PROPOSED FINDINGS OF FACT
(Partial List)

Methodology

1. The appropriate methodology for setting rates for Olympic Pipe Line is the Commission's traditional rate base, rate of return methodology. Rate base will be valued at depreciated original cost (DOC). The Commission's traditional methodology reflects how investors make capital available. It provides investor's a return of and a return on the property that is devoted to public service. It is the most rational methodology advanced on this record. [Staff Brief at ¶¶ 1-5, 18-22, 44-126, 167-168].

2. Olympic asks the Commission adopt a form of methodology similar to that established by FERC in Order 154-B, *Williams Pipe Line Co.,* 31 FERC ¶ 61,377 (1985).

3. Olympic tried to justify its proposed methodology by proposing distinctions between oil pipelines and public utilities. These entities are substantially similar, not different. [Staff Brief at ¶¶ 58-82].

4. A primary feature of Olympic's proposed methodology is the use of trended original cost rate base (TOC). The primary rationale for TOC is to promote competition between pipelines and other modes of transportation. Olympic agreed that this rationale does not matter if there is no competition. Assuming the Commission can consider such competition for purposes of setting intrastate rates, that rationale does not apply in this state. [Staff Brief at ¶¶ 58-66, 84-88].

5. Olympic has no competition from another pipeline, and such competition is unlikely. Other modes of transportation do not provide effective competition for Olympic. Other modes have been shown to be neither price nor service competitive. This justifies rejection of TOC. [Staff Brief at ¶¶ 58-66].

6. Other rationale for TOC is that it will promote intergenerational equity and that it comes closer to duplicating pricing in unregulated enterprises. Olympic did not produce facts on these issues. [Staff Brief at ¶¶ 86].

7. TOC methodology includes a deferred equity return. In its case, Olympic includes a deferred return applicable to prior periods. Olympic a) did not actually defer any return on its books for prior periods, b) did not have a Commission order permitting such a deferral, and c) earned very high returns for many years. Therefore, Olympic did not actually forego any equity return. Moreover, the "steady state" assumptions underlying TOC are flawed in theory and do not reflect actual operations. Each of these facts justifies rejection of TOC. [Staff Brief at ¶¶ 95-99].

8. Another feature of Olympic's proposed methodology is the starting rate base (SRB). The rationale for SRB is that investors long relied on a form of valuation methodology that was ultimately found improper in *Farmer's Union Exch. v. FERC,* 734 F.2d 1486, *cert. denied*, 469 U.S. 1034 (1985). Even assuming it is proper for investors to rely on a specific methodology, including one found by a court to be improper, Olympic has provided no direct evidence of what its specific expectations were with respect to ratemaking methodology. The documents it did provide showed it did not rely on any particular methodology. SRB does not represent funds supplied by investors and used by Olympic to fund property used and useful for service to the public. SRB should be rejected for these reasons. [Staff Brief at ¶¶ 20-21, 45-48, 89-90, 100-103].

9. Another feature of Olympic's proposed methodology is the use of Olympic's parents' capital structure to set rates. Use of Olympic's parent's capital structure in this case is not rational. Olympic had a recent ownership change in which its owners' equity

ratio increased by 25%, with no change in Olympic's risk. Flowing that change to rates is not rational from a cost of service perspective. In addition, because Olympic is financed exclusively with debt, and its owners' equity ratio is 85.65%, the impact on rates of using the parents' capital structure results in excessive rates. [Staff Brief at ¶¶ 104-107, 193-220].

10. Another feature of Olympic's proposed methodology is the calculation of return on equity (ROE). Olympic's proposed method is a generic, mechanical calculation. It uses stock analysts' estimates to estimate near term dividend growth and gross domestic product (GDP) to estimate long term dividend growth. It also uses a limited set of 5 "comparable companies" called a "Proxy Group." [Staff Brief at ¶¶ 108-113, 205-221].

11. Olympic's proposed method for computing ROE is not reasonable. Use of stock analysts' estimates may produce biased results and is not a good substitute for investor expectations for dividend growth. GDP is a not a proxy for per share growth in dividends. The 5-company Proxy Group is also a poor selection. These firms are limited partnerships that often pay out dividends that constitute a return of capital, which makes them unrepresentative. Olympic's proposed method is not likely to produce reliable ROE estimates. It should be rejected. [Staff Brief at ¶¶ 108-113, 205-221].

12. Olympic argues the Commission should use Olympic's proposed methodology because the Commission has allegedly used that methodology to set Olympic's rates in the past. Given the foregoing findings of fact, this is not sufficient reason to adopt that methodology. Apart from the foregoing findings of fact, a consistent methodology was not used by Olympic in the rate filings for which records are available. The Commission never ruled on the appropriate methodology, nor adopted an appropriate methodology for

Olympic. Those tariff filings went into effect by operation of law. No "transition payment" of the sort requested by Olympic is justified. [Staff Brief at ¶¶ 45-48, 78-80, 117-121].

Test Year

13. The appropriate test period in this proceeding is the 12 months ended December 31, 2001, with restating and pro-forma adjustments. [Staff Brief at ¶¶ 33-43, 127-139].

14. Olympic proposes a "base period" year ending September 30, 2001. Olympic has not shown the figures used for this base period are appropriate. Olympic accrues expenses, if at all, on an annual basis, not a monthly basis. Olympic has not shown it has made all corrections necessary to its base period figures to correct for this accounting practice, and to assure the base year results are appropriate. The "base year" ended September 30, 2001, contains only 3 months of data since the pipeline was restored to 80% pressure, so the test year selected by Staff is more representative of ongoing conditions. [Staff Brief at ¶¶ 33-43, 127-139].

15. Olympic's direct and rebuttal cases are rejected because they contain budget figures, and Olympic's rebuttal case also includes estimates. Neither Olympic's budgets nor its estimates have been shown to yield reliable results. [Staff Brief at ¶¶ 33-43, 127-139].

Rate Base

16. The appropriate rate base is $$61,510,551, based on the analysis presented by Commission Staff. [Staff Brief at ¶¶ 166-192].

17. The rate base represents the net book value of assets which are provided by investors' funds, and which are used and useful to provide utility service to the public. In

this case, Olympic has demonstrated it will be investing over $20 million per year in its pipeline facilities. Accordingly, to address concerns about regulatory lag, the Commission will use a rate base valued at the end of test year level, with construction work in progress valued at the end of test year level. [Staff Brief at ¶¶ 167, 183-186].

18. Olympic's Bayview Terminal ("Bayview") will not be included in rate base, but it will be allowed to earn AFUDC until it is restored to service. Bayview is a $23.2 million Olympic facility designed to permit "batching" operations, thereby enhancing the efficiency of the line. Since June 10, 1999, Bayview has not been used for those purposes. Federal authorities require a study to be conducted regarding Bayview. It is uncertain when and how Bayview will be used in the future. Bayview's current uses are minimal from a cost of service perspective. It is therefore inappropriate to include Bayview in rate base. [Staff Brief at ¶¶ 1-5, 16-22, 169-182].

Rate of Return

19. The appropriate rate of return to be applied to rate base is 7.4%, based on the analysis of Dr. Wilson. This is based on a cost of debt of 7%, an ROE of 9% and an appropriate capital structure of 20% equity and 80% debt. [Staff Brief at ¶¶ 1-14, 104-113, 193-221].

Revenues

20. The test year revenues are $38,069,493, based on the analysis of Commission Staff. This analysis reflects throughput of 108,323,720 bbls per year, and assumes the existing 80% pressure condition. The Commission is aware of concerns that the 80% pressure conditions were imposed due to operator imprudence. However, the 80% pressure condition was made system-wide due to a pipe seam failure, which has not been

shown to have been preventable by prudent practices. The Staff's calculation of throughput is a reasonable attempt to measure throughput under a normal 80% pressure condition. Olympic's calculation is based on 10 months of actual throughput (July 2001 to April 2002) and 2 months of estimates (May to June 2002). Absent a thorough analysis of downtime and other conditions that affect throughput on a going forward basis, using actual figures for these months is not useful. Staff's adjustment is therefore accepted. [Staff Brief at ¶¶ 222-231, Attachment Table 1].

Revenue Deficiency

21. Based on the foregoing Findings of Fact, and the evidence of record, Olympic has a revenue deficiency of $161,662, which justifies a rate increase of 1.12%%. [Entire Staff Brief including Attachment Tables 1 and 2].

PROPOSED CONCLUSIONS OF LAW

(Partial List)

1. Olympic is a public service company for purposes of Title 81 RCW. Olympic is a pipeline company and is subject to regulation by the Commission as a common carrier. RCW 81.88.030 and RCW 81.04.010.

2. Olympic has not borne its burden of proof to demonstrate that the methodology it advocates is appropriate. This conclusion of law assumes the Commission is lawfully empowered to consider intermodal competition in setting rates. Because there is no effective intermodal competition for Olympic, it is not necessary for the Commission to reach that issue. [Staff Brief at ¶¶ 44-126].

3. Olympic has not borne its burden of proof to demonstrate that a base year ending September 30, 2001 is appropriate. [Staff Brief at ¶¶ 33-43, 127-139].

4. Assuming Olympic could prove it actually relied on some ratemaking methodology in the past in this state, that reliance would have been unreasonable as a matter of law. Public service companies are not entitled to rely on any specific form of ratemaking methodology, nor are they entitled to rely on improper ratemaking methodologies. [Staff Brief at ¶¶ 45-48, 117-121].

5. Olympic has not borne its burden of proof that the current uses justify the $23.2 million invested in Bayview, or that Bayview would have been built for $23.3 million to serve its current purposes. [Staff Brief at ¶¶ 16-22, 169-182].

6. Investors are entitled to a return on and of the funds they invest in public service companies, such as Olympic, that are used to pay for property used and useful for service, and reflect prudent levels of investment. The Commission's traditional ratemaking methodology is consistent with these standards, the methodology advanced by Olympic is not. [Staff Brief at ¶¶ 16-22, 44-126, 176].

7. Rates that go into effect by operation of law do not constitute rates that are approved by the Commission. [Staff Brief at ¶¶ 78-80, 117-121].

8. A rate increase of 1.12% is in the public interest and reflects rates that are fair, just, reasonable and sufficient. Olympic's investors will be provided what they are entitled to receive: a reasonable opportunity to earn a fair return on the funds they have provided that are prudently incurred to provide facilities that are used and useful and serving the public. [Entire Staff Brief including Attachment Tables 1 and 2].