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November 14, 2001

Chairwoman Marilyn Showalter  
Commissioner Richard Hemstad  
Commissioner Patrick Oshie  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
Olympia, WA 98504-7250

Re: Olympic Pipe Line Tariff Filing  
Docket No. TO-011472

Dear Commissioners:

I am writing on behalf of Tosco Corporation ("Tosco") which operates an oil refinery in Ferndale, Washington. Tosco is a major shipper on Olympic Pipe Line Company's ("Olympic") petroleum pipeline that operates between Ferndale, Washington and Portland, Oregon.

On October 31, 2001, Olympic submitted tariff revisions requesting a 62 percent increase in its intrastate transportation rates effective December 1, 2001. Olympic has also Petitioned for an Order authorizing immediate effectiveness of the rate increase and a Petition for a Policy Statement and Order Clarifying Oil Pipeline Rate Methodology. Olympic states that its requested increase is necessary for major system enhancements, an internal inspection and repair system, the costs of increased regulatory and internal safety rules and procedures, as well as increased power and operating costs. Although Tosco recognizes the importance of maintenance and safety programs, Tosco does not believe a rate increase of this size has been justified. Therefore, Tosco respectfully requests the Washington Utilities and Transportation Commission ("WUTC" or "Commission") suspend the tariff and set the matter for hearing.

In addition to the rate increase, Olympic requests the WUTC issue a policy statement or alternatively seeks a declaratory order pursuant to WAC § 480-09-230 clarifying that the Commission will formally adopt Olympic's requested pipeline rate methodology. Pursuant to RCW § 34.05.240(7), an agency may not enter a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent by writing to the determination of the matter by a declaratory order proceeding. Tosco believes that Olympic's proposed methodology is inappropriate, and as a necessary party whose rights will be substantially prejudiced, Tosco will not consent to the requested determination of the methodology by a declaratory order proceeding. The question of which methodology is appropriate for determining cost of service should be decided as part of the general rate proceeding.

Olympic also requests that revised tariff No. 23 be placed into effect on or before December 1, 2001, subject to refund, "to mitigate the gross hardship and gross inequity that has already occurred for Olympic and is forecast to continue to occur." However, Olympic has failed to justify the extraordinary relief of an interim rate increase. *See WUTC v. Pacific Northwest Bell Telephone Co.*, Cause No. U-72-30 (Oct. 1972). Olympic is a Delaware corporation with individual shareholders comprised of BP Pines, North America, Inc. ("BP") owning 62.55 percent and Equilon which owns 37.45 percent. Therefore, Olympic is not a stand-alone company on the verge of suffering gross hardship or gross inequity in the absence of the interim rate increase. Whether or not Olympic could independently borrow funds is irrelevant, as the pipeline is owned by BP and Equilon.

Furthermore, on May 31, 2001, Olympic previously filed tariff revisions requesting a 76 percent rate increase. On July 5, 2001, Olympic filed a Motion to withdraw its tariff filing and cancel the prehearing conference. The Commission granted the Motion on July 11, 2001. Therefore, the need for interim relief requested by Olympic is, in part, a result of Olympic's own decision to withdraw the earlier tariff revision and not complete the rate case it began on May 31, 2001.

Finally, the "subject to refund" protection for interim rate increases is inadequate to protect shippers using Olympic's system. If Olympic receives its proposed interim rate increase, Tosco and other shippers may choose to direct product to other markets using other means of transport. Therefore, even though the requested interim rate relief is subject to refund, refunds alone would not make shippers whole if the size of the interim increase makes service so expensive that Tosco and others opt to redirect product by means of other forms of transportation.

As stated above, Tosco recognizes the importance and is willing to pay for necessary safety-related programs and maintenance associated with pipeline operations. However, Olympic's proposed rate increase appears to go well beyond "necessary" programs resulting in a staggering 62 percent rate increase. A rate increase of this magnitude may force some product off Olympic's system. Additionally, Olympic has failed to establish that it qualifies for interim rate relief under Washington law.

Therefore, Tosco respectfully requests that the Commission reject the request for interim relief, deny the request for a declaratory order, suspend the tariff and set it for hearing.

Thank you for your consideration.

Sincerely,

Ed Finklea  
Energy Advocates, LLP

Of Attorneys for Tosco

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