

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  
NOTICE OF OLYMPIC PIPE LINE COMPANY S  
NONCOMPLIANCE WITH ORDER COMPELLING DISCOVERY

1            Tesoro West Coast Company dba Tesoro Northwest Company ( Tesoro ),  
by and through its attorneys, Brena, Bell & Clarkson, P.C., hereby  
notifies     the     Washington     Utilities     and     Transportation     Commission  
( WUTC ) that Olympic Pipe Line Company has not complied with the WUTC s  
Order Granting [Tesoro s] Discovery Motion, dated December 4, 2001. 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. Introduction**

3 On November 26, 2001, shortly after the close of business, Tesoro served discovery on Olympic. The discovery was simple and directly focused on Olympic's interim case and responsive discovery was and is necessary for the proper preparation of Tesoro's case. Olympic had three days or under November 30, 2001 (even if the discovery was considered served on November 27, 2001) to respond or object to Tesoro's discovery. Olympic did neither. On December 3, 2001, Tesoro had not received either Olympic's responses nor its objections to discovery and requested Judge Wallis to compel production of responses or objections. Judge Wallis did so. Olympic served its first discovery responses and objections to discovery after the technical conference was completed on December 4, 2001. Olympic's responses were not responsive to Tesoro's discovery requests in several significant respects.

4 On December 6, 2001, a hearing was held on Tesoro's second motion to compel discovery. At that hearing, Administrative Judge Wallis ordered Olympic to provide specific information to Tesoro. In addition, Olympic agreed to provide specific information to Tesoro in lieu of being compelled to provide the information. This notice will not attempt to reargue the motion to compel that has already been done. This notice simply requests Olympic comply with Judge Wallis's order and evaluates Olympic's continued failure to comply with Judge Wallis's order to compel.

5 Tesoro files this notice, in part, because in the most recent pretrial conference on December 14, 2001, Olympic represented to the Commission that it had substantially complied with the order to compel and responded to Tesoro's discovery requests. Tesoro did not have the opportunity to respond to this assertion because Olympic's responses were served moments prior to the hearing and because the prehearing comments by Tesoro were directed, at the Judge's request, toward the future discovery process and not toward Olympic's compliance with the existing order to compel. Olympic has not substantially

complied with Judge Wallis's order to compel and it should be required to do so prior to the establishment of filing and hearing dates.

6 Tesoro has consistently sought a fair opportunity to present its opposition to Olympic's request for emergency interim relief. However, all of the evidence that is necessary for Tesoro to properly present its opposition is in the possession, custody, and control of Olympic and its shareholders. Tesoro is entitled to a decision based upon substantial evidence and not the unsubstantiated assertions and generalized comments by Olympic. The Commission's decision in this case will set precedent for future requests by regulated entities and should not be rendered without the Commission being fully informed of the merits.

7 Following are the areas of non-compliance, an analysis of the responses to date, and the status of the discovery:

## 8 **II. Throughput**

8 **A. Judge Wallis's Order.** Olympic was compelled to list monthly throughput in barrels through Olympic's pipeline system by shipper, product, point of origin, point of destination, tariff rate, and interstate or intrastate nature of the shipment from January 1, 2001, to date. This was modified someone so that Olympic could list affiliate and intervener shippers by name and affiliated nonintervener shippers by code. See Prehearing Conference Tr., December 6, 2001; page 141, ln. 15-16 (Interrogatory 20)

## 9 **B. Olympic's Supplemental Response**

No response to date. Instead, Olympic sent the attached email (Exhibit A) soliciting shipper dissent and sought to and did re-argue the issue in the subsequent pretrial hearing.

## 10 **C. Analysis of Response and Status**

Olympic has simply not complied with the order to compel. Olympic should be ordered to provide the information by the close of business on December 18, 2001. If it fails to comply, then the other parties should be entitled to sanctions including admission of facts that can be

briefed on December 19, 2001.

### **III. Monthly Financial Statements**

11                    **A.                    Judge Wallis's Order.** Olympic was compelled to produce monthly financial statements for the period July 1, 2000, to date and to inquire of any of its owners or shareholders as to whether they have that information and whether it is available through that source and should provide any information, even if it is not in the format requested, that the company has for the period prior to July 1, 2000. See Prehearing Conference Tr., Dec. 6, 2001; page 149, ln. 2-5 (Request for Production No. 8).

12                    **B.                    Olympic's Supplemental Response**  
To be provided.

**C. Analysis of Response and Status**

This is the simplest request. Olympic maintains its accounting records on a computerized basis. The information sought could have been printed out in a couple hours. Instead, it has been intentionally withheld. Olympic also has raised its concern that Equilon will not provide the financial information from January 2000 thru July 2000. Equilon stands to benefit substantially from the 62% rate increase being sought and should not be allowed to refuse to provide simple financial information. Moreover, even if Equilon was unwilling, this monthly financial information is readily available to Olympic from its other shareholders and from its corporate records. In fact, Olympic must have had such information to properly prepare its own tax returns for 2000. Finally, Tesoro's request for such information to date must include through November which should be updated with December information when it is available.

Olympic's financial condition has dramatically improved from July to date and it should not be permitted to not disclose this very relevant information. Also, Olympic's financial statements for 2000 through June are also important because this is the prior in which Olympic's financial records explain the treatment and use of its current affiliated debt.

Olympic should be ordered to provide the information by the close of business on December 18, 2001. In addition, this information should be in the form of a **detailed** general ledger printout listing all transactions. If Olympic fails to comply, then the other parties should be entitled to sanctions including admission of facts that can be briefed on December 19, 2001.

#### IV. Monthly Budgets and Cash Flow Statements

15           A.           **Judge Wallis s Order.** Olympic was compelled to provide monthly budgets and cash flow statements (including the notes for all such documents) for the period July1, 2000, to date and must inquire of any of its owners or shareholders as to whether they have that information for the period prior to July 1, 2000. Olympic must also make a good faith request of ARCO for that information and if it is available will supply it. To the extent that the information becomes available, it should be provided when it becomes available. See Prehearing Conference Tr., Dec. 6, 2001; page 172 & 173, ln. 23-25 and ln. 1-4; page 173, ln. 9-15; page 173 & 174, ln. 24-25 and ln. 1 (Request for Production 9).

16           B.           **Olympic's Supplemental Response**

To be provided.

17           C.           **Analysis of Response and Status**

Again, this request is for routine monthly financial information that is presented to the board of directors and the finance committee. Olympic should be ordered to provide the information by the close of business on December 18, 2001. In addition, this information should be in the form of a **detailed** budget and cash flow printouts listing all transactions. If Olympic fails to comply, then the other parties should be entitled to sanctions including admission of facts that can be briefed on December 19, 2001.

#### V. Operating and Capital Expenses that are Directly Related to the Whatcom Creek Accident

18           A.           **Judge Wallis s Order.** Olympic was compelled to identify the operating and capital expenses that are directly related to the Whatcom Creek accident including those costs incurred as a result of the corrective action order

(letter). See Prehearing Conference Tr., Dec. 6, 2001; page 157, ln. 19-25 (Interrogatory 35).

19

**B. Olympic's Supplemental Response**

A portion of the costs directly related to the Whatcom Creek accident are reflected as an expense under "Casualty and Other Losses" on Olympic's income statement with the remaining portion as an estimate to be recovered through insurance reimbursement and is recorded to a claims receivable balance sheet account. All costs directly related were tracked through a project numbering system. There are no Whatcom Creek capital projects related to Interrogatory 34.

20

**C. Analysis of Response and Status**

Its extremely disappointing that Olympic admits the obvious when it responds that these costs were tracked through a project numbering system . But, it provides no explanation for its refusal to provide a list of the costs. Olympic anticipates the obvious prudence challenge to these costs. Withholding this information prevents the Commission from determining whether or not Olympic s current financial situation is a shareholder problem (resulting from mismanagement) that Olympic is trying to make shippers pay.

21

Olympic should be ordered to provide the information by the close of business on December 18, 2001. In addition, this information should be in the form of a **detailed** general ledger printout listing all transactions. If Olympic fails to comply, then the other parties should be entitled to sanctions including admission of facts that can be briefed on December 19, 2001.

## **VI. Documents Evidencing a Deterioration of Olympic's Financial Condition**

22                   **A. Judge Wallis's Order.** Olympic agreed to identify and produce documents that concern the deterioration of its financial condition including, without limitation, any correspondence, memoranda, or notes of discussion in which this was discussed. See Prehearing Conference Tr., Dec. 6, 2001; page 163, ln.6-14 (Interrogatory 37) (Request for Production No. 2).

### **23                   B. Olympic's Supplemental Response**

Without waiving [its] objection[s], when BP took over operation of the pipeline in July 2000, it brought BP's high standards and commitment to safety. BP would not reactivate the segments of the line shut down since the accident until BP determined it was safe to do so and it had received the necessary approvals. Olympic's first priority was to get the 16" line up and running safely. Once the 16" line was safe and operational again, Olympic would be able to resume the transportation of additional products, thereby generating increased revenues. The focus on getting the 16" line safely and fully operational caused Olympic to incur increased operating expenses, not reduced operating expenses. In sum, Olympic's commitment to safety under BP management required higher, not lower, operating expenses.

24                   In order to continue operating the pipeline to BP's safe standards, Olympic plans spending of \$23.8 million to fund safety-related capital expenditures for 2002.

25                   Olympic has summarized some of the extensive safety measures it has taken in Exhibit \_\_\_(BCB-1). Olympic reopened the Ferndale to Allen segment of the pipeline in February 2001, and the Allen to Renton segment of the pipeline in June 2001, only when it believed it was safe and prudent to do so.

26                   It should be noted that Tesoro requested that the north portion of the 16" line not be reopened in February of 2001 because it did not want to share pipeline capacity with the refineries on that portion of the pipeline that had been shut down since the Whatcom Creek



accident. Tesoro sent an email to Olympic Pipe Line on January 29, 2001, stating that "Tesoro requests the Ferndale Section of the line and the Allen to Renton (16" line) section be started simultaneously. Starting only the Ferndale section will result in a significant financial impact on Tesoro's overall transportation costs."

27           The effect of delaying the reactivation of the Ferndale section would have been a loss of operating revenues for Olympic.

28                           **C.                   Analysis of Response and Status**

Not a single document was identified by Olympic. If there is a deterioration of its financial condition there must be documents evidencing the deterioration, and Olympic should be forced to reveal them.

29           Olympic should be ordered to provide not only the list the information by the close of business on December 18, 2001. In addition, Olympic should be ordered to provide copies of any documents (selected for review by Tesoro) by facsimile within 1 day of the request. If Olympic fails to comply, Olympic's supplemental response should be deemed by this Commission to be complete and the parties should be allowed to rely upon the fact that Olympic does not possess a single document, other than those disclosed, of its deteriorating financial position. Olympic did not identify and produce any documents in support of its response. It is readily apparent that Olympic has no intention of producing such documents. Therefore, this Commission should consider absence of documentation when it is assessing the weight to give to the testimony alleging both the existence of a deteriorating financial situation and the causes for such deterioration. then the other parties should be entitled to sanctions including admission of facts that can that can be briefed on December 19, 2001.

**VII.   Causes of Olympic's Deteriorating Financial Condition**

30           **A.                   Judge Wallis's Order.** Olympic agreed to confirm that its response was complete and to identify and produce any documents support its response regarding the causes of Olympic's deteriorating financial situation. See

Prehearing Conference Tr., Dec. 6, 2001; page 169, ln. 17-19; page 170, ln. 10-13 (Interrogatory 40) (Request for Production No. 2).

31

**B. Olympic's Supplemental Response**

The definition intended for "deteriorating financial condition" is meant to address the general and financial situations of Olympic. In its testimony Olympic has provided details of its inability to pay accruing interest on debt which, apart from other negative factors, constitutes a financial condition that continues to worsen. While Olympic's financial condition is not deteriorating as rapidly as it was when it had no revenue earlier this year, but Olympic's debt continues to mount and it has not received permanent rate relief from the FERC or the WUTC. The FERC has ordered a rate increase on September 1, 2001, but that is subject to refund and cannot be counted toward earning. Olympic has provided hundreds of pages of financial records, debt documents and other financial information in the interim case and provided further documentation in the general rate case testimony filed on December 13, 2001 at the FERC and at the WUTC. All documents provided by Olympic support a financial condition that continues to be negative, accrued interest on debt that continues to grow and continuing expenses that must be met in order to operate safely and reliably. The financial condition of Olympic is as stated in the supplemental responses to Interrogatory No. 10 and all of the referenced prior responses to other data requests from staff and public counsel.

32

Olympic believes that Mr. Batch was aware of Olympic's deteriorating financial condition at least by the time he became president of Olympic (August 1, 2000). He knew this because he was generally aware of Olympic's balance sheet, financial statements, debt, and the fact that Olympic was incurring expenses on a monthly basis that exceeded its revenues, a situation that continues today. The cause of the deteriorating financial condition is simply the fact that Olympic's expenses after 1998 have increased while its revenue has decreased. The details of the expenses and revenues to which this answer refers are set forth in various documents that have been supplied to Tesoro such as financial statements, budgets, income

statements and the like. (b): Please see response to (a) above. Further, please see Olympic's financial documentation referred to above and previously provided to Tesoro. In summary, Olympic continues to spend on a monthly basis more money than it receives in revenue, its debt burden has increased (the details of which have been provided to Tesoro previously) and its planned expenses for 2002 will continue to significantly exceed revenue without rate relief. Finally, as reflected in the two most recent sales of Olympic shares, it appears that Olympic's equity value has decreased significantly since 1995. (c): Documents reflecting the deteriorating nature of Olympic's financial condition include all those referenced in the above responses to 40 (a) and (b).

33

**C. Analysis of Response and Status**

Olympic's supplemental response should be deemed by this Commission to be complete and the parties should be allowed to rely upon this response for purposes of preparing testimony and presenting evidence at hearing. Olympic did not identify and produce any documents support its response. It is readily apparent that Olympic has no intention of producing such documents. Therefore, this Commission should consider absence of documentation when it is assessing the weight to give to the testimony alleging both the existence of a deteriorating financial situation and the causes for such deterioration.

**VIII. Federal Income Tax Returns and Estimated Tax Information**

34

**A. Judge Wallis's Order.** Olympic was compelled to provide a copy of Olympic's federal income tax returns for 1998-2000 and 2001 and, to the extent that it had not filed its 2001 return it must provide any calculation or worksheets of its federal estimated tax calculation. Such information would be protected from disclosure by the protective order and Olympic was free to seek other guarantees of confidentiality to the extent they are necessary. See Prehearing Conference Tr., Dec. 6, 2001; page 176, ln. 1-7 ln. 11-12 (Request for Production 11).

35

**B. Olympic's Supplemental Response**

The requested documents have already been provided to Tesoro in response to Staff Second Data Request, #28.

36

**C. Analysis of Response and Status**

The tax returns for 1998-2000 were provided after the order to compel. However, Olympic has not produced the estimated tax information that it used for purposes of calculating its quarterly tax deposits. Olympic should be ordered to provide the information by the close of business on December 18, 2001.

**IX. Minutes of Board Meetings Including Attachments**

37

**A. Judge Wallis's Order.** Olympic agreed to provide copies of the minutes for all Board of Director's meetings as well as the memorandums, reports, or documents provided to individual Board members beginning from January 1, 1998, to date. Olympic agreed to identify any document it considered as privileged and explain the nature of the privilege that it is asserting. Tesoro agreed to review the list of documents to narrow the scope of the documents that Olympic would have to produce. See Prehearing Conference Tr., Dec. 6, 2001; page 182 & 183, ln. 25 and ln. 1-7; page 185, ln. 3-10 and ln. 13 (Request for Production 13).

38

**B. Olympic's Supplemental Response**

To be provided.

39

**C. Analysis of Response and Status**

This is a simple request. The information sought could have been copied from the corporate minute book in an hour. The latest minutes are from March of 2001 and many of the minutes provided are not official minutes. None of the memorandums and reports to the individual Board members has been provided.

**X. Capital Improvements Done to Comply with Safety Standards**

40

**A. Judge Wallis's Order.** Olympic agreed to list the capital improvements for 2002 which are required to be done to comply with the Office of Pipeline Safety's Corrective Action Order, as amended, and any other safety standard. See Prehearing Conference Tr., Dec. 6, 2001; page 193 & 192, ln.22-25 and ln. 1-2 ( Interrogatory 4; Interrogatory 34 & 35).

41

**B. Olympic's Supplemental Response**

It is important to understand that the Corrective Action Order at issue was not issued to Olympic, it was issued to its former operator Equilon Pipeline Company LLC. Further, the Corrective Action Order has never become final. Finally, Olympic did not categorize its capital expenditures in a fashion that would lend itself to readily answering this question as asked. For example, the CAO was limited to the 16 line and most of the mandatory requirements related to the Ferndale to Allen portion of that line. Yet, Olympic did not limit its responsive action to only the 16 line. Its mainline valve effectiveness evaluation (see CAO section 5(a)) was not limited to the 16 line but covered the entire system. Therefore, there is no realistic way to carve up the expenses as requested. The same can be said about the internal inspection and repair program. However, Olympic wishes to provide as much information relating to the reasons for its actions as possible and believes a review of the CAO, its two amendments, and the rather voluminous correspondence between Olympic and OPS would provide a good understanding of what OPS was asking Olympic to do, what one could argue was required by Corrective Action Order, and what Olympic was doing in response. This correspondence includes descriptions of projects, OPS approvals, and a flow chart prepared by OPS regarding the CAO requirements, Olympic's response and status. Olympic is willing to provide copies of all this material to Tesoro and staff and has spent some time since the conference with the judge reviewing this material to select those letters and documents that Olympic believes would be most helpful. That list follows:

- . Corrective Action Order issued to Equilon Pipeline Company by Office of Pipeline Safety (OPS) on June 18, 1999 (BCB X)
- . OPS First Amendment to the above referenced Corrective Action Order (BCB X)
- . OPS Second Amendment to above referenced Corrective Action Order (BCB X)
- . March 9, 2000 letter from OPS to Equilon/Olympic (BCB - X)
- . Feb 7, 2001 letter from OPS to Bobby Talley/Olympic (BCB X)
- . May 30, 2001 letter from OPS to Bobby Talley/Olympic
- . August 4, 2000 letter from OPS to Bobby Talley/Olympic
- . May 19, 2000 letter from OPS to Carl Gast/Olympic
- . May 29, 2000 letter from OPS to Carl Gast/Olympic
- . June 9, 2000, letter from DOE to Carl Gast/Olympic Pipe Line Co. (as attached)
- . June 22, 2000 letter from OPS to Carl Gast/Olympic
- . August 10, 2000 letter from OPS to Bobby Talley/Olympic
- . August 25, 2000 letter and attachment from OPS to Bobby Talley/Olympic
- . October 31, 2000 letter from OPS to Bobby Talley/Olympic
- . November 9, 2000 letter from OPS to Bobby Talley/Olympic
- . December 7, 2000 letter from OPS to bobby Talley/Olympic
- . December 4, 2000 Detailed Re-Commissioning and Startup Plan, Ferndale to Allen Station
- . January 25, 2001 letter from OPS to Bobby Talley/Olympic
- . February 7, 2001 letter from OPS to Bobby Talley/Olympic
- . April 18, 2001 letter from OPS to Bobby Talley/Olympic with attached status of items
- . May 30, 2001 letter from OPS to Bobby Talley/Olympic
- . Olympic s Safety and Integrity Plan (BJT?)
- . Pipeline Safety Immediate Action Plan with the City of Bellingham, September 10,

1999.

- . WA Department of Ecology (DOE) Administrative Order No. 99SPPRHQ-54 (as attached)
  - . June 9, 2000, letter from DOE to Carl Gast/Olympic Pipe Line Co. (as attached)
- Industry standards, laws and regulations that also impact Olympic's actions include:
- . RCW 81.88, et seq. and the regulations implementing same
  - . CFR 49, Part 195 as amended including the new rules promulgated by OPS in 2000 and 2001. ( BCB? X) CFR 49 Part 195 is the federal regulation for pipeline design, construction, and operations.
  - . Other pipeline safety standards are based on sound engineering practices such as NFPA, API, ANSI, ASME, ASTM, and are based on historical industry practice.

42

**B. Analysis of Response and Status**

Olympic did not list of any capital improvements for 2002 which are required to be done to comply with the Office of Pipeline Safety's Corrective Action Order, as amended, and any other safety standard. Olympic's supplemental response should be deemed by this Commission to be complete and the parties should be allowed to rely upon this response for purposes of preparing testimony and presenting evidence at hearing.

**XI. Explanations for Notes Set Forth in the Supplemental Testimony of Bob Batch on Page 3**

43

**A. Judge Wallis's Order.** Olympic agreed to identify the specific purposes for the short maturities and the interest rates of the notes set forth in the Supplemental Testimony of Bob Batch on page 3. Olympic also agreed to identify the terms which are in default for the loans with ARCO and Equilon. See Prehearing Conference Tr., Dec. 6, 2001; page 196, ln. 3-7 and 9-15 (Interrogatory 7 & 8).

44

**B. Olympic's Supplemental Response**



Olympic has not provided the agreed upon response.

45 **C. Analysis of Response and Status**

This response was fairly simple to provide. The notes set forth in the Supplemental Testimony of Bob Batch on page 3 indicate that Olympic incurred almost \$90 million in affiliated debt with a maturity of less than 6 months. This decision is the primary cause of Olympic's alleged deteriorating financial condition. If there is a business purpose for this decision, the Commission is entitled to know it.

46 Olympic's failure to provide a supplemental response should be deemed by this Commission to be complete and the parties should be allowed to rely upon this response for purposes of preparing testimony and presenting evidence at hearing.

**XII. Loans Used for Capital Improvements**

47 **A. Judge Wallis's Order.** Olympic was compelled to reconcile and explain the contradiction between the fact that they borrowed approximately \$72 Million from their shareholders in 2000 yet they reported on FERC Form 6 capital expenditures of only \$12 Million. See Prehearing Conference Tr., Dec. 6, 2001; page 198 & 199, ln. 25 and 1-6; page 199 & 200, ln. 23-25 and ln 1-3 (Interrogatory 31).

48 **B. Olympic's Supplemental Response**

Notes are not earmarked specifically for capital expenditures; rather, cash needs were evaluated and notes were requested to cover those needs. Just prior to the transition between BP and Equilon, Equilon recorded notes in the amounts of \$43 million and \$2 million for capital expenditures paid on Olympic's behalf. It is not specifically known when these expenditures were incurred. The remaining balance was incurred to cover cash needs including capital expenditures and transition costs.

49 **C. Analysis of Response and Status**

Olympic's response does not reconcile or explain the how much of the alleged Equilon

loan in 2000 for \$43 million was for capital improvements. The federal income tax return for 2000 reports that they deducted \$12 million in personal services but reports only a \$400,000 increase in capital improvements. The Commission is entitled to know if this debt is real or simply an accounting entry for litigation purposes.

50 Olympic's failure to provide an adequate supplemental response should be deemed by this Commission to be complete and the parties should be allowed to rely upon this response for purposes of preparing testimony and presenting evidence at hearing.

### **XIII. Security Documents for Notes**

51 **A. Judge Wallis's Order.** Olympic was compelled to identify and provide any security agreements which related in any way to the notes set forth in the Supplemental Testimony of Bob Batch on page 3. See Prehearing Conference Tr., Dec. 6, 2001; page 200, ln. 16-24 (Request for Production 3).

52 **B. Olympic's Supplemental Response**

No response.

53 **C. Analysis of Response and Status**

Olympic has not identified all of the security agreements that relate to the debts. Olympic should be ordered to provide the information by the close of business on December 18, 2001. To the extent that it has not produced all security agreements, it should do so by the close of business on December 18, 2001. If Olympic fails to comply, then the other parties should be entitled to sanctions including admission of facts that can be briefed on December 19, 2001.

### **XIV. External Financing**

54 **A. Judge Wallis's Order.** Olympic was compelled to describe any steps Olympic has taken, other than those mentioned in the response to Request for Admission Number 13, to obtain financing from external sources. *\*supply that information.* See Prehearing Conference Tr., Dec. 6, 2001; page 209,

ln. 13-20 (Interrogatory 17).

55           **B.                   Olympic's Supplemental Response**

No response.

56           **C.                   Analysis of Response and Status**

Olympic has not described the steps it has taken to obtain external financing. It has a finance committee that has been arranging loans from external sources for several years, so it should be simple to comply with the order to compel. Olympic's failure to provide an adequate supplemental response should be deemed by this Commission to be complete and the parties should be allowed to rely upon this response for purposes of preparing testimony and presenting evidence at hearing.

**XV.   Efforts to Obtain Internal Financing**

57           **A.                   Judge Wallis's Order.** Olympic agreed to identify all efforts they have taken to obtain internal financing. See Prehearing Conference Tr., Dec. 6, 2001; page 212, ln. 2-5 and ln 12-14 (Interrogatory 12).

58           **B.                   Olympic's Supplemental Response**

No response.

59           **C.                   Analysis of Response and Status**

Olympic has not identified any efforts they have taken to obtain internal financing. They simply suggest it may be a problem. Olympic's failure to provide an adequate supplemental response should be deemed by this Commission to be complete and the parties should be allowed to rely upon this response for purposes of preparing testimony and presenting evidence at hearing.

**XVI.   Debt vs. Equity Financing**

60           **A.                   Judge Wallis's Order.** Olympic agreed make its best efforts to inquire and explain why Olympic's shareholders chose to provide debt financing rather than equity financing to Olympic during 2000 and 2001. See

Prehearing Conference Tr., Dec. 6, 2001; page 213 & 214, ln. 22-25 and ln. 1-2; page 214, ln. 10-13 (Interrogatory 16).

61

**B. Olympic's Supplemental Response**

As indicated in its prior responses to Tesoro Petroleum's interrogatories 11 and 12, Olympic Pipeline Company operates through its board of directors pursuant to Delaware corporate law. Olympic's shareholders act through corporate law by electing a board of directors. Decisions on financing are made by the board of directors, not Olympic's shareholders. In general terms, a regulated oil pipeline company should be able to finance its operations and capital projects through rates sufficient to cover these costs and to provide a return on equity. Olympic's Board has authorized the rate filings at the FERC and WUTC. Under the present circumstances and uncertainties facing Olympic, Olympic has stated that obtaining financing from external sources would be futile as was stated on December 4 in answer to Tesoro's Interrogatory No. 15.

62

To date, Olympic has been able to obtain the debt financing set forth in detail in Olympic's prior interrogatory answers, responses to requests for admission and productions of documents. At the December 4, 2001 technical conference, Mr. Fox confirmed the above statements to Tesoro's two attorneys and three experts, as well as to WUTC staff. During that conference, Tesoro Petroleum was asked if it would be willing to buy additional shares of Olympic Pipeline if offered, but Tesoro declined to answer.

63

**C. Analysis of Response and Status**

Olympic has not explained why Olympic's shareholders chose to provide debt financing rather than equity financing to Olympic during 2000 and 2001. Olympic's failure to provide an adequate supplemental response should be deemed by this Commission to be complete and the parties should be allowed to rely upon this response for purposes of preparing testimony and presenting evidence at hearing.

**XVII. Future Plans for External Financing**

64           **A.           Judge Wallis s Order.** Olympic was compelled to describe any future plans it has for external financing. See Prehearing Conference Tr., Dec. 6, 2001; page 217, ln. 3-12 (Interrogatory 17).

65           **B.           Olympic's Supplemental Response**  
No response.

66           **C.           Analysis of Response and Status**

Olympic has not described the future plans it has for external financing. It has a finance committee that has been arranging loans from external sources for several years, so it should be simple to comply with the order to compel. Olympic s failure to provide an adequate supplemental response should be deemed by this Commission to be complete and the parties should be allowed to rely upon this response for purposes of preparing testimony and presenting evidence at hearing.

#### **XVIII. Sources of Internal Financing**

67           **A.           Judge Wallis s Order.** Olympic was compelled to describe every potential internal source (within the BP Family) from which Olympic could borrow to finance its future capital expenses and identify and produce any documents that support this response. See Prehearing Conference Tr., Dec. 6, 2001; page 218, ln. 9-15; page 219, ln. 13-16 and ln. 20-23; page 220, ln. 11-17 (Interrogatory 41; Request for Production 2).

68           **B.           Olympic's Supplemental Response**  
No response.

69

**C. Analysis of Response and Status**

Olympic has not listed any sources of internal financing except the \$30 million line of credit with ARCO. Olympic's failure to provide an adequate supplemental response should be deemed by this Commission to be complete and the parties should be allowed to rely upon this response for purposes of preparing testimony and presenting evidence at hearing. Olympic or its shareholders have a finance committee whose responsibilities are to arrange Olympic's financing of capital improvements as well as Whatcom creek expenses. Tesoro and the Commission are entitled to review the minutes associated with these meetings.

**XIX. Payments to Shareholders or Affiliates**

70

**A. Judge Wallis's Order.** Olympic agreed to provide by month the total amount Olympic has paid to its shareholders or affiliates beginning January 1, 2000, to date. See Prehearing Conference Tr., Dec. 6, 2001; page 142, ln. 21-24 (Interrogatory 29).

71

**B. Olympic's Supplemental Response**

There is no evidence indicating Olympic has made any payments to its shareholders.

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**C. Analysis of Response and Status**

What is noticeably absent from Olympic response is payments **to affiliates**, such as BP and its subsidiaries. The summary financial statements provided to date indicate that during 2000, Olympic paid approximately \$19 million in outside services (vs. \$4 million in 1999) and \$2 million in miscellaneous expenses. Olympic has not complied with the order to compel because it does not want the Commission to know the specifics of its affiliated transactions and the draining impact of such transactions on its cash flow.

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Olympic should be ordered to provide the information by the close of business on December 18, 2001. If it fails to comply, then the other parties should be entitled to sanctions including admission of facts that can be briefed on December 19, 2001.

DATED this 17<sup>th</sup> day of December, 2001.

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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  
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