

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

San Francisco, California

Date: May 21, 1997

Resolution No. L-255

RESOLUTION

BACKGROUND

On April 11, 1997, a subpoena was served on the Commission for disclosure of investigative reports prepared in connection with the electrocution of Nicholas Murillo on February 4, 1995 in Yuba County, California. Pacific Gas and Electric Company and Commission staff have prepared investigative reports of the accident, as required by Public Utilities Code Section 315.

DISCUSSION

The investigative reports in question are "public records," as defined by the California Public Records Act, codified as Government Code Section 6250 et seq. Although both Public Utilities Code Section 583 and General Order 66-C prohibit staff disclosure of the reports in question and require formal Commission action for disclosure, neither the statute nor the general order create for the utility an absolute privilege of nondisclosure. The general policy of the Public Records Act favors disclosure and withholding of a public record must be found among specified exemptions enumerated in the Act, or on a showing that the public interest in confidentiality clearly outweighs the public interest in disclosure. The report at issue does not appear to meet either the specific exemptions of the Public Records Act or the general public interest exemption of the Act, under the specific circumstances of this case. Public Utilities Code 315 prohibits the introduction of the report in question in any proceeding for damages and thereby offers sufficient protection for the utility. In view of the above, the request for disclosure of the investigative reports relating to the electrocution of Nicholas Murillo is granted.

FINDINGS OF FACT

1. A subpoena for copies of investigative reports prepared by Pacific Gas and Electric Company and the Commission staff in connection with the electrocution of Nicholas Murillo on February 4, 1995 in Yuba County, California, was served on the Commission on April 11, 1997.

2. The public interest in confidentiality of the report fails to clearly outweigh the public interest in disclosure.

**CONCLUSIONS OF LAW**

1. The investigative reports at issue are "public records," as defined by Government Code Section 6252(d).

2. Both PU Code Section 583 and General Order 66-C prohibit disclosure of the report, unless ordered by Commission action, or to the extent disclosed at a formal hearing.

3. Neither PU Code Section 583 nor General Order 66-C create for the utility an absolute privilege of nondisclosure by the Commission.

4. The general policy of the California Public Records Act (PRA) favors disclosure.

5. Withholding of a public record must be found among specified exemptions in the PRA or upon a showing that the public interest in confidentiality clearly outweighs the public interest in disclosure.

6. The investigative reports in question do not fall within the specific exemptions contained in the PRA.

7. Public Utilities Code Section 315 bars the introduction of the investigative reports in question in any action for damages.

8. Under the specific facts of this case, the public interest served by withholding the reports in question fails to clearly outweigh the public interest served by disclosure of the reports.

**ORDER**

1. The subpoena for release of the investigative reports in connection with the electrocution of Nicholas Murillo is granted.

2. The effective date of this order is today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on May 21, 1997. The following Commissioners approved it:

**P. GREGORY CONLON**

President

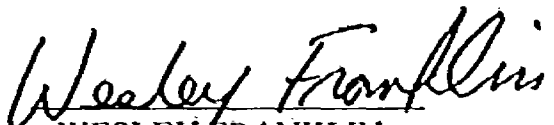
**JESSIE J. KNIGHT, JR.**

**HENRY M. DUQUE**

**JOSIAH L. NEEPER**

**RICHARD A. BILAS**

Commissioners

  
**WESLEY FRANKLIN**  
Executive Director