

Graciela Etchart
12/22/2000
» Re: PSE's comments on 076 (electric)

09:56:30 AM



Graciela Etchart
12/11/00 03:47 PM

To: Bob Wallis/WUTC@WUTC
cc: Bob Cedarbaum/WUTC@WUTC, Dennis Moss/WUTC@WUTC, Dixie Linnenbrink/WUTC@WUTC, Doug Kilpatrick/WUTC@WUTC, Jim Russell/WUTC@WUTC
Subject: Re: PSE's comments on 076 (electric)

Two things to add to this issue:

Jim thinks that PSE may have more trouble with the word "all" than with "reasonable." PSE always refers to the whole expression: make all reasonable efforts, so we cannot know for sure. Looking at the cost estimates for the SBEIS, neither Avista nor Pacificorp include a cost increase to comply with the changes to this rule. PSE expresses that "the potential cost exposure from Staff's proposed changes to this rule could range from \$500,000/year to \$5 million/year. Factors influencing the cost impact are specific liability claims in any given year, whether Staff pressures PSE to conduct more maintenance after hours, and how Staff's interpretation of "all reasonable efforts" changes over time."

Bob Wallis

Bob Wallis
12/11/00 03:36 PM

To: Doug Kilpatrick/WUTC@WUTC
cc: Bob Cedarbaum/WUTC@WUTC, Dennis Moss/WUTC@WUTC, Dixie Linnenbrink/WUTC@WUTC, Graciela Etchart/WUTC@WUTC, Jim Russell/WUTC@WUTC
Subject: Re: PSE's comments on 076 (electric)

My mention of industry standards was drawn from the staff memo that cites industry standards in support of the proposal.
Doug Kilpatrick



Doug Kilpatrick
12/11/2000 01:35 PM

To: Bob Cedarbaum/WUTC@WUTC
cc: Bob Wallis/WUTC@WUTC, Dennis Moss/WUTC@WUTC, Dixie Linnenbrink/WUTC@WUTC, Graciela Etchart/WUTC@WUTC, Jim Russell/WUTC@WUTC
Subject: Re: PSE's comments on 076 (electric)

I say we suggest to PSE to bring as many lawyers as they can endeavor to get and let them explain why acting in a reasonable manner is not what they wish to be required to do.

Douglas Kilpatrick, PE
Pipeline Safety Director
Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250
(360) 664-1154
(360) 586-1172 fax

Bob Cedarbaum



Bob Cedarbaum
12/11/2000 01:23 PM

To: Bob Wallis/WUTC@WUTC
cc: Dennis Moss/WUTC@WUTC, Dixie Linnenbrink/WUTC@WUTC, Doug Kilpatrick/WUTC@WUTC, Graciela Etchart/WUTC@WUTC, Jim Russell/WUTC@WUTC
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My reaction to PSE's comments is similar to Bob's. It seems to me that companies are already required to act reasonably (i.e., PSE isn't really going to argue that they can act arbitrarily, are they?), so the rule only specifies what they must already do.

As to whether to refer to industry standards, I'm not concerned if we don't reference them since I think we can measure what is "reasonable" against what industry standards may be, plus whatever else goes into the analysis. Also, if we reference industry standards, then we might also have to say what they are, and that could be difficult, especially if they change.

Bob Cedarbaum
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Bob Wallis

Bob Wallis
12/11/00 12:04 PM

To: Graciela Etchart/WUTC@WUTC
cc: Dennis Moss/WUTC@WUTC, Jim Russell/WUTC@WUTC, Doug
Kilpatrick/WUTC@WUTC, Bob Cedarbaum/WUTC@WUTC, Dixie
Linnenbrink/WUTC@WUTC
Subject: Re: PSE's comments on 076 (electric) 

I think it's also fair to say that by this language the Commission clearly is only requiring what is reasonable (and all that is reasonable) under the circumstances at the time. To the extent that "endeavor" is a lower standard with which the utility has minimally complied, it means that the utility has been unreasonable in failing to take reasonable actions. I'm not sure that I've heard that kind of criticism; if the utility has been acting reasonably, there is no higher standard expected and this would mean no change or increase in cost. If it does mean an increase in cost, it is a cost that the company is entitled to recover through rates (though we may need to address it in the SBEIS). Questions might include what specifically they think would be required that they have not performed, exactly what additional costs would be required, and whether they think that it's proper to fail to do that which could reasonably be done. I like that word, "reasonable." I'm also a little concerned that there is no necessary link between "all that's reasonable" and "industry standards" - if there is that tie, would it pay to say so?

Graciela Etchart



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» Re: PSE's comments on 076 (electric)

As I explained in the meeting earlier today, Phil's upsetting message referred to the fact that we have kept the expression: "all reasonable efforts" referring to the obligation of utilities to avoid interruptions. He said he had expected it to be a mistake made by staff and that, if it were not so, he would come to the OM with a battery of lawyers to fight it. The message was slightly inappropriate in tone. I informed Dixie and Fred about it. Later, I left a message for Phil, telling him that the change was the result of a consultation among staff members, reminding him that this was only the CR-102 stage, not the final one and that changes could still be made (never said would), that the commissioners had been informed and received a memo on the topic, and that he was welcome to bring his attorneys.

I am willing to take the first shot at answering any question on this topic at the meeting. However, if the discussion turns either too technical or too legal, I have asked Doug and Bob to step in. I am attaching the portion of the memo to the commissioners that discusses this issue. The language comes from both Bob and Doug. Their rationale is summarized in the file.



Graciela