. MARSHALL: I spoke to Mr. Fox yesterday about this very issue. I said, Well, help me understand what this real issue is. He said it's actually a fairly minor issue about amounts on books, and he thinks that that can be resolved here in a relatively short time. But he's gone back to the auditors and said, Look, this has created an issue. So I believe I can represent to you, Commissioner Hemstad, that that will be resolved and we will have audited financial statements.

Interim Hearing Tr., p. 1303. l. 25 to p. 304, l. 13). If Olympic honors its representations to this Commission, Olympic will not incur the additional \$1.6 million due to its continued failure to provide audited books and records to Prudential, and Prudential's debt will never be at risk of being declared in default.

7           Thus, according to the best information available, Olympic seems to be suggesting that during the identical time when it is maintaining it lacks sufficient funds to make needed safety and capital improvements, it has also filed with this Commission to use the proceeds from the sale of the Sea-Tac Terminal to pay off \$14 million in third-party debt which is not in default.

8           There is no apparent justification and none has been offered for the premature prepayment of the Prudential debt. While the costs associated with this debt have been stepped up due to Olympic's continued refusal to provide audited financial books and records, there is no financial or operational reason why Olympic cannot simply provide audited financial books and records to Prudential and repay the debt in accordance with its current payment schedule. In fact, assuming Olympic simply provides audited financial books and records, the Prudential debt has a significantly lower interest rate (at 6.49 percent) than any of Olympic's large affiliated debts (at 7.0 percent).

9           Tesoro and other shippers have recently had their intrastate rates increased by 24.3 percent to allow Olympic to recover an additional \$3 million over the next six months. The Commission allowed this substantial increase based on Olympic's claim that such funds were necessary to ensure the safety and capital improvements set forth in its 2002 Capital Budget could be completed. Given Olympic's claims to need even additional amounts of interim relief, its proposal to pay off the Prudential debt is, on its face, imprudent. Accordingly, the Commission should act to ensure the prudent use of the proceeds from the sale of the Sea-Tac Terminal until such time as it has had the opportunity to fully consider Olympic's revenue requirement needs.

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Specifically, Tesoro requests the Commission condition its finding that the sale is in the public interest on the following conditions: (1) Olympic shall separately account for the proceeds from the sale of the Sea-Tac Terminal; (2) Olympic shall temporarily restrict its use of the proceeds from the sale of the Sea-Tac Terminal to those safety and capital improvements which it has identified as necessary in its request for interim relief and which are set forth in its 2002 Capital Budget; (3) the temporary restriction as to Olympic's use of the proceeds from the sale of the Sea-Tac Terminal to remain in place until the Commission has established a just, fair, and reasonable rate in WUTC Docket No. TO-011472.

DATED this 26<sup>th</sup> day of February, 2002.

BRENA, BELL & CLARKSON, P.C.  
Attorneys for Tesoro Refining and  
Marketing Company

By

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 26, 2002, a true and correct copy of the foregoing document was faxed, emailed, and mailed to the following:

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