

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION)	DOCKET NO. TO-011472
)	
Complainant,)	SEVENTEENTH SUPPLEMENTAL
)	ORDER CLARIFYING POST-
v.)	HEARING PROCESS
)	
OLYMPIC PIPE LINE COMPANY)	
)	
Respondent.)	
)	
.....)	

1 *Synopsis: Parties' requests for clarification or reconsideration of the order
establishing post-hearing process are granted in part and denied in part.*

2 Following a post-hearing conference and entry of an order determining post-hearing
process, Commission Staff asked clarification or reconsideration; Tesoro asked for
reconsideration; Olympic took no position on Commission Staff's proposal and
opposed Tesoro's proposal; and Commission Staff supported, in part, Tesoro's
proposal.

3 We accept some and reject some of the proposals. An amended outline in legislative
format is attached to this order.

4 **Commission Staff's Motion.** Commission Staff asked several clarifications.

5 First, Staff noted that the page limit for findings, conclusions, and tables was set at
ten pages at the conference, while Paragraph 15 failed to set a page limit. The order
omitted a statement of the page limit, which is ten pages.

6 Commission Staff also asked that the filing deadlines established earlier in the
hearing be set in an order. The deadline for filing simultaneous opening briefs (not to
exceed 70 pages, exclusive of a table of contents) is the close of business on

Wednesday, August 21, 2002. The deadline for answering briefs (not to exceed 30 pages for Olympic and 20 pages for other parties) is 1:00 p.m. on Wednesday, August 28, 2002.

- 7 Staff asked that an additional element be added to identify parties' discussions of FERC methodology for cost of equity. The request is unopposed and is appropriate; the element is added at IV.B.iii.5 of the outline.
- 8 Commission Staff asked for clarification that rationales for the FERC methodology other than the specific item listed in IV.B.ii.1 also be discussed under IV.B.ii. The answer is yes, that any other such rationales should be discussed at that point. We ask merely that any such points be clearly identified.
- 9 **Tesoro's Motion.** Tesoro asked for several changes to the outline. Commission Staff spoke in favor of several of Tesoro's proposed changes. Olympic opposed all changes, arguing that the motion merely expressed the failure of parties to agree and that it failed to demonstrate errors of fact or law that are requisites for petitions for reconsideration and it provided support for the right of courts to prescribe limitations on briefing.¹
- 10 In general response to the petition, we note again, as does Olympic, that the purpose of the outline is not to restrict, but to organize. Parties need not argue any matter listed, but if they do argue a point they are directed to do it according to the outline. We recognize that parties have different styles and senses of organization, and it is just those differences that lead us to ask parties to follow a common drumbeat rather than bring their own drummer to the march. We believe that the complexity and the significance of the issues that the parties wish to argue, coupled with the parties' demonstrated proclivity for independence, argue strongly for a more detailed outline rather than one of less detail.
- 11 Tesoro pointed out that the number of headings appears to exceed the number of pages allotted for briefs. It asks that the number of headings be reduced as a means of allowing parties to compress and style their arguments.

¹ As to the limits on reconsideration, we note that the review of a conference order is governed by WAC 480-09-460 and not by provisions relating to reconsideration (*see* WAC 480-09-810, which limits reconsideration to the review of final orders).

- 12 We do not believe that parties will be hampered by the outline. Because headings need not be set off on individual lines, efforts to identify topics will require a minimum of space. We do not restrict the argument, only the placement. Parties who would place elements in other spaces may instead easily provide a reference to their discussion of the element at the appropriate outline spot. Some general headings will require no text; some will require an extended discourse; others will require only a sentence. We see no prejudice to parties from use of a rather detailed outline.
- 13 Tesoro suggested several areas for possible compression of the outline. It suggested that the listing of several elements under heading II.B reflects favor to the items that Olympic suggested. We disagree. There is no limitation against presentation of other elements that properly constitute elements of fair, just, and reasonable rates under II.B, so long as they are clearly identified, consistent with the response to Staff's final inquiry, above.
- 14 Tesoro asks that the element "Investor Expectations" be moved from IV.A. Again noting that the placement does not affect the nature of arguments, but only their location, we deny the request. We understand that the parties may offer different theories, and parties are free to argue those theories. Placement of an element in the outline does not reflect a Commission determination that one or another theory as to the merits should be accepted.
- 15 Tesoro asks that elements IV.B.i and ii be consolidated. The items are closely placed in the outline, which allows parties to discuss them together, so long as the topics are clearly identified. Tesoro asks that element IV.B.iii.1 and 3 be consolidated, contending that they address the same issue. If Tesoro feels that the items are identical, it may be silent under one of them or may there refer to the location of its argument.
- 16 Tesoro asks that the term "Parent" be deleted from the term "parent capital structure" because of a possible inference that use of the term means that the Commission considers parent capital structure to be an element of FERC methodology. We stress – again – that the labels are to identify and organize, not to characterize or determine the result of any argument.

- 17 Tesoro asks that outline elements under “Commission discretion in choosing methodology” be moved, as it believes that the elements are wrongly placed. As the parties have demonstrated, there may be several ways to organize the parties’ discussions. They are not forbidden from making any argument, and may cross-reference their arguments. Similarly, Tesoro proposes consolidating “one-time” and “major” maintenance cost headings, contending that they are two ways of expressing the same issue. Olympic opposes this, arguing that they are different issues. Tesoro is free to cross-reference or to omit any discussion from one or both of the headings. It need not believe that they are different issues for it to present well-considered and forceful arguments on behalf of its views of the issues, whatever those views may be.
- 18 **Additional topic.** Parties are also asked to address one additional topic, at outline element V: jurisdictional separations (calculation of separations factors; the propriety of the use of pertinent separations factors for specified purposes, and the appropriateness of setting rates based on a total company analysis as opposed to a Washington intrastate analysis). Because separations issues may affect all financial elements, we ask that they be addressed in a single place and with a description of application to all elements.

DATED at Olympia, Washington and effective this 30th day of July, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

C. ROBERT WALLIS
Administrative Law Judge

Amended 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 Legal 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
 5. Cost of Equity
 - iv. Commission Discretion in Choosing Methodology
 1. Consistency with Interstate Rates
 2. Past Practices
 - C. DOC Methodology
- V. Test year and jurisdictional separations.
- 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