

Exhibit No. ____ (CAO-5T)
Docket No. TO-011472
Witness: Christy Omohundro

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Washington Utilities and Transportation Commission,)	DOCKET NO. TO-011472
))
Complainant,)	
)	
v.)	
)	
Olympic Pipe Line Company, Inc.)	
)	
Respondent.)	

REBUTTAL TESTIMONY OF
CHRISTY A. OMOHUNDRO

OLYMPIC PIPE LINE COMPANY

June 11, 2002

2 OLYMPIC PIPE LINE COMPANY

3
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6 I. Introduction

7 Q. Please state your name, business address, and occupation.

8 A. My name is Christy A. Omohundro. My address is 1306 5th St., Kirkland,
9 Washington 98033, and I am serving as a consultant on regulatory and rate
10 matters for Olympic Pipe Line Company.

11 Q. What is your educational background and professional experience?

12 A. My educational background and professional experience are included in my
13 direct testimony on file in Exhibit No. ____ (CAO-1T). Since January 2002, I am
14 the Director, Regulatory Policy, at PacifiCorp. My business address is 825 N.E.
15 Multnomah Street, Suite 800, Portland, Oregon 97232.

16 Q. On whose behalf do you appear in this proceeding?

17 A. I appear on behalf of Olympic Pipe Line Company (“Olympic”).

18 Q. Have you presented previous testimony in this docket, No. TO-011472?

19 A. Yes, I have, in Exhibit No. ____ (CAO-1T) and Exhibit No. ____ (CAO-2) in the
20 interim proceeding and in Exhibit No. ____ (CAO-3T) and Exhibit No. ____
21 (CAO-4) in the general proceeding.

1 **II. Summary of Testimony**

2 **Q. Please summarize your testimony.**

3 A. First, I will show that Washington Utilities and Transportation Commission
4 Staff's ("Staff") and Intervenors' testimonies appear to have misinterpreted my
5 direct testimony. My direct testimony described the need to consider the end
6 result and the public interest when making decisions on rate issues. I
7 acknowledged that the Washington Utilities and Transportation Commission
8 ("Commission") could switch approaches, but I said that the financial emergency
9 Olympic is facing makes this the wrong time to shift from a rate approach known
10 to produce higher rates to a methodology known to produce lower rates. I said:

11 A switch now to a WUTC methodology from the federal oil
12 pipeline methodology would likely yield a financial and rate result
13 which would be lower than the results from continued use of the
14 federal oil pipeline methodology. At a time when Olympic needs
15 to make significant investments in safety and for expansion of
16 capacity, this would send a negative rate signal and create rate
17 uncertainty, the end result of which would be a rate that would not
18 be sufficient to attract sufficient capital on reasonable terms.

19 Exhibit No. ____ (CAO-3) at 3, lines 19-24.

20 Second, I point out that Staff and Intervenors have, on virtually every issue, opted
21 for a regulatory choice that produces a lower rate. The Commission, however,
22 has the discretion to make each choice in favor of producing a higher rate
23 consistent with the public interest. For the last twenty years, Staff had compared
24 the results using federal oil pipeline approaches to what Staff called a more
25 traditional WUTC utility approach. Staff concluded in memoranda that, for
26 Olympic, the end result was significantly higher under the federal oil pipeline

1 approach than compared to the state methodology, and, each time, the
2 Commission allowed the higher rate to go into effect. I conclude with the
3 viewpoint that, even if the Commission intends to adopt a different rate method
4 than has been used in the past, the Commission may still exercise its discretion
5 to delay the effective date for that change or to adopt a transition period.

6 Third, I discuss issues regarding the public interest that Staff and Intervenors
7 raise but fail to address adequately:

- 8 • Neither Staff nor Intervenors specifically address public interest factors
9 that the Commission has said it is required by statute to consider and
10 apply.
- 11 • Neither Staff nor Intervenors specifically address the consequences from
12 application of the end result test in the Hope case, which they both cite
13 and rely on.
- 14 • Neither Staff nor Intervenors adequately address the need for rates that
15 are "sufficient," even though both cite the state statute requiring that rates
16 be sufficient, in addition to being fair, just and reasonable.

17 Fourth, the major public interest factor in this matter is the need to balance the
18 public interest in low rates sufficient to attract capital with the pipeline safety
19 needs. Staff and Intervenors fail to acknowledge that the Commission will need
20 to balance its new statutory pipeline safety responsibilities with its ratemaking
21 role. The Commission must also weigh the cost of not allowing a sufficient rate
22 for an oil pipeline to meet its safety issues.

1 **III. Discretion of Commission to Continue at this Time and Under these**
2 **Circumstances a Federal Pipeline Rate Known to Produce a Higher**
3 **End Result**

4 **Q. Is it your position that the Commission is required to use the Federal Energy**
5 **Regulatory Commission’s (“FERC”) oil pipeline ratemaking methods?**

6 A. No. Staff and Intervenors misinterpret my testimony. The Commission may
7 create, adopt, or choose any reasonable methodology setting rates that are just,
8 fair, reasonable, sufficient, in the public interest, and produces an appropriate end
9 result. RCW § 81.04.250 states:

10 In exercising this power the commission may use any standard,
11 formula, method, or theory of valuation reasonably calculated to
12 arrive at the objective of prescribing and authorizing just and
13 reasonable rates.

14 Instead of testifying that the Commission could not change rate methods, my
15 direct testimony said the “Commission should not switch methodologies *at this*
16 *time under current circumstances* for Olympic.” Exhibit No. ____ (CAO-3) at 9,
17 lines 6-7 (emphasis added).

18 This would be the wrong time to change to a methodology that is known to
19 produce a significantly lower end result. The Commission’s Third Supplemental
20 Order on Interim Rates concluded that Olympic faces a financial emergency. As
21 Bobby Talley testifies, Olympic needs to attract approximately \$66 million of
22 capital over the next three years. And as Larry Peck and Howard Fox testify,
23 without the requested rate increase, there is little hope that Olympic will be able
24 to attract the capital necessary to fund the \$66 million of needed capital.

1 **Q. What do the Staff files show regarding Olympic’s oil pipeline regulatory**
2 **history in Washington?**

3 A. Every Olympic rate increase filing over the past thirty-five years has been based
4 on the methodology used at FERC (and its predecessor Interstate Commerce
5 Commission (ICC)) at the time of filing. I now have Staff files that indicate that,
6 from 1965 up to the present, Olympic’s rate filings before the Commission
7 utilized either the ICC or the FERC method in effect at the time. Olympic’s
8 current filing continues this practice of filing for a rate increase before this
9 Commission based on the parent’s capital structure and the methodology used at
10 FERC at the time of filing.

11 I also agree with the reasons supplied in the testimonies of Leon Smith and
12 George Schink as to why the federal approach is an appropriate methodology
13 considering the unique characteristics of the oil pipeline industry.

14 As Leon Smith stated in his testimony,

15 the history of common carrier oil pipelines has been dominated by
16 the companies that require pipeline capacity to transport their
17 refined products, as is the case of Olympic. Due to the common
18 carrier requirements, Olympic cannot reserve capacity for the use
19 of their affiliates. Likewise, they cannot contractually bind non-
20 affiliated shippers, such as Tosco and Tesoro, to commit to the use
21 of capacity in the long-term. For ratemaking purposes, this
22 implies that contract carriers will have more certainty with regard
23 to future throughput than common carriers, which may experience
24 sharp fluctuations in their throughput.

25 Exhibit No. ____ (LS-1T) at 8, lines 21-24, and at 9, lines 1-5. Mr. Schink also
26 points to the effect of competition on the need for pipeline methodologies,

1 [i]n the first place, it [competition from other petroleum
2 transportation providers] is one of the primary reasons that the
3 traditional public utility model is not applicable to oil pipelines.

4 Exhibit No. ____ (LS-1T) at 6, lines 5-6. Mr. Schink identifies the same
5 consideration of competition in his testimony:

6 Olympic's situation is consistent with all of the key factors
7 identified by the DOJ as being an important indicator that
8 waterborne transportation was an effective competitor to refined
9 products pipelines; namely, the ability of waterborne traffic to
10 increase when pipeline supply is reduced.

11 Exhibit No. ____ (GRS-4T) at 29, lines 10-14.

12 **Q. Why do you say that the Commission should delay making a change at this**
13 **time and under these circumstances?**

14 A. The Commission's Interim Rate Order describes the financial emergency facing
15 Olympic. This would be the wrong time to change to the methodology suggested
16 by Staff because it would result in lower tariff revenues.

17 **Q. Why do you say that the Commission should delay making a change at this**
18 **time and under these circumstances?**

19 A. The Commission's Third Supplemental Order on Interim Rates in this proceeding
20 describes the financial emergency facing Olympic. This would be the wrong
21 time to change to a methodology that the Staff knows would result in tariff
22 revenues.

1 **Q. Staff’s witness, Mr. Elgin, criticizes four factors you identified that the**
2 **Commission should consider in determining the appropriate ratemaking**
3 **methodology for setting Olympic’s oil pipeline rates at this time. What were**
4 **the four factors that he addresses?**

5 A. The four factors I think the Commission should consider in this current case are:

- 6 1. The Commission should set rates at a level to attract capital
7 on reasonable terms, which in turn depends on the nature
8 and circumstances of the company and the context.
- 9 2. An oil pipeline is fundamentally different from a public
10 utility that provides an essential service, such as electricity
11 or water, and which has a duty to expand to meet new
12 customer demand.
- 13 3. Capital potentially available for oil pipelines investments
14 must compete for capital sources with other alternative
15 investments.
- 16 4. The Commission has used the federal oil pipeline
17 methodology to establish rates since 1983, creating a
18 history of investment-backed expectations.

19 **Q. How do you respond to Mr. Elgin’s testimony that these four factors are not**
20 **“sufficient reason[s] to reject the methodology traditionally used by the**
21 **Commission to set rates for public utilities?” Exhibit T-___ (KLE-5T) at 21,**
22 **lines 18-20; at 23, lines 6-8; at 25, lines 5-7; and at 26, lines 14-16.**

23 A. First, Mr. Elgin mischaracterizes my direct testimony in the general rate case. I
24 never claimed that the four conditions--whether individually or collectively--
25 were “sufficient reason[s] to reject the methodology traditionally used by the
26 Commission to set rates for public utilities.” Instead, I stated that the
27 Commission “*should* consider” these four factors when determining Olympic’s
28 ratemaking methodology. Exhibit No. ___(CAO-3) at 4, lines 5-6 (emphasis
29 added). The four factors were never intended to create conditions necessary or

1 sufficient for the use of the FERC trended original cost methodology. Instead,
2 the four factors simply illustrate the unique circumstances of this rate case,
3 differentiating it from those the Commission normally considers.

4 **A. First Factor: Capital Attraction**

5 Mr. Elgin and I appear to be in agreement that the first factor (capital attraction)
6 is an important one present in all ratemaking decisions faced by the Commission.
7 The differences in opinion between Mr. Elgin and Olympic regarding the factor
8 are addressed above in this rebuttal testimony. Essentially, Olympic believes the
9 Commission has the authority to use many different methodologies in achieving
10 capital attraction, whereas Mr. Elgin appears to believe that the Commission is
11 limited to one.

12 **B. Second Factor: Non-Essential Service With No Duty to**
13 **Expand**

14 Prior to 1965, Olympic pipeline did not exist and there was no obligation on
15 anyone's behalf to construct one. Today, many parts of the state are not
16 connected to or served by an oil pipeline.

17 Mr. Elgin states that "it is not apparent that oil pipeline companies lack a duty to
18 expand service." Exhibit No. ____ (KLE-5T) at 24, lines 11-12. I can find no
19 support for his statement. From my experience in regulatory matters, I know that
20 RCW § 80.28.110 requires regulated gas, electric, or water companies to furnish
21 services upon reasonable notice, but it is my understanding that no corresponding
22 statutory section relating to common carriers exists. Mr. Schink testifies to the
23 lack of FERC's ability to require an oil pipeline to expand:

24 Moreover, oil pipelines are not required to obtain a certificate of
25 convenience and necessity before constructing or extending a line

1 or to obtain the permission of the FERC before abandoning a line.
2 49 U.S.C. § 1(18). In short, the FERC has no authority to regulate
3 the entry or exit of oil pipelines from given markets.

4 Exhibit No. ____ (LS-1T) at 6, line 19, and at 7, lines 1-5.

5 **C. Third Factor: Competition for Capital**

6 Mr. Elgin states that “[t]he third factor, like the others Olympic has listed, does
7 not distinguish Olympic from other utilities that are regulated using the WUTC’s
8 traditional ratemaking methodology.” Exhibit No. T-____ (KLE-5T) at 25, lines
9 11-13. I agree that other regulated companies compete worldwide for capital.
10 However, it is a matter of degree. The owners of Olympic are international
11 companies with an international outlook and have many investment options
12 besides Olympic. Additionally,

13 an investment in Olympic is obviously much riskier than
14 investment in any one of the companies in the oil pipeline proxy
15 group used Staff’s and Intervenors’ witnesses’ testimonies address
16 Olympic’s cost of common equity to determine the cost of
17 common equity capital for a typical oil pipeline company.

18 Exhibit No. ____ (GRS-4T) at 11, lines 17-21. Compounding this problem is the
19 fact that Olympic is a privately-owned corporation. As such, the universe of
20 potential investors is significantly limited when compared to publicly-traded
21 corporations.

22 **D. Fourth Factor: Ratemaking Consistency**

23 Mr. Elgin’s only rationale in challenging the fourth factor is to make Olympic’s
24 rate method consistent with other regulated industries in this state despite thirty-
25 five years of being inconsistent with those companies. If consistency is the goal,

1 then maintaining a method used for thirty-five years, absent a compelling reason
2 to change, is the better policy. As Dr. Schink testifies:

3 During this period, Olympic has kept its records, done its planning,
4 and conducted its operations in the context of the current FERC
5 regulatory framework. All prior tariff rate increase submissions to
6 the Commission have been developed and justified within the
7 FERC's framework and have been accepted by the Commission.
8 Staff's and Tesoro's witnesses' position that the Commission
9 should reject the FERC framework at this juncture is unfair and
10 unreasonable.

11 Exhibit No. ____ (GRS-4T) at 13, lines 19-26. Also, because Olympic's system
12 is both interstate and intrastate, consistency with the interstate rate methods
13 makes sense in order to avoid allocation and other issues. Finally, consistency is
14 important for investment decisions. After thirty-five years, it was reasonable to
15 expect a continuation of the practice of using rates consistent with the federal
16 methods then in effect. Olympic had no reason to expect the current rate filing
17 to be challenged.

18 **IV. Inconsistency of Staff and Intervenors' Approaches with the History**
19 **of Regulation of Olympic**

20 **Q. Could you please explain past Staff review of Olympic's proposed rates?**

21 A. From my review of the materials, it is apparent that the Staff carefully considered
22 Olympic's rate filings, comparing the methodology used in Olympic's filing (the
23 FERC methodology at the time of the writing) with the traditional methodology
24 employed by the Commission (depreciated original cost methodology). There
25 are three separate memos written by Mr. Bob Colbo of Staff addressing the
26 higher rates resulting from Olympic's filings.

27 In the June 23, 1983, memo, Mr. Colbo stated:

1 As can be readily observed, the revenue need determination in this
2 case depends on whether or not the commission is willing to adopt
3 current FERC guidelines, or rely on the more traditional pro forma
4 restated year with original cost, depreciated rate base. The staff
5 feels this matter should be a policy determination of the
6 commission itself. . . .”

7 Exhibit No. ____ (CAO-6) at 4. The memo further contains Staff’s following
8 recommendation:

9 From a cost of service standpoint, therefore, it is recommended
10 that should the commission accept FERC’s methodology, WUTC
11 Tariff No. 16 be allowed to become effective July 1, 1983, as
12 filed. However, under more traditional pro forma, depreciated rate
13 base format, it is recommended that the filing be suspended and set
14 down for hearing unless voluntarily withdrawn.

15 Exhibit No. ____ (CAO-6) at 4. Olympic’s filing was neither “suspended and set
16 down for hearing” nor “voluntarily withdrawn.” Instead, the Commission
17 accepted the tariff as filed and allowed it to become effective on July 1, 1983.

18 In the December 30, 1996, memo, Mr. Colbo stated:

19 For ratemaking purposes, FERC allows a “trended/inflation
20 adjusted” rate base that differs significantly from original cost.
21 The resulting revenue requirement is therefore significantly larger
22 than this Commission would traditionally approve. While the staff
23 has concerns in this area, clearly the company has experienced
24 recent extraordinary cost overruns. The staff and Commission
25 have historically followed FERC methodologies in the past.
26 Neither FERC nor any shippers have protested the proposed rates.

27 Exhibit No. ____ (CAO-4) at 1. In addition to Mr. Colbo’s acknowledgment that
28 the “staff and Commission have historically followed FERC methodologies in
29 the past,” staff recommended that the Commission allow Olympic’s rate
30 proposal.

1 In the January 27, 1998, memo, Mr. Colbo stated:

2 The filing was made in accordance with FERC revenue requirement
3 guidelines which are more liberal than traditional Washington
4 regulatory practices, but which have been accepted by this
5 Commission for Olympic rate applications in the past.

6 Exhibit No. ____ (CAO-7) at 1-2. Again, Staff recommended that the
7 Commission allow Olympic's rate proposal.

8 **Q. Why do you think Staff and Intervenors, after thirty-five years of not**
9 **challenging Olympic's rate increases, now challenge Olympic's**
10 **methodology?**

11 A. It is difficult to tell. Staff's position is quite perplexing. All of Mr. Colbo's
12 memos demonstrate the fact that Staff knew that the methodology used by
13 Olympic would result in higher rates. The 1983 memo shows that the Staff felt
14 the issue was a matter of policy best decided by the Commission. In every memo
15 thereafter, Staff recommended approval of Olympic's rates and methodologies.
16 In fact, the 1996 memo states that the "[t]he staff and Commission have
17 historically followed FERC methodologies in the past." Exhibit No. ____ (CAO-
18 4) at 1. I can find no rationale explaining why Staff now actively opposes the
19 methodology as unsound.

20 As for the Intervenors, I can not speak to their reasons for opposing the
21 methodology. I would note, however, that Olympic could not find evidence that
22 any supplier has ever challenged the methodologies used in Olympic rates in the
23 past. In fact, Mr. Colbo's January 27, 1998, memo states that "[t]he filing has
24 the support of the major oil companies using the pipeline, and no protests have
25 been received." Exhibit No. ____ (CAO-7) at 1. It is unclear why suppliers filed

1 no protest in the 1998 increase using the FERC trended original cost
2 methodology but now challenge its use in this proceeding.

3 **Q. Does the Commission have discretion in terms of adopting a methodology?**

4 A. Yes. Even if the Commission intends to adopt a traditional WUTC approach,
5 essentially a different rate method than has been used in the past, the
6 Commission may still exercise its discretion to delay the effective date for that
7 change or to adopt a transition period. A delay in the effective date has been used
8 in the past to ease a utility's transition one rate methodology to another. This is
9 further discussed in the testimony of Leon Smith. Exhibit No. ____ (LS-1T) at
10 10-11.

11 **V. Inadequate Discussion of the Public Interest by Staff and Intervenors**

12 **Q. Are you familiar with the Commission's duty to regulate in the public**
13 **interest?**

14 A. Yes. RCW § 80.01.040(2) requires the Commission to “[r]egulate *in the public*
15 *interest*, as provided by the public service laws, the rates, services, facilities, and
16 practices of all persons engaging in the transportation by whatever means of
17 persons or property within this state for compensation. . . .” Id. (emphasis
18 added). The Commission emphasized that role in this docket, discussing the sixth
19 factor of the PNB test for interim relief and stating:

20 As in all matters, we must reach our conclusion with the statutory
21 charge to the Commission in mind, that is, to 'Regulate in the
22 public interest.' (RCW 80.01.040). This is our ultimate
23 responsibility, and a reasoned judgment must give appropriate
24 weight to all salient factors.

1 WUTC v. Olympic Pipeline Co., Docket No. TO-011472, Third Supplemental
2 Order, Order Granting Interim Relief, In Part (Jan. 31, 2002) at 10-11.

3 **Q. How would you define the “public interest?”**

4 A. The “public interest” is a difficult concept to define. In many ways, the concept
5 of the public interest is like the old saying about beauty--it is in the eye of the
6 beholder. I think there are two primary purposes for the regulation of
7 businesses. The first purpose is to protect consumers from the undue exercise
8 of market power by naturally monopolistic companies, and the ratemaking
9 process addresses this first purpose of regulation. The second is the protection
10 of the public from undue harm, which can result in a wide variety of regulations--
11 from the regulation of fraudulent business practices to regulations aimed to
12 maintain and improve public safety. With regard to this Commission’s
13 regulation of pipelines, I think that these two concerns (undue market influence
14 and protection of the public) would still be the primary concern of this
15 Commission.

16 **Q. Are you familiar with the “public interest” standard with regard to**
17 **ratemaking?**

18 A. Although I am not an attorney, I am familiar with the general need of regulatory
19 bodies to consider the public interest in establishing rates of regulated
20 companies. Regulating bodies must establish rates that are just, fair, reasonable,
21 and sufficient. In doing so, they must balance the interests of the company in
22 maintaining operations and attracting capital with the interests of consumers in
23 receiving a safe, reliable service at a reasonable rate.

1 **Q. Are you familiar with the end result test of ratemaking?**

2 A. Yes. In FPC v. Hope Natural Gas Co., 320 U.S. 592 (1944) (“Hope Natural
3 Gas”), the Supreme Court held that the ultimate goal of ratemaking is the
4 establishment of just and reasonable rates that are in the public interest. In doing
5 so, the Supreme Court established the “end result test” in which the Court stated
6 that courts reviewing agency ratemaking decisions must examine the end result
7 of the agency decision. If the end result is a rate that is just and reasonable, then
8 the methodologies or formulae used by the regulatory body are irrelevant.
9 Further discussion of Hope Natural Gas is discussed in the testimony of George
10 Schink. Exhibit No. ____ (GRS-4T) at 7-12, 39-48.

11 **Q. Do Staff and Intervenors apply the end result test?**

12 A. No. Although Tesoro’s witness, Mr. Brown, and Staff’s witness, Mr. Elgin, cite
13 Hope Natural Gas., neither Tesoro nor Staff sufficiently examine the
14 consequences or the end result of their recommendations. The testimonies of:
15 Larry Peck, Bobby Talley, and Howard Fox detail the consequences of Staff and
16 Intervenors’ recommendations.

17 **Q. How is the “public interest” best satisfied here through continued use of the**
18 **FERC approach rather than the depreciated original cost methodology?**

19 A. The Commission recognized in its order granting interim relief that Olympic
20 (i) is in dire financial straits, (ii) is operating at 80% of normal operating
21 pressure under a mandated restriction, and (iii) requires significant and costly
22 safety improvements. Since Olympic faces a grave financial emergency, a
23 ratemaking methodology resulting in lower rate increases is not in the public
24 interest—particularly where the cost of transport is such a small fraction in the

1 total petroleum costs. The public interest is best served by having a safe,
2 reliable, and financially stable oil pipeline that can dependably and efficiently
3 fulfill the petroleum transport needs of the Western Washington region.

4 **Q. How can increasing rates so as to enable Olympic to attract capital be in the**
5 **public interest?**

6 A. The answer is simple but contains three parts. First, as described in the
7 testimony of Bobby Talley at Exhibit No. ____ (BJT-11T) at 9, Olympic needs to
8 fund safety and other capital improvements. This Commission is the agency
9 responsible for pipeline safety within the state of Washington and therefore must
10 consider the impact of rates insufficient to meet or exceed safety regulations for
11 the protection of the citizens of Washington.

12 Second, petroleum products are a vital component of our regional economy--as
13 demonstrated by the shortages of the 1970s. Citizens rely on petroleum for a
14 variety of everyday uses (e.g., commuting, heating their homes, operating
15 household appliances, various recreational purposes). Industries use petroleum
16 products to power their machinery, transport raw materials and end products, etc.
17 Oil pipelines are the safest and most reliable method (Jason - where are the
18 findings/support for this statement) of transporting this substance vital to modern
19 life, and the citizens of Washington deserve a safe, reliable, and financially stable
20 pipeline to meet transport needs. If Olympic's funding needs are not
21 consistently met, then Western Washington will continually be in danger of
22 losing the most effective method to transport petroleum.

23 Third, the rates charged by Olympic do affect the ultimate customers of
24 petroleum products, but the effect is rather small. Olympic and its rates are very

1 minor factors in the pricing of petroleum. As described in the testimony of Mr.
2 Smith, Olympic's rate increase, if granted in full, would increase the cost of
3 gasoline at automobile service stations by 1/2 of one cent. Such an increase is a
4 reasonable concession to make for consumers, especially when weighed against
5 the benefits of maintaining a safe and reliable petroleum transport system within
6 Western Washington.

7 **VI. The Public Interest in Pipeline Safety**

8 **Q. What are Staff's recommendations regarding safety-related requirements and**
9 **the ability of Olympic to comply with state and federal regulations regarding**
10 **pipeline safety?**

11 A. Staff does not specifically address safety in its testimony. Staff does not analyze
12 the new safety responsibilities to be borne by pipelines, such as Olympic, nor
13 does Staff discuss at what level rates should be set so that Olympic may comply
14 with applicable state and federal pipeline safety regulations.

15 This is surprising and disappointing. It appears that Staff is more concerned with
16 how the pipeline maintains its financial records than with the company's ability
17 to make required safety improvements. This is all the more surprising because
18 this Commission is also the regulatory body statutorily obligated to "administer
19 and enforce all laws related to hazardous liquid pipeline safety." RCW
20 81.88.060. The purpose of that chapter is to "protect the health and safety of the
21 citizens of the state of Washington and the quality of the state's environment."
22 RCW 81.88.005.

1 **Q. What are the recommendations of the Intervenor in their testimony**
2 **regarding Olympic’s ability to comply with state and federal pipeline safety**
3 **requirements?**

4 A. Tosco does not address safety in its testimony.

5 Tesoro’s witness John Brown states in his testimony that the rates he
6 recommends allow Olympic to recover every dollar it has invested into every
7 capital project Olympic has identified as necessary to comply with OPS’s and the
8 “Alaska Department of Environmental Compliance’s [sic] safety projects.” Mr.
9 Brown subsequently corrected his testimony to remove the reference to the
10 Alaska Department of Environmental Compliance, but did not replace that
11 reference with a reference to the state regulatory requirements of the WUTC.
12 This suggests that Mr. Brown did not consider any state safety regulations in
13 preparing his testimony. Moreover, although Mr. Brown refers to OPS
14 requirements, he does not present an analysis of how his recommended rates
15 permit Olympic to recover a sufficient amount to permit it to make both the state
16 and federal safety-related improvements.

17 In short, neither Staff nor the Intervenor have substantively addressed safety in
18 their recommendations.

19 **VII. The Public Interest in Low Rates**

20 **Q. Could you please address the public interest factor relating to low rates?**

21 A. Yes, the public has an interest in receiving a safe, reliable service at a reasonable
22 rate. As stated above, this factor is a significant one in ratemaking because,
23 under the typical circumstances, the public utility consists of a natural monopoly
24 that faces no price constraints through competition. Thus, the utility has a

1 significant degree of market power over the public, and consumers--particularly
2 household consumers--are merely price-takers. Since the utility is the producer,
3 marketer, and distributor of the service, any rate increase is directly passed onto
4 the public. Rate regulation, therefore, acts as proxy for an efficient market and
5 produces a rate that allows the company a rate sufficient to meet operating
6 expenses and attract capital while preventing the natural monopoly from taking
7 advantage of its strong market power.

8 **Q. Will the rate increase be directly passed on to the public if the Commission**
9 **were to grant Olympic's increase?**

10 As Mr. Smith testifies, the answer to that question is uncertain. However, to the
11 extent that an increase in Olympic's rates will affect the price of petroleum in
12 Western Washington, it will be very modest. As described in the testimony of
13 Mr. Smith, Olympic's rate increase, if granted in full, would increase the cost of
14 gasoline at automobile service stations by 1/2 of one cent.

15 **Q. Does that conclude your present testimony?**

16 A. Yes, it does.

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