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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 WASHINGTON UTILITIES AND)Docket No. TO-011472
4 TRANSPORTATION COMMISSION,)Volume XIX
)Pages 1953-2013
5)
)v.)
6)
7 OLYMPIC PIPE LINE COMPANY,)
)INC.,)
)Respondent.)
8 _____)

9 A prehearing conference in the
10 above matter was held on June 13, 2002, at 1:35 p.m.,
11 at 1300 S. Evergreen Park Drive Southwest, Olympia,
12 Washington, before Administrative Law Judge ROBERT
13 WALLIS.

14 The parties were present as
15 follows:

16 OLYMPIC PIPE LINE COMPANY, INC.,
17 by Jason Kuzma, Attorney at Law, One Bellevue Center,
18 Suite 1800, 411 108th Avenue, N.E., Bellevue,
19 Washington 98004.

20
21 TESORO, by Robin Brena, Attorney
22 at Law, 310 K Street, Suite 601, Anchorage, Alaska
23 99501.
24 Barbara L. Nelson, CCR
25 Court Reporter

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1 TOSCO CORPORATION, by Chad Stokes,
2 Attorney at Law, and Francie Cushman, Law Clerk, 526
3 N.W. 18th Avenue, Portland, Oregon 97209.

4

5 THE COMMISSION, by Donald Trotter
6 and Lisa Watson, Assistant Attorneys General, 1400
7 Evergreen Park Drive, S.W., P.O. Box 40128, Olympia,
8 Washington 98504-0128.

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1 JUDGE WALLIS: Let's be on the record,
2 please. This is a prehearing conference in the
3 matter of Docket Number TO-011472, which is a general
4 rate increase request submitted by Olympic Pipe Line
5 Company. This matter is being heard in Olympia,
6 Washington, on Thursday, June 13, of the year 2002.
7 My name is Robert Wallis, and I am the presiding
8 Administrative Law Judge.

9 We have, prior to going on the record
10 today, engaged in the exchange of documents, and
11 parties have distributed documents that they intend
12 to have available to offer, not a guarantee that they
13 will be offered, during the cross-examination of
14 various of the company's witnesses.

15 We have prepared a brief agenda for today,
16 have reviewed that, and I believe are prepared to
17 proceed. Let us begin the formalities by taking
18 appearances from the parties, and let me begin with
19 the company, who has a representative here that I
20 don't believe has represented the company previously
21 in this proceeding. Mr. Kuzma, would you state your
22 full name and your business address and your contact
23 information, that is, your telephone number,
24 electronic mail address and fax number. That's our
25 first test.

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1 MR. KUZMA: My name's Jason Kuzma. My
2 address is One Bellevue Center, 411-108th Avenue,
3 N.E., Bellevue, Washington, 98004. My phone number
4 is 425-467-7205. My fax number is 425-462-9134. My
5 e-mail is jkuzma@perkinscoie.com, that's
6 p-e-r-k-i-n-s-c-o-i-e.com

7 JUDGE WALLIS: Now, for purposes of
8 distributing documents over the next few days, will
9 you be continuing your representation of the company
10 during the hearing?

11 MR. KUZMA: That is correct.

12 JUDGE WALLIS: Very well. Is there any
13 change in representation, other than the addition of
14 your name to counsel?

15 MR. KUZMA: No, there isn't.

16 JUDGE WALLIS: Very well. Thank you very
17 much. For Tesoro. Mr. Brena, you and others whom we
18 already have on record, if you'd just state your name
19 and the name of your client, and if there's any
20 additional information, please state that at this
21 time.

22 MR. BRENA: My name is Robin Brena, and I'm
23 here on behalf of Tesoro Refining and Marketing. And
24 with me today is Elaine Houchen, H-o-u-c-h-e-n. She
25 is my legal assistant.

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1 I would like to ask that during the
2 pendency of the hearing, that if anybody e-mails my
3 office any information related to the case, that they
4 also, in addition to e-mailing it to all the places
5 they do now, that they add my e-mail address while
6 I'm here, which would be all lower case and no
7 spaces, robrena@hotmail.com. Thank you.

8 JUDGE WALLIS: Thank you, Mr. Brena. I
9 will underline that request and ask that all of the
10 parties take whatever administrative steps are
11 necessary so that when you send an electronic mail
12 message, it does go to all of the parties, and ask
13 you to add Mr. Kuzma, as well. For Tosco.

14 MR. STOKES: Good afternoon. My name is
15 Chad Stokes, Tosco.

16 JUDGE WALLIS: And you have someone with
17 you today who will be carrying on in the presence of
18 your absence, I believe; is that correct?

19 MR. STOKES: That's right, Your Honor.
20 Francie Cushman.

21 JUDGE WALLIS: Finding it hard to be two
22 places at the same time?

23 MR. STOKES: Right, it is a hard task.
24 Francie Cushman. She's a law clerk with our office.

25 JUDGE WALLIS: Well, we'll try not to get

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1 you into any situation where you violate any
2 professional ethics or any ethics of any profession
3 you may eventually --

4 MS. CUSHMAN: Thank you, Your Honor.

5 JUDGE WALLIS: -- be associated with or a
6 member of. For Commission Staff.

7 MR. TROTTER: Donald T. Trotter and Lisa
8 Watson, Assistant Attorneys General, for Commission
9 Staff.

10 JUDGE WALLIS: Thank you very much. In
11 conjunction with the agenda, I have distributed a
12 draft list of witnesses, and I drew from this on the
13 submissions of the company and Commission Staff on
14 behalf of itself and other parties on June 3rd. I
15 would like, as we go into this, to confirm our
16 present understanding of the Commission's schedule
17 for this docket.

18 We will be taking up and convening the
19 hearing on the general rate case at -- I believe it's
20 1:30 p.m. -- I'll be in touch if it's any other time
21 -- on Tuesday, June 18th, and we will take up at that
22 time with arguments on motions. There is a pending
23 motion for summary determination or to strike
24 testimony presented by Tesoro, and Mr. Brena has
25 indicated that he intends to file, no later than

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1 Monday, a motion to strike rebuttal testimony; is
2 that correct, Mr. Brena?

3 MR. BRENA: Yes, portions of the rebuttal
4 case; that's correct, Your Honor.

5 JUDGE WALLIS: So we expect that there will
6 be argument on that. Pursuant to earlier
7 discussions, do I recall correctly that if the
8 argument is concluded before the conclusion of the
9 day, that we will then take up Mr. Batch, and then we
10 will get into the witnesses on cost of money and
11 capital structure most likely beginning on Wednesday;
12 is that correct? Would there be any barrier to
13 taking that up on Tuesday?

14 MR. TROTTER: The only -- this is -- well,
15 we're not on telephone, so I don't have to. From
16 Staff, Mr. Wilson will not be available Tuesday. We
17 indicated previously he will be able to appear all
18 day of Wednesday and all day Thursday.

19 JUDGE WALLIS: Very well.

20 MR. BRENA: Your Honor, if I may, too.

21 JUDGE WALLIS: Mr. Brena.

22 MR. BRENA: I would anticipate that there
23 not be time that afternoon to begin Mr. Batch. I
24 would note that if we did begin Mr. Batch, that he is
25 five witnesses away from coming back. So my

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1 suggestion would be just to face the reality that
2 there's some very substantial motions and to allocate
3 that afternoon to the argument of those and
4 presentations of those motions and -- just so that
5 parties know where they stand going in.

6 JUDGE WALLIS: We appreciate that, Mr.
7 Brena. I have discovered over time that sometimes
8 the unexpected does happen and am always a little bit
9 more comfortable to try to anticipate contingencies
10 and account for them. But this does not mean that
11 we're counting on getting through Mr. Batch and Mr.
12 Schink and Mr. Wilson on Tuesday. Very well. With
13 that --

14 MR. BRENA: Well, Your Honor, if I may just
15 make one additional comment. What the
16 cross-examination of those witnesses can include will
17 be the subject of the argument that afternoon.

18 JUDGE WALLIS: Very well.

19 MR. TROTTER: Your Honor, could I also ask,
20 according to the schedule, and maybe I just misheard
21 at the beginning, we are starting in the morning for
22 numbering exhibits or are we --

23 JUDGE WALLIS: We will have to plug in some
24 time. Because of the short time between the filing
25 of the rebuttal and the beginning of the hearing, we

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1 didn't think it appropriate to demand that parties
2 present today any documents that they may wish to use
3 on cross-examination of those witnesses, so we will
4 need to have a session on Tuesday morning. Let me
5 tentatively ask that parties be available at 10:00 on
6 Tuesday morning.

7 Now, there are some activities here in the
8 building that I am committed to, and if I discover
9 that there is any change in that opening time, then I
10 will let parties know. Conversely, if parties decide
11 that they have no or very few documents that they may
12 wish to use in cross-examination, please let me know,
13 and we may be able to convene a few minutes before
14 1:30 and handle the administrative task of getting
15 those documents identified and distributed. Will
16 that work for parties?

17 MR. TROTTER: Yes, Your Honor. Very well.

18 JUDGE WALLIS: One administrative matter
19 that did occur to me, and I think was on an earlier
20 iteration of my list, is the question of whether any
21 parties are going to ask for realtime transcripts?
22 It appears not.

23 MR. TROTTER: That's correct, Your Honor.

24 JUDGE WALLIS: Very well.

25 MR. BRENA: May I ask what the cost is

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1 associated with that request?

2 JUDGE WALLIS: I believe, and it's been a
3 while since I looked at that, unless our reporter
4 knows the contract, I believe it's a hundred percent
5 override over the regular page cost, which I believe
6 is about 2.50.

7 MR. BRENA: And during the course of the
8 proceeding, when would we normally get the
9 transcript? Would it be --

10 JUDGE WALLIS: There's a ten-day normal
11 delivery, ten business day delivery.

12 MR. BRENA: We would probably request
13 something similar to next-day delivery on it or that
14 evening.

15 JUDGE WALLIS: Let's be off the record for
16 discussion.

17 (Discussion off the record.)

18 JUDGE WALLIS: Is the order of witnesses
19 that's expressed on the list accurate, as far as the
20 parties are concerned?

21 MS. CUSHMAN: Just for the record, though,
22 Your Honor, Mr. Means should be listed as one of
23 Tosco's witnesses.

24 JUDGE WALLIS: Mr. Means. Is that the only
25 change?

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1 MS. CUSHMAN: Yes, Your Honor.

2 JUDGE WALLIS: And the order of examination
3 of Olympic's witnesses would be Staff, Tesoro and
4 Tosco; is that correct?

5 MR. BRENA: Yes, that's my understanding,
6 Your Honor.

7 MR. KUZMA: Your Honor, Olympic would like
8 to make a few changes in the order, if possible.

9 JUDGE WALLIS: Very well.

10 MR. KUZMA: I just have one question. You
11 have Mr. Batch down twice. Were you anticipating if
12 he wasn't to finish on the first day, that he would
13 -- I was just a little confused about the order.

14 JUDGE WALLIS: My listing him as number one
15 was on the basis of an earlier informal discussion in
16 which we talked about having someone available in
17 case the argument did not take the entire afternoon,
18 and the suggestion was that Mr. Batch could be that
19 person. Other than that, if he does not get on, then
20 I'm very comfortable in having the company's order of
21 witnesses be as they have -- as you have requested,
22 so that he would then not show up until following Mr.
23 Peck.

24 MR. KUZMA: Okay, thank you.

25 JUDGE WALLIS: Is that the company's

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1 preference?

2 MR. KUZMA: I think that there were some
3 scheduling issues regarding availability of
4 witnesses, so they have proposed a slightly modified
5 one, if it's not too late to --

6 JUDGE WALLIS: What's your proposal?

7 MR. KUZMA: I believe first that they
8 would, instead of Mr. Batch first, potentially Mr.
9 Peck.

10 JUDGE WALLIS: Very well.

11 MR. KUZMA: And then, depending on the cost
12 of service availability, I understand that there's an
13 issue with that the first week -- followed by Mr.
14 Batch.

15 MR. BRENA: Could I just ask you to clarify
16 that? Are we starting Mr. Peck out of the gate on
17 Wednesday, probably? Is that what you're --

18 JUDGE WALLIS: That would not be my
19 intention, unless the company prefers. The reason
20 for that is that the cost of money, cost of capital
21 witnesses I think we want to get on and off that
22 week. And I would prefer to start off with those, if
23 that will work for the company.

24 MR. KUZMA: Yes, it will. Just -- we're
25 offering Mr. Peck in case, Tuesday, there is time.

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1 JUDGE WALLIS: Fine. Excellent. Thank
2 you.

3 MR. KUZMA: And then, as far as the rest of
4 the witnesses, after Mr. Batch, on the list, here you
5 have Mr. Talley. We'd like to modify these due to
6 availability issues. Mr. Batch would be followed,
7 instead of by Mr. Talley, it would be Mr. Collins,
8 then Ms. Hammer, then Mr. Mach, then Mr. Beaver, then
9 Mr. Ganz, followed by Mr. Leon Smith, Ms. Omohundro,
10 Mr. Cummings, Mr. Wicklund, Mr. Talley, and followed
11 by Mr. Fox.

12 MR. BRENA: Could I ask for you to do that
13 one more time?

14 JUDGE WALLIS: Let's be off the record for
15 that reiteration.

16 (Discussion off the record.)

17 JUDGE WALLIS: Okay. Let's be back on the
18 record now. For convenience sake, in the numbering
19 of exhibits, we've decided to adopt the following
20 protocols. We will assign a 100 block of exhibit
21 numbers to each of the witnesses who plan to appear.
22 And we will take up with Mr. Schink and call his
23 rebuttal testimony, GRS-4-T, our Exhibit Number
24 201-T. And we will fill in the numbers for the
25 documents on direct and potential cross-examination

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1 with that pattern in mind, leaving blank any that are
2 not filled in, with the understanding that there may
3 be exhibits on cross-examination of the rebuttal
4 testimony, which was received only the day before
5 yesterday.

6 We also intend to use the numbering that we
7 engage in today on the record to constitute our
8 official identification of these documents for
9 purposes of the record. That's identification only.
10 This does not mean that once a document is
11 identified, it must be offered or received into
12 evidence, but it will allow us to have a reference
13 point at which we are able to assure that the
14 document we have in our hands is the one that the
15 parties are referencing during the examination.

16 So with that, Mr. George R. Schink's direct
17 -- or rebuttal testimony, GRS-4-T, is Exhibit 201-T
18 for identification. 202 is Total Annual Dollar
19 Return, GRS-5. 203 is Recovery of Deferred Earnings
20 Per Barrel. 204 is Recovery of the Return Remaining
21 Starting Rate Base Writeup Over Five Years, GRS-7.
22 205 is Response from Tesoro to Data Request Numbers
23 509, 510 and 501. 206 is Capital Structure of
24 Pipelines that are Wholly Owned.

25 And I will note for the record that I'm not

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1 reading the complete title of each of these
2 documents, but I believe sufficient to identify the
3 documents as a unique document. The Capital
4 Structure Document, Number 206, is GRS-9. 207 for
5 identification is Dividend Payout Ratios for the Oil
6 Pipeline Proxy Group, GRS-10. 208 is Calculated ROEs
7 for the Oil Pipeline Proxy Group, GRS-11. 209 is
8 Calculated ROEs for the Oil Pipeline Proxy Group
9 Companies, October 2001, GRS-12.

10 210 is Summary of Updated Cost of Common
11 Equity Results, GRS-13. 211 for identification is
12 Alternative Calculated ROEs for the Oil Pipeline
13 Proxy Group, GRS-14. 212 is Alternative Calculated
14 ROEs for the Oil Pipeline Proxy Group, GRS-15. 213
15 is Summary of Updated Cost of Common Equity Results,
16 GRS-16. 214 is Comparison of Projected and
17 Historical Earnings and Dividends Per Share, GRS-17.

18 215 is Calculated ROEs for the Oil Pipeline
19 Proxy Group, GRS-18. 216 is Calculated ROEs for the
20 Oil Pipeline Proxy Group Companies using WUTC DCF
21 Method, GRS-19. Exhibit 217 for identification is
22 Summary of Updated Cost of Common Equity Results
23 Using the WUTC DCF Method, GRS-20. 218 for
24 identification is Summary Rate of Return on Common
25 Equity End of Year 1994-2001, GRS-21. Exhibit 219

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1 for identification is Capital Structure and Cost of
2 Debt, GRS-22, and Exhibit 220 for identification is
3 Common Equity Share of Capital for the Oil Pipeline
4 Proxy Group, GRS-23.

5 Now, are there any exhibits on
6 cross-examination for Mr. Schink for Commission
7 Staff?

8 MR. TROTTER: Staff has none at this time.

9 JUDGE WALLIS: Okay. Mr. Brena.

10 MR. BRENA: Yes, we have two.

11 MS. HOUCHEM: Because they're not organized
12 this way, it would take me quite a while to find each
13 of these.

14 JUDGE WALLIS: Do you have the title of
15 those documents available to you?

16 MR. BRENA: Are these numbers --

17 MS. HOUCHEM: No, they're not. It would
18 take me a little while to find them.

19 JUDGE WALLIS: All right. What I'm going
20 to ask you to do, then, is give us a list of those
21 and set them up in the format of our exhibit list,
22 and then we'll be able to cut and paste into the
23 master. And if you could have those to us, say, by
24 10:00 in the morning?

25 MR. BRENA: Yes, Your Honor.

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1 JUDGE WALLIS: If that would work?

2 MR. BRENA: I think that would be far
3 easier to do it that way, given her comments.

4 JUDGE WALLIS: Okay. Save us a little time
5 this afternoon, as well.

6 MS. CUSHMAN: Your Honor, could I ask a
7 question?

8 JUDGE WALLIS: Ms. Cushman.

9 MS. CUSHMAN: I am unaware of whether or
10 not and what cross-examination exhibits we might have
11 for particular witnesses, so I just want to tell you
12 that, and then I guess reserve the opportunity to
13 present any cross-examination exhibits that we may
14 have later. Is that appropriate?

15 JUDGE WALLIS: Our protocol is that, other
16 than on rebuttal, we did ask that those documents be
17 available for marking today, so if you have any that
18 are not associated with the rebuttal, then we'll
19 probably have to go through some discussion on how to
20 deal with that.

21 MS. CUSHMAN: Thank you.

22 JUDGE WALLIS: But I would ask Tosco to
23 have that information available, if possible, also
24 tomorrow morning by 10:00, and then we can make a
25 note on the exhibit list, and to the extent we have

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1 to discuss those, then we will.

2 MS. CUSHMAN: Thank you, Your Honor.

3 JUDGE WALLIS: Are we ready to move on to
4 Mr. Wilson? Very well. Consistent with our
5 convention, we're going to call his Direct Testimony
6 and Exhibits of John W. Wilson on Behalf of the
7 Commission Staff, pre-noted as JWW-1-T, that will be
8 Exhibit 301-T for identification. Document
9 designated Interest Rates, JWW-2, is 302 for
10 identification. 303 for identification is Analysis
11 of Dr. Schink's IBES Growth Forecasts, JWW-3. 304 is
12 DCF Cost of Equity Indications, JWW-4. 305 is
13 Fundamental DCR Indications, JWW-5.

14 306 is Capital Asset Pricing Model, JWW-6.
15 307 is Comparable Expected Market Earnings Rates,
16 JWW-7. 308 is Oil Pipeline Limited Partnerships
17 Comparative Risk Indicators, JWW-8. And Exhibit 309
18 for identification is Olympic Pipe Line Company
19 Deemed Capital Structure and Recommended Rate of
20 Return Allowance, JWW-9. Are there proposed exhibits
21 on cross-examination for Mr. Wilson?

22 MR. KUZMA: No, Your Honor.

23 MR. BRENA: No, we don't have any for him.

24 JUDGE WALLIS: Very well. Let's move on to
25 Mr. Hanley, who earns the 400 series today, and his

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1 Direct and Answering Testimony is marked as Exhibit
2 401-T, and it is predesignated FJH-1-T. 402 for
3 identification is Summary of Cost of Capital and Fair
4 Rate of Return, FJH-2. 403 is Standard and Poor's
5 Corporate Ratings Criteria, FJH-3. 404 is
6 Comparative Financial Statistics, 1990-2000, for
7 Olympic Pipe Line Company and the Proxy Group, FJH-4.
8 405 is Response to Data Request Number 152,
9 FJH-5. 406 is an Annual Report for Foreign Private
10 Issuers, FJH-6. 407 is Composite Cost of Total Debt
11 of the Proxy Group, FJH-7. 408 is Discounted Cash
12 Flow Model, Summary of Conclusions, FJH-8. 409 for
13 identification is Derivation of Dividend Yield for
14 Use in the Discounted Cash Flow Model, FJH-9. 410
15 for identification is Single Stage Discounted Cash
16 Flow Model, Summary of Conclusions, FJH-10.
17 411 for identification is Two-step Compound
18 Growth Discounted Cash Flow Model, FJH-11. 412 for
19 identification is Two-step FERC Weighted Growth
20 Discounted Cash Flow Model, FJH-12. 413 for
21 identification is Development of Projected Growth for
22 Use in the Discounted Cash Flow Model, FJH-13. 414
23 is indicated Common Equity Cost Rate Through Use of
24 Risk Premium Model, FJH-14. 415 is SBBI Valuation
25 Edition 2001 Yearbook, FJH-15.

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1 416 for identification is Capital Asset
2 Pricing Model for the Proxy Group of Five Oil
3 Pipeline Companies, FJH-16. 417 is Comparable
4 Earnings Analysis for a Proxy Group of 11 Non-utility
5 Companies, FJH-17. 418 is Demonstration of the
6 Unreasonable Results Inherent in the Capital
7 Structure, FJH-19. And 419 for identification is
8 Description of R-squared Statistic from Modern
9 Portfolio Theory and the Capital Asset Pricing Model,
10 FJH-19.

11 Are there documents for potential use on
12 cross-examination of this witness?

13 MR. TROTTER: No.

14 JUDGE WALLIS: Very well. We're marking as
15 Exhibit 501-T for identification the rebuttal
16 testimony of Larry Peck. Are there any documents for
17 Mr. Peck on potential cross-examination?

18 MR. TROTTER: Not at this time.

19 JUDGE WALLIS: Now, for Mr. Batch. Mr.
20 Kuzma, do you have a list of his prefiled exhibits?

21 MR. KUZMA: Yes, I do. The first is --
22 would be his -- excuse me.

23 MR. TROTTER: Your Honor, could we go off
24 the record?

25 JUDGE WALLIS: Let's be off the record for

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1 just a moment.

2 (Discussion off the record.)

3 JUDGE WALLIS: Let's be back on the record,
4 please. For Mr. Batch, we are marking his Rebuttal
5 Testimony as 601-T, and we are marking his exhibit,
6 consisting of two letters, as Exhibit 602 for
7 identification.

8 Mr. Kuzma, could you describe for us,
9 please, what those letters are? For example, who
10 they are to and from and the date that appears on
11 them?

12 MR. KUZMA: Sure. The first letter is from
13 Senator Patty Murray to Robert Batch, as of June
14 10th, 2002. And the second is a letter from
15 Representative Jay Inslee to Robert Batch of Olympic
16 Pipe Line of June 6th, 2002.

17 JUDGE WALLIS: Very well. Those are
18 collectively marked as Exhibit 602 for
19 identification.

20 Moving on to Mr. Collins, his rebuttal
21 testimony, BAC-6-T is marked as Exhibit 701-T for
22 identification.

23 MR. TROTTER: Excuse me, Your Honor. We do
24 have some exhibits to mark with respect to Mr. Batch,
25 which is his deposition and six exhibits. And we did

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1 give you --

2 JUDGE WALLIS: Very well.

3 MR. TROTTER: -- an exhibit list page that
4 you may want to use or not, at your discretion.

5 JUDGE WALLIS: Thank you very much. We're
6 marking as Exhibit 603 for identification the
7 deposition dated April 22, 2002, in conjunction with
8 Mr. Batch's appearance. Marking as 604 for
9 identification Deposition Exhibit Batch Number 1.
10 Marking as 605-C a document designated as
11 Confidential Deposition Exhibit Batch Number 2.
12 606-C is Confidential Deposition Exhibit Batch Number
13 3. 607 for identification is Deposition Exhibit
14 Batch Number 4. 608 is Deposition Exhibit Batch
15 Number 5. And 609 is Deposition Exhibit Batch Number
16 6. Any others for Mr. Batch?

17 MR. TROTTER: Not at this time.

18 JUDGE WALLIS: Now we can move along to Mr.
19 Collins and assign Exhibit 701-T to his rebuttal
20 testimony. Exhibit 702 for identification is Total
21 Cost of Service, BAC-7-C. 703 for identification is
22 Total Cost of Service, BAC-8-C. Let me confirm that
23 the C designation on these means that these are
24 presented as confidential exhibits, Mr. Kuzma; is
25 that correct?

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1 MR. KUZMA: That is correct, Your Honor.

2 JUDGE WALLIS: So they will be 702-C and
3 703-C for identification. Marking as 704-C for
4 identification, a document designated WUTC
5 Jurisdictional Segment, BAC-9-C. 705-C for
6 identification is Cost of Service - Fully Allocated
7 Cost, BAC-10-C. 706-C for identification is Total
8 Cost of Service, BAC-11-C. 707-C for identification
9 is WUTC Jurisdictional Segment, BAC-12-C. And 708-C
10 for identification is Cost of Service Fully Allocated
11 Cost, BAC-13-C.

12 And I believe that there are documents for
13 potential use on cross-examination of Mr. Collins; is
14 that correct?

15 MR. TROTTER: Yes, Your Honor. We have
16 distributed the deposition of Mr. Collins, plus his
17 Deposition Exhibit Number 1 and Number 2.

18 JUDGE WALLIS: Very well. Those are marked
19 respectively as Exhibits 709, 710, and 711. That is,
20 the deposition dated April 25 is 709; the exhibit
21 from the deposition, Number 1, is 710; and the
22 Deposition Exhibit Number 2 is 711.

23 For Cynthia Hammer, I am marking as Exhibit
24 801-T for identification the Rebuttal Testimony of
25 Cynthia A. Hammer, noted as CAH-5-T. And is there --

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1 there is.

2 MR. TROTTER: Yes, Your Honor. We have
3 distributed a deposition in two volumes. The first
4 volume is the first item on our list, and the second
5 volume is the last item on our list, and then the
6 items in between are the exhibits to her deposition.
7 She appeared over the course of two days, I believe.

8 JUDGE WALLIS: Very well. I'm marking as
9 Exhibit 802 for identification Deposition of Cynthia
10 A. Hammer, dated April 23, 2002. 803 is Deposition
11 Exhibit Hammer Number 1. 804 is Deposition Exhibit
12 Hammer Number 2. 805 is Confidential Deposition
13 Exhibit Hammer Number 3. That will be 805-C.

14 806-C is Confidential Deposition Exhibit
15 Hammer Number 4. 807 is Deposition Exhibit Hammer
16 Number 5. 808-C is Confidential Deposition Exhibit
17 Hammer Number 6. 809-C is Confidential Deposition
18 Exhibit Hammer Number 7. 810 is confidential --
19 that's 810-C is Confidential Exhibit Deposition
20 Hammer Number 8.

21 811-C is Confidential Deposition Exhibit
22 Hammer Number 9. 812-C is Ms. Hammer's Deposition
23 Exhibit Number 10. 813-C is her Confidential Exhibit
24 Number 11. 814-C is her Confidential Exhibit Number
25 12. And 815 is her deposition dated April 25, 2002.

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1 Any other documents for Ms. Hammer? Very
2 well.

3 For Mr. Mach, I'm marking as Exhibit 901-T
4 Mr. Mach's rebuttal testimony, JM-1-T. And do we
5 have any documents on potential cross-examination for
6 Mr. Mach?

7 MR. TROTTER: Not from Staff at this time.

8 JUDGE WALLIS: Very well. For Mr. Beaver,
9 there -- again, Mr. Kuzma, could you help us out? Is
10 there any additional testimony from Mr. Beaver,
11 direct testimony?

12 MR. KUZMA: No, there isn't, Your Honor.

13 JUDGE WALLIS: Very well. And are there
14 any potential cross-examination exhibits?

15 MR. TROTTER: Not from Staff.

16 JUDGE WALLIS: Very well. I'm going to
17 reserve the 1000 series or the 10 series, depending
18 on how you look at it, for Mr. Beaver, in case there
19 are exhibits on cross.

20 Moving along to Mr. Ganz, marking as 1101-T
21 Mr. Ganz's Rebuttal Testimony, GRG-1-T. And 1102 is
22 his Exhibit GRG-2, consisting of his qualifications.
23 Are there potential exhibits on cross-examination for
24 Mr. Ganz?

25 MR. TROTTER: None at this time from Staff.

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1 JUDGE WALLIS: For Mr. Leon P. Smith,
2 Rebuttal Testimony, LPS-1-T, is marked as Exhibit
3 1201-T, and his Qualifications as 1202. Other
4 documents for Mr. Smith? Let the record show that
5 there's no response.

6 Ms. Omohundro's Rebuttal Testimony,
7 CAO-5-T, is marked as 1301-T for identification. I'm
8 marking as 1302 for identification a document
9 entitled Memorandum from Jim Ainey to Bob Colbo,
10 CAO-6. 1303 for identification is a Memorandum from
11 Bob Colbo, CAO-7. And 1304 for identification is
12 Copy of Letter from FERC to J. Daniel -- excuse me,
13 J. Dexter Peach, CAO-8.

14 And Staff has presented documents for use
15 on cross of Ms. Omohundro, consisting of a deposition
16 dated April 26th, 2002, which is marked as 1305 for
17 identification. Confidential Deposition Exhibit
18 Omohundro Number 1 is 1306-C for identification.
19 1307-C is Confidential Deposition Exhibit Number 2.
20 Are there other documents to be numbered at this
21 time?

22 For Mr. Cummings, we're marking his
23 Rebuttal Testimony, DMC-1-T, as Exhibit 1401-T for
24 identification. And in conjunction with his
25 testimony, we are marking the following exhibits.

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1 First, Number 1402 is a Bellingham Herald article
2 designated DMC-2. 1403 is a letter from Congressman
3 Jay Inslee, DMC-3. 1404 for identification is
4 Federal Register Excerpt, DMC-4. 1405 is a letter
5 from Stacey Gerard, G-e-r-r -- I'm sorry,
6 G-e-r-a-r-d, DMC-5.

7 1406 is Article Developing a Recommended
8 Practice for Pipeline Public Awareness Program, also
9 noted as DMC-6. That's 1406 for identification.
10 1407 is Article, WUTC Web Page, DMC-7. 1408 is
11 Article, WUTC, Citizen Members Sought for Pipeline
12 Safety Committee. 1409 for identification is copy of
13 testimony of Marilyn Showalter before U.S. Senate
14 Committee, DMC-9. And 1410 for identification is
15 copy of Deposition of Kenneth L. Elgin by Counsel for
16 Olympic Pipe Line, DMC-10.

17 Are there any exhibits to be numbered at
18 this time for Mr. Cummings on potential use for
19 cross?

20 MR. TROTTER: Not at this time.

21 JUDGE WALLIS: Very well. I'm marking the
22 Rebuttal Testimony of Tom A. Wicklund, TAW-1-T, as
23 Exhibit 1501-T for identification.

24 Marking as Exhibit 1601 for identification
25 the Rebuttal -- 1601-T for identification, the

1984

1 Rebuttal Testimony, BJT-11-T, of Bobby J. Talley.
2 1602 for identification is Restatement of Olympic's
3 Capital Spending, BJT-12-C. 1603 is Current
4 2002-2004 Capital Spend, BJT-13-C. Photograph,
5 BJT-13-A is marked as 1604 for identification.
6 Integrity Plan, BJT-14-C, is marked as 1605 for
7 identification.

8 MR. TROTTER: There appears to be some
9 confidential ones here that should be marked
10 accordingly.

11 JUDGE WALLIS: Yes, thank you for calling
12 that to my attention. The Integrity Plan, 1605-C;
13 the Current 2002-2004 Capital Spend, 1603-C; and the
14 Restatement of Olympic's Capital Spending, BJT-12-C,
15 is 1602-C for identification.

16 A Photograph, BJT-15, is marked as 1606 for
17 identification. Bayview Products Terminal, BPT,
18 Summary of Benefit, BJT-16-C, is marked as 1607-C for
19 identification. And we are assigning 1608-C for
20 identification to a document designated as Olympic's
21 Response to Tesoro's Interrogatory Number 20,
22 BJT-17-C.

23 In addition, Commission Staff has presented
24 a number of documents for possible use on
25 cross-examination of Mr. Talley. These begin with

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1 his deposition, dated April 22, 2002, which is marked
2 as 1609.

3 MR. KUZMA: Excuse me, Your Honor. We did
4 not receive a copy of these cross-examination. I'm
5 just wondering if we could have it.

6 JUDGE WALLIS: Let's be off the record for
7 a moment.

8 (Discussion off the record)

9 JUDGE WALLIS: Let's be back on the record,
10 please. 1610 for identification is Deposition
11 Exhibit Number 1. Deposition Exhibit Talley Number 2
12 is 1611. 1612 is Deposition Exhibit Talley Number 3.
13 1613 is Deposition Exhibit Talley Number 4. 1614 is
14 Deposition Exhibit Talley Number 5. And Exhibit 1615
15 for identification is Deposition dated April 23,
16 2002.

17 All right. Moving along to Howard B. Fox.
18 We are marking his Rebuttal Testimony as Exhibit
19 1701-T for identification. That's his Rebuttal
20 Testimony, HBF-6-T. And are there any documents for
21 potential use on examination of Mr. Fox?

22 MR. TROTTER: Not at this time.

23 MR. KUZMA: Your Honor, I'd like to put out
24 that this is the one that was substituted earlier
25 today, just for accuracy.

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1 JUDGE WALLIS: Thank you very much. And we
2 will call this Substituted Rebuttal Testimony,
3 HBF-16.

4 MR. KUZMA: That would still be Exhibit
5 1701?

6 JUDGE WALLIS: Yes.

7 MR. KUZMA: Thank you.

8 JUDGE WALLIS: Moving along to the
9 Commission Staff witnesses. We're assigning Exhibit
10 Number 1801-T to the Testimony, DPK-1-T, of Danny P.
11 Kermode. His Resume and Professional Experience,
12 DPK-2, is 1802 for identification. DPK-3 is FASB
13 Statements of Financial Accounting Concepts. That's
14 1803 for identification. 1804 is Excerpts from the
15 Deposition of Ms. Hammer, DPK-4.

16 1805 for identification is Excerpts from
17 the Deposition of Mr. Collins, DPK-5. And 1806 for
18 identification is Excerpt from FASB Statement of
19 Financial Accounting Standards Number 71, DPK-6.

20 Are there any documents for potential use
21 on his examination?

22 MR. KUZMA: No, Your Honor.

23 JUDGE WALLIS: Exhibit 1901-T for
24 identification is the Testimony, MLT-1-T, of Maurice
25 L. Twitchell. 1902 for identification is MLT-2,

1987

1 designated as Olympic Pipe Line Company Comparison of
2 FERC and WUTC Methods Adjusted. Olympic Pipe Line
3 Company Actual and Allocated Results of Operation,
4 MLT-3, is marked as 1903 for identification. 1904 is
5 Olympic Pipe Line Company Actual and Pro Forma
6 Results of Operation, Total Company, 12 Months,
7 December 31, 2001.

8 Marking as Exhibit 1905 for identification,
9 a document designated as Olympic Pipe Line Company
10 Total, Total Restating Actual Adjustments, 12 months
11 Ending December 31, 2001. That's MLT-5. Marking as
12 1906 for identification Olympic Pipe Line Company
13 Total, Total Pro Forma Adjustments, December 31,
14 2001, MLT-6. 1907 is a document designated MLT-7,
15 Olympic Pipe Line Company Actual and Pro Forma
16 Results of Operations. 1908 is MLT-8, Olympic Pipe
17 Line Company Washington Total Restated Actual
18 Adjustments. 1909 is MLT-9, Olympic Pipe Line
19 Company Washington Total Pro Forma Adjustments, 12
20 Months Ending December 31, 2001.

21 1910 is Results of Operation, 1984 Through
22 2001, Achieved Rate of Return, MLT-10. 1911 for
23 identification is Tax Benefit on Pro Forma Interest,
24 12 Months Ending December 31, 2001, MLT-11. 1912 for
25 identification is Excerpt from the Deposition of Mr.

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1 Talley, MLT-12. 1913 for identification is Excerpt
2 from the Deposition of Ms. Hammer, MLT-13. 1914 is
3 Excerpt from the Deposition of Mr. Collins, MLT-14.
4 And 1915 for identification is Excerpt from the
5 Deposition of Ms. Omohundro, MLT-15.

6 Are there any documents for Mr. Twitchell's
7 cross-examination?

8 MR. KUZMA: No, Your Honor.

9 JUDGE WALLIS: I'm marking as Exhibit
10 2001-T, the Testimony of Robert Colbo, RGC-4-T. His
11 Qualifications, RGC-5, will be Exhibit 2002. Results
12 of Operations and Supporting Information, RGC-6-C, is
13 2003-C. Olympic Budget Information, RGC-7-C, is
14 marked as 2004-C for identification. Excerpt from
15 the Deposition of Ms. Hammer, RGC-8, is marked as
16 2005 for identification. Excerpt from the Deposition
17 of Mr. Talley, RGC-9, is 2006 for identification.

18 Is there any potential exhibit on cross for
19 Mr. Colbo?

20 MR. KUZMA: Yes, there is, Your Honor.
21 There's one. I think we've described it as OPL-1-X,
22 Work Papers of Mr. Colbo.

23 JUDGE WALLIS: Document as described is
24 marked as 2007 for identification.

25 MR. TROTTER: Your Honor, I'd just -- I'd

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1 like to indicate that those are work papers from a
2 1983 docket.

3 JUDGE WALLIS: Very well. Mr. Kuzma, did
4 you distribute those?

5 MR. KUZMA: Yes, we did.

6 JUDGE WALLIS: Very well. Let's be off the
7 record for just a minute.

8 (Discussion off the record.)

9 JUDGE WALLIS: Let's be back on the record,
10 please. I'm marking as Exhibit 2101-T for
11 identification the Testimony of Kenneth L. Elgin,
12 designated KLE-5-T. Exhibit 2102 for identification
13 is Analysis of Certain Financial Information,
14 1989-2000, KLE-6. 2103 is Excerpt from Deposition
15 Testimony of Mr. Batch, that's KLE-7. 2104 is
16 Olympic Pipe Line's Response to WUTC Staff Data
17 Request Numbers 361, 362 and 363, also designated as
18 KLE-8-C.

19 2105 for identification is Excerpt from the
20 Deposition Testimony of Ms. Omohundro, that's KLE-9.
21 2106 for identification is Olympic Pipe Line's
22 Response to WUTC Staff Data Request Numbers 323, 324
23 and 325, also designated KLE-10-C, and that would be
24 2106-C. And Exhibit 2107 for identification is
25 Excerpt from the Deposition Testimony of Olympic Pipe

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1 Line Witness Mr. Talley. That's KLE-11.

2 Are there any documents for possible use on
3 cross-examination of Mr. Elgin?

4 MR. KUZMA: Yes, there are, Your Honor. We
5 have five. The first one we've designated as
6 OPL-2-X. It is the Form 10-K for Tesoro Petroleum
7 Corporation for the Fiscal Year Ended December 31st,
8 2001.

9 JUDGE WALLIS: For what year was that?

10 MR. KUZMA: The fiscal year ending December
11 31st, 2001.

12 JUDGE WALLIS: That's 2108 for
13 identification.

14 MR. KUZMA: The next, identified as
15 OPL-3-X, is the form 10-K-A for the Tosco Corporation
16 for the Fiscal Year Ended December 31st, 2000.

17 JUDGE WALLIS: That's 2109 for
18 identification.

19 MR. KUZMA: Our next is OPL-4-X, which is a
20 letter to Mr. Donald Trotter from Mr. Steve Marshall
21 on April 26th, 2002.

22 JUDGE WALLIS: That's 2110 for
23 identification.

24 MR. KUZMA: Our next, designated as
25 OPL-5-X, is a Declaration of Mr. Bob Batch in March

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1 2002.

2 JUDGE WALLIS: That's marked as 2111 for
3 identification.

4 MR. KUZMA: And our last for Mr. Elgin is
5 designated as OPL-6-X, which is a Declaration of Bob
6 Batch as of February 21st, 2002.

7 JUDGE WALLIS: And that's marked as 2112
8 for identification. Let's be off the record for a
9 minute.

10 (Discussion off the record.)

11 JUDGE WALLIS: All right. Let's be back on
12 the record. I'm marking as Exhibit 2201-T the Direct
13 Testimony on Behalf of Tosco Corporation, RCM-1-T.
14 2202 is Exhibit, Direct Testimony, that's RCM-2.
15 2203 is Exhibit to Direct Testimony, Impact of
16 Recommendations, RCM-3. 2204 is Cost of Equity for
17 Proxy Group Pipeline Companies, RCM-4. 2205 is
18 Capital Structure of Proxy Group Companies, RCM-5.
19 2206 is Response to Data Request Number 48, RCM-6.
20 2207 is Olympic Throughput, 1982-1998, RCM-7. 2208
21 is Exhibit to Direct Testimony, Response to Data
22 Request Number 44, RCM-8. 2209 is Exhibit to Direct
23 Testimony, Olympic Revenue, RCM-9. And 2210 for
24 identification is Olympic Pipe Line Company Integrity
25 Plan, RCM-10.

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1 I'm marking as 2301-T for identification
2 the Direct and Answering Testimony, JFB-1-T, of John
3 F. Brown. And I'm marking as Exhibit 23 -- sorry,
4 2401-T the Direct and Answering Testimony of Gary
5 Grasso, GG-1-T. 2402 is Cost of Services Schedules,
6 GG-2-C. 2403 is Total Cost of Service GG-3. 2404 is
7 Opinion Number 154-B Cost of Service, GG-4. 2405 for
8 identification is Tesoro and Olympic Test Period
9 Versus 100 Percent Debt Capital Structure, also
10 designated GG-5.

11 2406 is Comparison of 1998 Expenses to Test
12 Year. 2407 for identification is Illustrated DOC
13 Cost of Service 1984-1999. 2408 is Revenue Compared
14 to Op. Number 154-B Cost of Service, GG-8. 2409 is
15 Revenue Compared to DOC Cost of Service, GG-9. 2410
16 for identification is Form 6 Expenses, 1982-2000,
17 GG-10. And 2411 for identification is Selected
18 Operating Expenses, 1982-2000, GG-11.

19 Are there any other exhibits for potential
20 use on cross-examination for Mr. Grasso or any of the
21 other witnesses we've identified? Let the record
22 show that there is no response. And I believe that
23 the marking of the prefiled exhibits is completed
24 subject to receiving a breakout from Tesoro of the
25 documents that they have brought along for potential

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1 use on cross-examination, and we will expect those by
2 10:00 tomorrow morning. In addition, if Tosco has
3 any documents, then we will expect those tomorrow by
4 -- at least a list of those by 10:00 a.m.

5 MR. KUZMA: Your Honor, I have one
6 question. Has Tosco brought any exhibits today?

7 MS. CUSHMAN: Not that I'm aware of, but
8 you could ask Mr. Stokes.

9 MR. KUZMA: Thank you.

10 JUDGE WALLIS: We're going to take a break
11 now. Perhaps you can trail Mr. Stokes down.

12 MS. CUSHMAN: Thank you.

13 JUDGE WALLIS: He may well be in the
14 hearing room in conjunction with the Puget Sound
15 Energy settlement proceeding that is being undertaken
16 as we speak. And perhaps you can come back following
17 a break with that information. So is there anything
18 further that we need to do in conjunction with
19 identifying the documents for next week's proceeding?

20 MS. HOUCHEM: I still have some large
21 packets back here that I didn't give anyone yet, so I
22 guess I should do that.

23 JUDGE WALLIS: Okay. Very good. Well, we
24 will look forward to receiving those momentarily.
25 All right. Let's be off the record and let's take a

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1 15-minute recess.

2 (Recess taken.)

3 JUDGE WALLIS: Let's be back on the record,
4 please. In conjunction with relatively complex and
5 lengthy hearings, we have some tools that we use and
6 we ask your indulgence, as parties, and your
7 cooperation in helping us. You've been wonderful so
8 far, and we ask that that continue.

9 I have distributed a matrix showing witness
10 name, day, and date, and then cross-examination. And
11 the purpose of this is to ask counsel to provide us
12 with an estimate of time on cross-examination for
13 each of the witnesses. We understand that the
14 estimate is an estimate. As was the case with the
15 interim proceeding, it's quite possible that the
16 estimates may exceed the time available, but at least
17 they're a start for us and a guide as to the order of
18 magnitude, perhaps, of witnesses.

19 If possible, we would like to have this
20 information for the cost of capital and rate of
21 return witnesses who are scheduled for next week by
22 10:00 tomorrow morning. If you're prepared now to
23 give us an estimate, we can take it now, but if we
24 have it by 10:00, then that will let us start with
25 our matrix, let the Commissioners know what the game

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1 plan is for next week. And then, if we could have
2 the remainder of the information by the start of our
3 administrative conference on Tuesday, tentatively set
4 for 10:00 a.m., then that will let us catch up and
5 make sure that the Commissioners have the right books
6 and the right information before them as we go
7 through.

8 MR. BRENA: I have no problem complying
9 with that schedule. I just wanted to point out that
10 when we set up the capital structure and rate of
11 return witnesses as a block, Olympic's witness was a
12 capital structure and rate of return witness. They
13 have expanded the scope of his testimony in rebuttal
14 to include pretty much the entire case, so -- and
15 that will be the topic, in part, for motion practice
16 that will need decision before he takes the stand.

17 So I'd just point out that any time
18 estimate would have to make certain assumptions that
19 -- with regard -- because of his rather extensive
20 rebuttal.

21 JUDGE WALLIS: In that case, why don't we
22 ask for two estimates, one for the capital structure,
23 rate of return information, and one for other. Would
24 that work for you, Mr. Brena?

25 MR. BRENA: Yes. Yes, it would.

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1 JUDGE WALLIS: Are the parties all right
2 with that? Very well. With the information that you
3 provide us by 10:00 a.m., we will start this
4 document. We will put in all of the witnesses in the
5 order that they have now been given to us and we will
6 recirculate this back to you with those blank and you
7 can fill those in and return those to us. And that
8 will help us on Tuesday take the rest of the
9 information and put it into a single document. And
10 as we attempt to do, we'll circulate that back to
11 parties for everyone's use during the hearing.

12 Confirmation of schedule. We will be
13 starting on Tuesday afternoon, I believe it's 1:30.
14 If it is not 1:30, then I will get word to everyone.
15 And our principal task on Tuesday afternoon is to
16 consider motions for -- dispositive motions, motions
17 for summary determination, strike testimony, and
18 Tesoro indicates that it may have another motion
19 relating to the rebuttal.

20 MR. BRENA: Your Honor, too, so much of
21 this information is designated confidential or highly
22 confidential, and it just kind of flowed through the
23 system that way. Tesoro would like to open the
24 hearing up to the degree we could. So you may
25 anticipate also a motion challenging the

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1 confidentiality status of the materials that have
2 been offered as confidential.

3 JUDGE WALLIS: Recalling back to the
4 interim, it was possible for parties to agree to
5 withdraw requests for confidentiality status on much
6 of the material that was initially designated as
7 confidential. Actually, all of it, I believe. So I
8 would ask counsel to consider doing that on behalf of
9 Olympic. I think that all of the
10 confidentially-designated testimony relates -- and
11 exhibits relate to Olympic and not the other parties;
12 is that correct?

13 And if you could talk with your client and
14 see if that's possible, that would save us some time
15 hearing your arguments. And inasmuch as it was
16 possible for the interim, we have high hopes that it
17 may be possible for the general, as well, at least to
18 limit the designation of confidentiality to those
19 bits of information that are truly critical for your
20 purposes.

21 The Commission also strongly favors an open
22 hearing and an open transcript. If we are in a
23 situation where we have to use numbers and specific
24 information that is confidential during the hearing,
25 then we need to go off the record, the open record,

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1 and onto a confidential record, which is an
2 administrative task. It's something that we do when
3 it is necessary, but again, we prefer not to.

4 One way to avoid it is to look at the
5 confidential document and, instead of repeating
6 numbers, look to the line and page of the
7 information. And instead of asking Mr. Witness if
8 2001 is the correct number, ask the witness if the
9 information shown in Column Four, Line Six is
10 accurate. That's a way to avoid going off on a
11 confidential record, but at the same time, preserving
12 the confidentiality of information that is truly
13 confidential.

14 So my request is please check with your
15 client and see the extent to which the claim of
16 confidentiality can be waived so that we can have an
17 open record and an open hearing. Mr. Kuzma, will you
18 do that for us, please?

19 MR. KUZMA: I just have one question. Is
20 this something that we will have to do prior to the
21 testimony, or something that, for example, if Mr.
22 Brena has an exhibit that he'd like to use, if he
23 could ask at that time whether or not confidentiality
24 still is asserted?

25 JUDGE WALLIS: Our preference would be, to

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1 the extent that you can make a blanket statement, do
2 that now. To the extent that you can't, then I would
3 ask you to go back to Mr. Brena and identify the
4 documents and/or perhaps the information within
5 documents that you believe is truly essential
6 confidential -- essentially confidential, and that
7 Mr. Brena will be able to scope out his
8 cross-examination or his presentation of confidential
9 information and make any motion based on that reduced
10 scope.

11 MR. BRENA: And Your Honor, with one single
12 exception that occurs to me, it would be my intention
13 to go ahead and challenge the confidentiality status
14 of anything, and the single exception being that at
15 one point they detailed, by shipper, individual
16 throughput product numbers. And with that single
17 exception, any designation of confidentiality I would
18 just as soon take up on Tuesday to the degree it's
19 not waived.

20 MR. TROTTER: Your Honor, if I could make a
21 brief comment here. I noticed the rebuttal exhibits
22 of Mr. Collins include cost of service type
23 documents. Some of those types of documents were
24 sponsored by company witnesses earlier and were not
25 designated confidential, so I would point that out.

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1 And I haven't studied it and they may well be
2 confidential. I'd just ask that Olympic maybe
3 reevaluate those in particular. And if they are, I'm
4 not asking them to change their mind, but just
5 compared to what's already in as a nonconfidential
6 and make sure that we're just following the rules
7 clearly.

8 MR. BRENA: Just to follow up from Mr.
9 Trotter's suggestion. In their direct case of Mr.
10 Collins, what they designated as confidential went to
11 volumetric information and was just a few exhibits in
12 their OPL-30 and 31. And even with regard to gross
13 throughput issues, I don't think that there's any
14 confidentiality issues with regard to gross
15 throughput numbers that don't identify individual
16 shippers and assign them to that. So I would echo
17 what he says and I just think -- I just haven't seen
18 anything that's truly confidential. So I want to go
19 ahead and resolve that before we get into hearing and
20 take further time with it.

21 JUDGE WALLIS: It would make it much easier
22 for us to have that delineated in advance. And as a
23 practical matter, I think one of the things to
24 consider would be whether information was earlier
25 designated as -- similar information was earlier

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1 designated as confidential or not or confidentiality
2 was waived. So Mr. Kuzma, is that something that you
3 could communicate to other counsel by close of day
4 tomorrow?

5 MR. KUZMA: Yes. Yes, it is.

6 JUDGE WALLIS: Very well. Back to
7 confirmation of schedule. We had earlier indicated
8 that Friday would be a short day, but the
9 Commissioners whose schedules were affected have made
10 other arrangements, and while they still have an
11 evening commitment on Friday that is work-related,
12 they're going to be able to stay until at least 4:00,
13 and perhaps later, so Friday -- the Friday of next
14 week will be an almost full day.

15 The following week, Monday will not be
16 available, but the following four days of the week
17 will be available, with the exception that I believe
18 there is an open meeting during that week.

19 MR. BRENA: On what day, do you know, Your
20 Honor?

21 MS. HOUCHEN: It's Wednesday.

22 MR. BRENA: Wednesday. Your Honor, is the
23 open meeting in the morning or afternoon?

24 JUDGE WALLIS: The open meeting's in the
25 morning.

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1 MR. BRENA: Did I understand you correctly
2 that Wednesday, Thursday, and Friday, almost all of
3 Friday were all full days next week?

4 JUDGE WALLIS: Yes.

5 MR. BRENA: Oh, thank you.

6 JUDGE WALLIS: Yes. And I don't have my
7 open meeting schedule to know whether it's an odd,
8 nonstandard schedule for the open meeting or not, but
9 I'll -- if someone will remind me of that, I'll check
10 at the conclusion of today's session.

11 MR. BRENA: Would it be your intention that
12 the hearing would be -- like the morning would be --
13 so we'd start in the afternoon?

14 JUDGE WALLIS: I will talk with the people
15 who plan the open meeting agenda, and if it is a very
16 light agenda, I will argue for starting --

17 MR. BRENA: Earlier.

18 JUDGE WALLIS: -- earlier than afternoon.

19 MR. BRENA: Okay.

20 JUDGE WALLIS: I understand we have a lot
21 of ground to cover. We also have penciled in on the
22 calendar the 1st and 2nd of July, Monday and Tuesday
23 the following week, but absent a contrary ruling on
24 the number of witnesses, we do have a large number,
25 potentially, certainly in terms of the documentation

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1 on cross-examination and the volume of the direct
2 testimony. It is a substantial volume of material to
3 go through, and we will have some limits on our time,
4 so we are going to ask counsel to be conscious of
5 your use of time in cross-examination.

6 You did wonderfully on that during the
7 interim phase of this proceeding and came out at the
8 end of the session with a good record, so please keep
9 the potential time on examination and the need to put
10 our volume of material into a fixed size container in
11 your mind.

12 The estimates that you give us will help us
13 and each other to plan the extent of your
14 cross-examination, and we certainly support, to the
15 extent you choose to do so, coordination among you as
16 to not only the order, but the topics, whatever will
17 work for you, to avoid repetition and to get the
18 material into the record that you need into the
19 record to support your case.

20 The company has moved to strike references
21 to criminal proceedings, and there's been a response
22 to that motion. I am prepared to rule on that based
23 on the information, and the ruling would be
24 consistent with the ruling during the interim phase,
25 and unless counsel can demonstrate some substantial

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1 relevance to the issues in setting rates that the
2 Commission is facing, then references to pending
3 criminal proceedings, allegations, charges,
4 indictments, will not be permitted.

5 MR. BRENA: Your Honor, if I could just ask
6 for clarification. You qualified what you've said by
7 substantial relevance. I mean, I'm trying to
8 understand the --

9 JUDGE WALLIS: I did not see anything in
10 the material that counsel was talking about that was
11 something that directly related to ratemaking issues,
12 and perhaps you can come up with that kind of a
13 relationship and we would certainly be willing to
14 consider it, but absent that, our purpose is to
15 establish rates. And the existence of pending
16 criminal proceedings, if they are to have a place in
17 our record, must have some direct bearing to the
18 Commission's purpose in engaging in this proceeding.

19 MR. BRENA: I'm just trying to understand
20 at what point that I would make that argument that it
21 is. Is that in the hearing, is that on Tuesday
22 afternoon?

23 JUDGE WALLIS: If you, after --

24 MR. BRENA: Let me just give you just my
25 concern. One of our central positions is is that

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1 operator imprudence resulted in the restrictions that
2 are currently restricting throughput. So the
3 question is is was the line prudently operated and
4 was the imprudent operation of the line, did it
5 result in the artificial constraint to throughput.

6 So the factual -- the underlying factual
7 evidence with regard to operator imprudence, that's
8 right at the heart of why they were criminally
9 indicted. So -- and the throughput is the largest
10 single financial issue in the case. So I understand
11 that we're in ratemaking and not -- so I'm assuming
12 that I will be able to approach the operator
13 imprudence issues associated with the constrained
14 throughput and to question and examine on the
15 underlying facts associated with that operator
16 imprudence for the purpose of demonstrating that the
17 artificially constrained throughput is as a result of
18 the operator imprudence.

19 MR. KUZMA: Olympic would object --

20 JUDGE WALLIS: Let me rephrase and restate,
21 from my perspective, and that is that the existence
22 of criminal proceedings relating to operator
23 imprudence would have no weight and would not be
24 permitted --

25 MR. BRENA: So --

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1 JUDGE WALLIS: -- in your exploration of
2 that issue. The question is not before us. The
3 extent to which your exploration of operator prudence
4 is, in fact, relevant and appropriate for us to
5 inquire into.

6 MR. BRENA: So it's the fact that there's a
7 criminal charge or the indictment -- references to
8 that is what you're saying is not related to
9 ratemaking?

10 JUDGE WALLIS: To the extent the underlying
11 behavior is relevant to this proceeding, then you
12 will be allowed to explore that behavior.

13 MR. BRENA: For example, if there was some
14 behavior that was an underlying cause for the
15 criminal indictment and is also an underlying cause,
16 from our theory of the case, of operator imprudence,
17 we're allowed to question on that underlying factual
18 basis, but not to make reference to the criminal
19 indictment? Do I understand you?

20 JUDGE WALLIS: Yes, but let me qualify it
21 by saying to the extent there is an objection to that
22 line of inquiry, the Commission may sustain that
23 objection. And all we're looking at right now is the
24 existence of criminal charges.

25 MR. BRENA: Okay, I understand.

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1 JUDGE WALLIS: I'm not making any other
2 ruling.

3 MR. BRENA: I understand.

4 JUDGE WALLIS: Mr. Kuzma, does that satisfy
5 your concerns?

6 MR. KUZMA: Yes, it does.

7 JUDGE WALLIS: Any others wish to comment?

8 MR. BRENA: My understanding was that they
9 also filed a second motion asking to strike
10 additional information.

11 MR. KUZMA: Not to my knowledge. It might
12 be true, but --

13 MR. BRENA: We'll take it up Tuesday, then.
14 Relating to criminal matters.

15 MR. KUZMA: Well, we have made, you know,
16 motions to strike all criminal references in this
17 case for the matter that, you know, we believe that
18 the cause of the throughput is not the same cause of
19 the -- throughput restrictions is not the same cause
20 of the criminal indictments. And we feel comfortable
21 with the ruling of the bench here that you can
22 explore issues of imprudence if you'd wish, but just
23 to refrain from unproven criminal allegations.

24 JUDGE WALLIS: Yes.

25 MR. BRENA: I believe I understand your

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1 ruling.

2 JUDGE WALLIS: Okay. The company made a
3 request for an extension of time to respond to
4 Tesoro's motion for summary determination or to
5 strike testimony, and I granted that until tomorrow,
6 but denied it beyond tomorrow and gave leave to the
7 company to demonstrate why it needed the additional
8 time over the weekend to work on that.

9 The weekend, the reason for our motion --
10 for our ruling is that we need the time, too, and if
11 it is feasible for you to complete it within that
12 time frame, it would be the most help for us and for
13 the Commissioners to have that, even if it were not
14 quite perfect, in advance, rather than waiting until
15 Monday to receive it, because we will have the full
16 weekend, as well, of preparation. And the
17 Commissioners, as we've noted, have other issues
18 before them. So it will be most valuable to us and
19 to them if we have it tomorrow. Is that something
20 that you're going to be able to accommodate?

21 MR. KUZMA: Yes, we will have it to you
22 tomorrow.

23 JUDGE WALLIS: Very well, thank you. We do
24 acknowledge the pending recommendation on sanctions.
25 The parties have submitted comments and responses on

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1 that. The Commissioners have that before them. I
2 don't know what their schedule is for indicating
3 their ruling, but I wanted to let you know that if
4 they have questions about it, they will be in a
5 position to ask those questions on Tuesday as part of
6 our procedural discussions.

7 All right. Now, let me ask if there is
8 anything else that the parties wish to bring up or if
9 there is anything that you want to correct or clarify
10 at this time?

11 MR. BRENA: There is one thing, Your Honor.

12 JUDGE WALLIS: Mr. Brena.

13 MR. BRENA: We had a -- we had some
14 difficulties in getting information down to our --
15 down to Olympia. Our prehearing comments that are
16 outlining the case that the Commission requested be
17 filed today, we are not in a position to be able to
18 file today. So if I could ask for a one-day
19 extension until tomorrow to file that so the
20 Commissioners would have that over the weekend, I
21 would be able to complete that.

22 JUDGE WALLIS: Very well. That is granted.
23 Let me ask if that is something that also might be
24 provided by 10:00 a.m.

25 MR. BRENA: I believe we're filing the

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1 exhibits at 2:00. Could I do it at 2:00?

2 MS. HOUCHEM: I have to have the list done
3 by 10:00 and the hard copies over here by 2:00.

4 MR. BRENA: Could I --

5 JUDGE WALLIS: I don't want to be -- set up
6 a lot of different times for people to keep track of.
7 I can't keep track of them. But, again, we do have
8 Commissioners with commitments and we'll not be able
9 to guarantee distribution and use for material that's
10 not received by 2:00

11 MR. BRENA: Okay.

12 JUDGE WALLIS: If it is received by 2:00,
13 we're comfortable that we'll be able to see that the
14 information is distributed.

15 MR. BRENA: I'd be happy to have it done by
16 2:00. Thank you, Your Honor.

17 JUDGE WALLIS: If it's possible to have it
18 by 10:00 and you can e-mail it, we'd appreciate that,
19 but otherwise, 2:00 is kind of our drop dead date for
20 making sure everybody gets it.

21 MR. BRENA: Fine, thank you.

22 JUDGE WALLIS: All right. Is there
23 anything else? Okay. I want to thank you all for
24 your cooperation and your professionalism today, and
25 this matter is adjourned. We are going to reconvene

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1 an administrative conference at 10:00 a.m. on
2 Tuesday, unless there is word to the contrary. We've
3 asked parties to let us know the number of exhibits.
4 If you are able to predistribute those exhibits prior
5 to Tuesday, exhibits on the rebuttal, then that also
6 would be appreciated. The more information you can
7 get to us earlier, the better off we're going to be
8 handling that information and the more the
9 Commissioners are going to like it because they have
10 so many things going on right now that they have to
11 keep track of.

12 MR. TROTTER: Your Honor, you set a
13 deadline, I believe, of 10:00 a.m. tomorrow for
14 cross-examination estimates of the cost of capital
15 witnesses.

16 JUDGE WALLIS: Yes.

17 MR. TROTTER: How do you want that
18 communicated to you?

19 JUDGE WALLIS: Electronic mail will work
20 just fine. If you could also send that information
21 to Ms. Kaech, that would assure that it gets to the
22 person who will be instrumental in putting it
23 together and relieve me of the worry that I may miss
24 it or make a mistake on it, so --

25 MR. KUZMA: Could we please have her

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1 e-mail?

2 JUDGE WALLIS: That's mkaech@wutc.wa.gov;
3 is that correct?

4 MR. BRENA: Your Honor, if I could just go
5 back to a conversation that you had with Mr. Trotter,
6 so that I understood. You have already gone through
7 and designated all the direct case and exhibits and
8 assigned numbering to that?

9 JUDGE WALLIS: When we set up the exhibit
10 list for the interim, we marked exhibits.

11 MR. BRENA: For the interim case.

12 JUDGE WALLIS: For the interim case.

13 MR. BRENA: I'm talking about the direct
14 case, the direct and the general rate case.

15 JUDGE WALLIS: And I have not gone back to
16 verify whether all of the company's direct exhibits
17 were marked and identified in conjunction with the
18 interim or not.

19 MR. TROTTER: Your Honor, can we discuss
20 this off the record?

21 JUDGE WALLIS: Yes. Let's be off the
22 record.

23 (Discussion off the record.)

24 JUDGE WALLIS: Let's be back on the record
25 and state that in a brief, off-record discussion,

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1 we've determined that we're going to review the
2 exhibits in the company's initially filed direct
3 case, and if any documents have escaped numbering by
4 this point, we will see that they are numbered, with
5 the assistance of Mr. Kuzma, and that numbers will be
6 assigned in the series that we've already identified.

7 Is there anything further to come before
8 the Commission at this time? Let the record show
9 that there's no response and this session is
10 adjourned. Thank you all.

11 (Proceedings adjourned at 4:18 p.m.)

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