

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

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

1 **Proceeding:** Docket No. TO-011472 is a filing by Olympic Pipe Line Company on October 31, 2001, for a general and for an interim increase in its rates and charges for providing pipe line transportation service within the state of Washington.

2 **Conference:** The Commission scheduled a prehearing conference for 3:30 p.m. at Olympia, Washington on December 20, 2001, before Administrative Law Judge C. Robert Wallis, pursuant to agreement of the parties. The matter was scheduled to follow a conference in another matter, using the same facilities. The other matter continued longer than anticipated. The conference in this matter was continued until 8:30 a.m. at Olympia, Washington on Friday, December 21, 2001 without objection from the parties. Technical difficulties delayed the response, and parties were cautioned that the time available for the conference was restricted by the scheduling of another matter using the same facilities, which could not be delayed.

3 **Appearances.** The following persons entered appearances. Respondent Olympic Pipe Line Company appeared by Steven Marshall, attorney, Seattle. Intervenor Tesoro appeared by Robin Brena and David Wensel, attorneys, Anchorage, AK. Commission Staff appeared by Donald T. Trotter and Lisa Watson, Assistant Attorneys General, Olympia, WA.

- 4 **Purpose of the prehearing conference.** The conference was established to discuss discovery and scheduling issues.
- 5 **Discovery request disputes.** Tesoro raised several matters related to the delivery of documents requested in discovery. Those matters were handled on the record of the conference and will not be recited here. Of some significance to hearing scheduling, both Tesoro and Olympic failed to follow the letter and the spirit of the Commission's rule related to discovery, WAC 480-09-480, which requires counsel to consult informally as a predicate to bringing disputes to the Commission. That failure exacerbated the volume of disputes, and delayed the informal resolution of disputes. Some of the latest disputes appear to result from the volume of recently-filed material and the difficulty of finding individual documents amongst that volume; the parties agreed to discuss these issues and Olympic agreed to walk counsel through the documents to demonstrate where the responses are to be found. Other of the disputes are attributable to Olympic's tardiness in responding, which has been the subject of prior conferences.
- 6 **Discovery dispute process.** Counsel both understand clearly now that they are to use the telephone to discuss disputes with each other and that they are to be proactive in addressing and resolving disputes.
- 7 **Procedural schedule.** On balance, we are satisfied that the Company has made, or has agreed to make, substantial and meaningful compliance with the requests and the directions, to the point that the hearing schedule may be set. In addition, the bench noted that the matter at issue at this juncture is determination of a temporary rate only, one which may well be subject to refund.¹ The bench had previously vacated the filing and briefing dates initially set. Parties were asked their views relating to hearing scheduling.
- 8 Although Tesoro had previously stated a willingness to present prefiled testimony a week after receiving a response to discovery, and had specifically mentioned a filing date for testimony of December 28, 2001, if responses were received by Dec. 21, it today asked for a substantially longer schedule in light of the volume of discovery responses received. Olympic, also, asked for additional time to review the intervenors' prefiled evidence and to prepare rebuttal testimony.
- 9 As previously stated on several occasions, the issue here is temporary application of rates, although we recognize that the full request represents a substantial percentage increase. The Commission's schedule is severely constricted by the statutory schedule in this matter and the press of other matters, including others having

¹ Olympic initially asked that any temporary rate approved be made subject to refund. While it has withdrawn that request, it has represented on the record that it does not oppose a refundable rate. The practical effect is that no party is seeking or arguing for a non-refundable rate.

statutory time requirements. Parties have had ample notice of a constricted schedule. The Company continues to request interim rate relief. The interim request is for immediate application of rates equal in magnitude to those asked in the general rate filing. Parties will have substantially greater opportunity to explore the issues relating to general rate relief with fewer time constraints than is feasible for interim relief, if the interim relief is to be granted before the resolution of the general rate case. Given all of the relevant factors, we believe that the schedule we adopt gives the parties an adequate opportunity to prepare for hearing, although perhaps not the time they would like to have in a perfect world. We are satisfied that the schedule we adopt is appropriate and that any specific unexpected concern may be dealt with through objection, ruling, and accommodation as needed. With this background, the following hearing schedule is set:

Filing of Staff and Intervenor testimony	January 4, 2002
Filing of Company rebuttal	January 10, 2002 by noon
Administrative prehearing conference for marking exhibits, hearing objections to prefiled evidence, and other issues relating to conduct of the hearing	January 10, 2002 at 1:30 p.m.
Filing of prehearing memoranda	January 11, 2002 by noon
Hearing begins	January 14, 2002 at 9:30 a.m.

NOTE: Pursuant to prior discussions with the parties, the facilities are reserved for two days. Some time on January 16, 2002, may be available if needed.

The parties had previously agreed on prehearing memoranda and post hearing argument in lieu of post hearing briefs. Subject to possible further discussions, argument is set for Wednesday, January 23, 2002.

10

Further conferences. Further conferences will be convened as needed.

Dated at Olympia, Washington, and effective this 21st day of December, 2001.

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