

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION

Complainant,

v.

OLYMPIC PIPE LINE COMPANY, INC.,

Respondent.

DOCKET NO. TO-011472

OLYMPIC PIPE LINE COMPANY'S  
MEMORANDUM IN SUPPORT OF AN  
EQUAL NUMBER OF PAGES FOR  
BRIEFS PER SIDE

1. For the final briefing in this proceeding Olympic requests that it be permitted to submit an opening and reply brief equal in length to the combined pages for Staff and Intervenors. This is consistent with court practice for example on oral argument, which generally allows the party bearing the burden of proof to have equal time to the combined time of those in opposition. See RAP 11.4(a) (“If there is more than one party to a side in a single review or in a consolidated, the parties on that side will share the allotted time equally . . .”).

2. Because Olympic bears the burden of proof, it must present its own theories and facts and it must also address the theories and facts presented by each of the other parties in opposition. Each of the three other parties have advanced different theories, presented different facts, have different proposals, and recommend different outcomes. The issue of throughput, for example, requires Olympic to support its use of actual throughput data as wells as demonstrating why each of the three other proposals advanced by those in opposition are not appropriate. Staff’s throughput number is 108 million barrels; Tesoro is 121 million barrels and Tosco is 130 million barrels. Olympic must address each in its opening brief. Staff and Intervenors each take similarly different positions than Olympic on most other major issues, such as cost of capital, capital structure, and major maintenance costs. Overall, Staff and Intervenors recommend end results that put them on one side of the proceeding and Olympic on the other side.

3. Olympic has been at a procedural disadvantage in terms of the allocation of time for

witness testimony and must use its brief to help respond and to meet its burden of proof. The combined time for questioning reserved and used by Staff and Intervenors was far greater than that of Olympic. Olympic's opening brief must respond to the questions and issues advanced by Staff and Intervenors during the witness examination.

4. Staff and Intervenors were also allowed an additional hour of oral surrebutal for each witness. The order on oral response was premised on complaints by Staff and Intervenors that Olympic's rebuttal was lengthy and that the time for preparation before the hearing was short. However, Olympic had to respond in two-and-one-half weeks to the lengthy prefiled testimony of nine witnesses sponsored by three different parties.<sup>1</sup> The complexity and length of the presentations of Staff and Intervenors necessitated the rebuttal case Olympic filed. Because it has the burden of proof, Olympic needs be able to address this surrebutal in its briefing.

5. As an additional consideration, Tesoro has already effectively submitted a 62 page brief in the form of the direct prefiled testimony of Mr. John Brown, which contained dozens of pages of legal argument, citations and quotes from cases and six footnotes. On cross-examination, Mr. Brown was unfamiliar with the details of the cases cited in his testimony, leading to a fair inference that his testimony was a vehicle for an early version of Tesoro's brief.

6. Olympic respectfully requests the Commission to permit Olympic a number of pages of briefing equal to the combined pages of the opposing parties.

DATED this \_\_\_\_ day of July, 2002.

**Respectfully submitted,**

**PERKINS COIE LLP**

By \_\_\_\_\_  
Steven C. Marshall, WSBA #5272

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<sup>1</sup> Olympic objected to this schedule as violative of due process. See Tenth Supplemental Order at 4, ¶ 18.

William R. Maurer, WSBA #25451

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 17, 2002, I caused to be served copies of Olympic Pipe Line Company's Memorandum in Support of an Equal Number of Pages for Briefs Per Side via email and facsimile, to the following parties:

Mr. Donald T. Trotter/Lisa Watson Washington Utilities and Transportation Commission 1400 S. Evergreen Park Drive S.W. P. O. Box 40128 Olympia, WA 98504-0128 360-586-5522 (Fax) dtrotter@wutc.wa.gov	Mr. Edward A. Finklea/Chad Stokes Energy Advocates LLP 526 N.W. 18th Avenue Portland, OR 97209-2220 503-721-9121 (Fax) efinklea@energyadvocates.com
Robin O. Brena, Esq. Brena Bell & Clarkson, P.C. 310 K Street, Suite 601 Anchorage, AK 99501 907-258-2001 (Fax) rbrena@brenalaw.com	C. Robert Wallis Administrative Law Judge 1300 S. Evergreen Park Drive S.W. Olympia, WA 98504-7250 360-664-1142 (Fax) bwallis@wutc.wa.gov

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 17th day of July, 2002, in Bellevue, Washington.

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Pam Iverson