

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION)	DOCKET NO. TO-011472
)	
Complainant,)	FIFTEENTH SUPPLEMENTAL
)	ORDER
v.)	
)	PREHEARING CONFERENCE
OLYMPIC PIPE LINE COMPANY)	ORDER
)	
Respondent.)	
.....)	

1 **Synopsis:** *This order establishes post-hearing process for the conclusion of this proceeding.*

2 **Procedure.** The Commission convened a post-hearing administrative conference in this docket on Thursday, July 18, 2002, before Administrative Law Judge C. Robert Wallis to resolve procedural matters relating to post-hearing process.

3 Present at the conference were Olympic Pipe Line Company (Olympic) by Steve Marshall and William Beaver, attorneys, Seattle; Tesoro Refining and Manufacturing Co., by Robin Brena, attorney; Tosco, Inc., by Edward Finklea, attorney; and Commission Staff, by Donald T. Trotter and Lisa Watson, assistant attorneys general.

4 **Exhibit List Status.** The Commission has circulated a draft exhibit list and parties have provided suggested corrections. The Commission will send parties a corrected list as soon as it is available.

5 **Proposed Findings and Conclusions.** Parties' views on the idea of providing proposed findings of fact and conclusions of law varied from strong support to concerns about the extent of effort required for their production and the extent of effort required to complete the task as well as a thorough but terse brief on a complex subject in a very short period of time.

- 6 Balancing the effort for their production with the value to the Commission, we ask parties to provide recommended findings of fact and conclusions of law to support their proposed resolution of the proceeding.
- 7 Parties are asked not to make findings as to each matter to which witnesses testified, but to make the findings of specific facts and conclusions or statements of reasons that are necessary under RCW 34.05.461(3) to support a prima facie case for the proposition they are advancing.
- 8 Parties are asked to provide citations for their proposed findings and conclusions – to the record, or to legal authority. If citations to the record appear in the text of the brief, citations to the paragraph numbers in the writer’s brief containing the citations will be sufficient.
- 9 **Length of Briefs.** The parties discussed the number of pages they thought necessary to outline their views on relevant issues to the Commission. Olympic argued that it required the same number of pages for briefing that all other parties combined were authorized, because it alone must respond to all other parties and because it suffered procedural bias in that its time on cross examination of witnesses during the hearing was shorter than the time used on cross by other parties combined. It cited to RAP 11.4(a) for the proposition that oral argument should be allocated in that manner, and analogized for the purpose of briefing. Commission Staff answered the pleading.¹
- 10 We do not believe Olympic’s point to be well-taken. It experienced no restriction of its time on cross examination. It cited no authority directly in point, and the rule for appellate practice governing briefs, RAP 10.4(b), provides for the same system that appears in WAC 480-09-770 – *i.e.*, the same number of pages per party.
- 11 To the contrary, as the other parties pointed out, there are substantial differences among the parties and on most issues the other parties must also discuss the arguments of three other parties, one of whom is Olympic. Olympic’s burden is not three times as great.

¹ Olympic sent a faxed reply to Commission Staff’s answer which arrived in Commission telefacsimile machines while the conference was beginning. Because parties had no notice of the reply and no opportunity to respond during argument, we strike it.

- 12 Parties were concerned about the confines of 60 pages. Olympic would not state the number of pages it needed, except in multiples of others' allotment. We do not understand the need to consider space allotted to others in determining one's own needs for briefing. Considering the concerns of the parties, especially Olympic's, however, we allow the parties 70 pages for their opening briefs. Olympic is authorized 30 pages for its answering brief, and other parties are authorized 20 pages. As parties noted, they are not directed to use all of the space allotted.
- 13 **Briefing format.** Parties must follow the briefing format in WAC 480-09-770. In addition, headings must show the appropriate letter or number of the outline and may be shown in the first line of a paragraph, in bold. Parties must include a table of contents that includes all outline points, indicates n/a on points the party chooses not to address, and specifically identifies topics that the party addresses that are not otherwise specifically identified in the outline. The table of contents should be inserted as separate pages at the beginning of the brief, after the title page, should be numbered with lower case roman numerals, and will not count toward the page limitation.
- 14 Paragraphs must be numbered in the briefs.
- 15 **Findings, Conclusions, and Tables.** Findings and conclusions may be set out in a separate document, which will be an attachment to a party's brief. This document must conform with style and format requirements applicable to the main brief. Parties may also include in this document any table exceeding one-half page in length (or may choose to include the findings, conclusions, and any such tables in the text of the brief, within the 70 page limitation).
- 16 **Outlines.** Parties could not agree on a single outline. Olympic contended that failure to adopt its proposed outline would prejudice its presentation. As noted earlier in the proceeding, the outline is not meant to confine or restrict, but is meant to organize parties' arguments and so to assist the Commission in assuring that parties' arguments are parallel and to assist the Commission in comparing the parties' views.
- 17 Because the parties could not agree, we combined the parties' proposals into a single outline that is attached to this order. Parties are not required to address each element, but if they argue the issue, they should do so under the pertinent outline point.

18

In addition to elements raised by the parties, we ask parties to address the contingency that the Commission may find that the Company has not proved its entitlement to an increase at least as large as the level of interim rates previously approved. Please address whether the Commission should order refunds of sums collected under the interim rates if that occurs and, if so, by what mechanism, over what time, and upon what conditions, if any.

Dated at Olympia, Washington and effective this 19th day of July, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

C. ROBERT WALLIS
Administrative Law Judge

NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.

Outline for Briefs: Docket No. TO-011472
Olympic Pipe Line General Rate Case

- I. Introduction
- II. Legal Standards and Governing Principles
 - A. Burden of Proof
 - B. Fair, Just, Reasonable and Sufficient Rates
 - i. General considerations
 - ii. End result test
 - iii. Public Interest standard
 - iv. Commission's dual role
 - C. Federal / State jurisdictional issues
 - D. Retroactive ratemaking
 - E. Other
- III. Status of Company Books and Records
- IV. Ratemaking Methodology
 - A. Investor Expectations; Right to Methodology
 - B. FERC Methodology
 - i. Nature of Oil Pipelines and History of Regulation
 - ii. Rationale for FERC methodology
 - 1. Potential for Underinvestment
 - iii. Elements of FERC methodology
 - 1. Trended Original Cost

2. Starting rate base
 3. Deferred Return
 4. Parents' capital structure
 - iv. Commission Discretion in Choosing Methodology
 1. Consistency with Interstate Rates
 2. Past Practices
 - C. DOC Methodology
 - V. Test year
 - VI. Operating Expenses
 - A. Results per Books
 - B. Whatcom Creek Expenses
 - C. Restating and Pro Forma Adjustments
 - D. One-time Maintenance Costs
 - E. Major Maintenance Costs
 - F. Regulatory Costs
 - G. Transitional Costs
 - H. Fuel and Power Costs
 - I. Federal Income Taxes
 - J. Other
 - VII. Rate Base
 - A. Rate Base Methodology
 - B. Starting Rate Base (calculation)

C. Deferred Return (calculation)

D. Bayview

E. Average v. End-of-Period

F. CWIP

G. AFUDC

H. Other

VIII. Capital Structure

A. Actual Capital Structure

B. Hypothetical Capital Structure

i. Historical Capital Structure

ii. Use of Parents' Capital Structure (excluding FERC rationale)

iii. Other

IX. Rate of Return

A. Cost of Debt

B. Return on Equity

i. General Principles

ii. Analysis, including review of testimony if desired

iii. Summary and Conclusions

C. Overall Cost of Capital

X. Revenues

A. Test Year Revenues

B. Throughput

- i. Role of Throughput in Determining Revenues
 - ii. Calculation of Appropriate Throughput for Ratemaking Purposes
 - iii. Adjustment Mechanism Based on Throughput
- XI. Calculation of Revenue Deficiency or Surplus
- XII. Refunds, if the revenue deficiency fails to require a rate increase of at least the level of interim rates
 - A. Should refunds be required? If so,
 - B. By what method,
 - C. Over what period, and
 - D. Under what conditions, if any.
- XIII. Other