

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION)	
)	DOCKET NO. TO-011472
Complainant,)	
)	
v.)	
)	
OLYMPIC PIPE LINE COMPANY, INC.)	
)	
Respondent.)	
_____)	

**TESORO WEST COAST COMPANY’S MOTION TO COMPEL
RESPONSES TO ITS SECOND SET OF DISCOVERY REQUESTS
RELATING TO OLYMPIC PIPE LINE COMPANY’S
AMENDED PETITION FOR IMMEDIATE RATE RELIEF**

1. Tesoro West Coast Company dba Tesoro Northwest Company (ATesoro@), by and through its attorneys, Brena, Bell & Clarkson, P.C., hereby moves the Washington Utilities and Transportation Commission (AWUTC@) to compel responses from Olympic Pipe Line Company (AOlympic@) to Tesoro’s Second Set of Discovery Requests Relating to Olympic Pipe Line Company’s Amended Petition for Immediate Rate Relief (attached as Exhibit A). In accordance with WAC 480-09-420(3), the name and address of the pleading party is set forth below. Please direct all service and correspondence regarding the above-captioned docket to the following:

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2. This motion may bring into issue the following rules or statutes: WAC 480-09-420 [Pleadings and briefs--Applications for authority--Protests], WAC 480-09-480 [Methods for obtaining data in adjudicative proceedings], and Washington Civil Rule No. 26.

I. Background

3. Tesoro has tried as best it could to evaluate the reasons Olympic is claiming financial distress. A proper evaluation of those reasons is necessary to determine the degree to which Olympic's ratepayers should be held responsible for providing additional equity into Olympic. The apparent causes for Olympic's prior financial distress are (1) the affiliated debt associated with the payment of the costs associated with the negligent operation of the pipeline resulting in the Whatcom creek incident and (2) its failed attempt to expand its system across the Cascade Mountains. Moreover, it appears that Olympic has filed to collect the costs associated with the negligent operation of the pipeline from several insurers, has sued to collect these same costs a second time from its former operator, and, is now attempting to collect these same costs a third time through its interim rate request, from its ratepayers. Tesoro filed its Tesoro's Second Set of Discovery Requests on December 7, 2001, to better understand the reasons for Olympic's financial distress and to assess whether these reasons met the standard for emergency rate relief from its ratepayers. On December 12, 2001, Olympic served responses to these requests. In its responses, Olympic both objects and refers to prior responses that don't answer the requests. At

the prehearing conference on December 14, 2001, Olympic reiterated its intent not to respond to these requests. As such, Tesoro must file this motion to compel a response. .

4. Olympic has sought interim rate relief on an emergency basis. Tesoro has made a good faith attempt to comply with this expedited schedule despite the fact that it could compromise Tesoro's ability to evaluate Olympic's request. However, Olympic has consistently taken actions designed to delay the process and/or compromise Tesoro's ability to evaluate Olympic's request.
5. The primary issue this Commission needs to resolve is whether or not Olympic has a financial crisis that may properly be resolved through higher emergency rates to its ratepayers. By design, Olympic is owned by large well-funded multinational corporations which have (1) taken all available equity from Olympic through dividends, (2) refused to contribute their own equity into Olympic to fund the costs associated with Olympic's prior negligent operation of its system, and (3) now wish to have Olympic's ratepayers contribute additional equity into Olympic. The cause for its financial distress as well as the alternative mechanisms for resolving such distress should all be considered by the Commission before it allows a 62 percent rate increase to ratepayers.
6. In the WUTC's First Supplemental Order, Olympic was put on notice by the WUTC that the accelerated schedule for reviewing interim rate relief was based upon a 3 day turn around in discovery. See Paragraph 10 First Supplemental Order. Nevertheless, Olympic has still not provided any meaningful response to Tesoro's Second Set of Discovery Requests that Tesoro served on Olympic by facsimile and email on December 7, 2001.
7. The first request seeks nothing more than a list by insurer, policy number, and dollar amount of all insurance claims Olympic has filed as the result of the Whatcom Creek accident. In its board

meetings, the directors have been briefed on the claims outstanding and the anticipated recovery. Therefore, responding to this request is not burdensome. This Commission must have access to this information so that it can decide whether or not to require the owners of Olympic to contribute capital to the company in lieu of the 62% rate increase. If Olympic is anticipating millions of dollars in insurance benefits, this could impact the Commission's decision. Olympic is requested to confirm that the both Whatcom Creek and Cross Cascades are the cause of Olympic's losses. Requiring a meaningful response to this request will significantly decrease the cross examination at hearing.

8. The second request seeks nothing more than a list of the third party claims Olympic has as a result of the Whatcom Creek accident. Corporate counsel will have a list of these claims. Therefore, responding to this request is not burdensome. This Commission must have access to this information so that it can decide whether or not to require the owners of Olympic to contribute capital to the company in lieu of the 62% rate increase. If Olympic is anticipating millions of dollars in third party claims, this could impact the Commission's decision. Olympic is requested to confirm that the losses (giving rise to these third party claims) have contributed to the alleged deteriorating financial condition of Olympic. Requiring a meaningful response to this request will significantly decrease the cross examination at hearing.

9. The third request requires Olympic to quantify the amount of corporate funds that have been invested in the Cross Cascades project. Independent sources indicate that Olympic invested \$23 million in its failed attempt to expand its pipeline system. The treatment of the expenses associated with this huge waste of funds should be known as well as whether it is a cause of the financial distress which they assert in this interim emergency rate request. This should not be

difficult to respond to since this project has been monitored by the board of directors and the shareholders for several years and the most recent estimate of costs should be available. Again, Olympic is requested to confirm that the failed investment has contributed to the alleged deteriorating financial condition of Olympic . Requiring a meaningful response to this request will significantly decrease the cross examination at hearing.

10. The final request asks Olympic to quantify the total dollar amount of the casualty and other loss related to the Whatcom Creek accident which Olympic has booked to date. This has already been reported for financial statement purposes so providing this information should be no burden. Olympic is requested to confirm that the Whatcom Creek losses have contributed to the alleged deteriorating financial condition of Olympic . Requiring a meaningful response to this request will significantly decrease the cross examination at hearing.

II. Law and Argument

11. Wash. Admin. Code 480-09-480(7) provides that disputes arising from discovery procedures can be resolved at the prehearing conference or through a motion. The appropriate motion for failure to respond to discovery requests is a motion to compel. See Washington Util. & Transp. Comm'n v. Puget Sound Power & Light Co., Docket No. UE-960299; 1996 WL 601392 (Wash.U.T.C.). Where a party fails to comply with a discovery motion, an appropriate remedy is a continuance. See Re Electric Lightwave, Inc., Docket No. UT-901029 (December 6, 1991).

12. In the present case, Olympic's failure to meaningfully respond to Tesoro's Second Set of Discovery Requests necessitates an order to compel.

DATED this 17th day of December, 2001.

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By

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CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2001, a true and correct copy of the foregoing document was faxed, emailed, and mailed to the following:

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