

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

San Francisco, California
Date: April 26, 1995
Resolution No. L-248

R E S O L U T I O NBACKGROUND

By letter dated March 22, 1995, the law firm of Carrington & Nye on behalf of Michael Lopez (Petitioner), formally requested release of records pursuant to Section 3.4 of General Order 66-C. Carrington & Nye seek accident reports relating to Southern California Edison Company's (Edison) underground switch or other equipment failures held by the Commission's Safety Division. Carrington & Nye requested these records as public records on February 14, 1995. By letter dated March 7, 1995, staff responded that the accident reports were privileged and would not be produced, in accordance with General Order 66-C. Petitioner's appeal of the staff's determination was properly filed with the Executive Director and served on counsel for Southern California Edison Company.

DISCUSSION

Although General Order 66-C prohibits staff disclosure of confidential information contained in the accident reports, neither the general order nor the underlying statutes create for the operator an absolute privilege of nondisclosure. For good cause shown, the Commission may authorize or direct the disclosure of such information.

Petitioner points out that while Public Utilities Code Section 315 prohibits the use of accident reports as evidence in a civil case, it does not preclude discovery of such reports. Petitioner cites Decision No. 78162 (1971), 71 CPUC 688, as authority for the Commission to permit the disclosure of information in the accident reports if the information is relevant and material to the issues in the proceeding. 71 CPUC at 692. Petitioner contends that the accident reports are relevant and material to the issue of safety as this issue applies to Edison's underground equipment.

According to Petitioner, Michael Lopez suffered severe personal injuries when underground vault equipment owned by Edison exploded on April 11, 1992. Petitioner believes that the requested documents will show that Edison has not complied with Commission staff recommendations regarding underground vaults and that this has created hazardous conditions in certain areas. Petitioner believes that the public interest in disclosing the accident records outweighs Edison's interest in keeping the

records confidential. We also note that according to Carrington & Nye's March 22, 1995 letter, a copy of their appeal was sent to the attorney for Edison. However, the Commission has not received any opposition to the request to release the accident reports.

Because this information is relevant to a major issue in a personal injury action and the disclosure of the information appears in the public interest, good cause has been established for releasing the accident reports provided by Edison to the Commission's Safety Division. These records contain information relevant and material to the issue of safety and may result in the discovery of admissible evidence. Due to the Safety Division's document retention policy, these records date back to 1992. In view of the above, the request for disclosure of the accident reports is granted. This resolution shall be made effective twenty days from today.

FINDINGS OF FACT

1. A request for accident reports submitted to the Commission's Safety Division by Edison was denied by staff on March 5, 1995, in accordance with General Order 66-C.
2. An appeal of the staff denial to the full Commission has been properly filed.
3. The information in the accident reports appears relevant and material to safety related issues and may lead to discovery of admissible evidence in a personal injury suit against Edison.
4. Edison did not respond to the request of release of the reports.
5. Under these circumstances, the public interest in disclosure clearly outweighs the public interest in confidentiality.

CONCLUSIONS OF LAW

1. The Commission staff properly denied the release of the accident reports filed with the Safety Division in accordance with General Order 66-C.
2. General Order 66-C prohibits the disclosure of accident reports, unless ordered by the Commission or to the extent disclosed at a formal hearing.
3. It is not necessary to hold a formal hearing on petitioner's request in order to release the records.
4. General Order 66-C does not create for a utility an absolute privilege of nondisclosure.

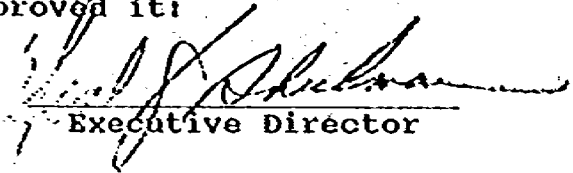
5. Under the specific facts of this case, the public interest in disclosing the accident reports clearly outweighs the public interest served by confidentiality.

ORDER

1. The appeal and formal request of Carrington & Nye for the accident reports filed by Edison with the Safety Division is granted.

2. The effective date of this order is 20 days from today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on April 26, 1995. The following Commissioners approved it:


Executive Director

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, Jr.
HENRY M. DUQUE
Commissioners