

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

San Francisco, California

Date: August 1, 1997

Resolution No. L-260

RESOLUTION

Requests for Staff Records Re Juventino Banda

BACKGROUND

Commission staff has received two requests for disclosure of records regarding the electrical injury of Juventino Banda on November 18, 1995, which occurred in the service territory of PG&E in Fresno County, California. Commission staff prepared an investigative report of the accident, as required by California Public Utilities Code section 315.

DISCUSSION

The staff records in question are "public records," as defined by the California Public Records Act (Act), codified as Government Code section 6250 et seq. The California Public Utilities Code section 583 and General Order 66-C prohibit staff disclosure of the records in question and require formal Commission action for disclosure. However, these legal authorities create no absolute privilege of nondisclosure for utilities. The general policy of the Public Records Act favors disclosure. But, non-disclosure of public records is permitted by specific exemptions enumerated in the Act, or on a showing that the public's interest in confidentiality clearly outweighs the need for disclosure. The records at issue appear to meet a specific exemption of the Act, namely that the public interest in disclosure of these records outweighs the interest in non-disclosure. California Public Utilities Code section 315 prohibits the introduction of the records in question in any proceeding for damages and thereby offers sufficient protection for a utility. In view of the above, the request for disclosure of the investigative records relating to the electrocution injury of Juventino Banda is granted.

FINDINGS OF FACT

1. On February 6 and May 7, 1997, Commission staff received public requests for investigative records regarding the electrical accident of Juventino Banda on November 18, 1995, in Fresno County, California.
2. The public interest in confidentiality of the records fails to clearly outweigh the public interest in disclosure, in that disclosure may assist in achieving settlement of any possible litigation resulting from the incident. (*See San Diego Gas and Electric Co. App. for rehearing of Resolution L-240 (1993) 49 CPUC 2d 241, 243.*)

CONCLUSIONS OF LAW

1. The investigative reports at issue are "public records," as defined by California Government Code section 6252(d).
2. Both the California Public Utilities 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 section 583 nor General Order 66-C create for the utility an absolute privilege of nondisclosure by the Commission.
4. Public Utilities Code section 315 bars the introduction into evidence of the investigative reports in question in any proceeding for damages.
5. The general policy of the California Public Records Act favors disclosure. Non-disclosure of a public record must be authorized under specific exemptions in the Act or upon a showing that the public interest in confidentiality clearly outweighs the public interest in disclosure.
6. The Commission finds that in the specific facts of this case, the public interest served by disclosure of the reports clearly outweighs the public interest in non-disclosure of the records in question.

ORDER

1. The request for release of the staff records regarding the electrical accident of Juventino Banda is granted.
2. The effective date of this order is today.

I certify that this Resolution was adopted by the California Public Utilities Commission at its regular meeting on August 1, 1997. The following Commissioners approved it:


WESLEY FRANKLIN
Executive Director

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners