

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

San Francisco, California
Date: July 22, 1997
Resolution No. 261

RESOLUTION

PUBLIC RECORDS ACT REQUEST FOR STAFF RECORDS

BACKGROUND

Commission staff has received a California Public Records Act (Act) request for disclosure of staff investigative records regarding a fire on October 13, 1995, in the Montclair area of Oakland, California, that apparently resulted from Pacific Gas & Electric overhead electrical lines. Commission staff reported its findings pursuant to California Public Utilities Code section 315.

DISCUSSION

The investigative file in question constitutes "public records," as defined by the Public Records Act, codified as Government Code section 6250 et seq. California Public Utilities Code section 583 and General Order 66-C prohibit staff disclosure of the records in question in the absence of formal Commission approval of disclosure. These legal authorities create no absolute privilege of nondisclosure for utilities.

However, the general policy of the Act favors disclosure. Non-disclosure of public records is permitted only pursuant to specific exemptions in the Act or on a showing that the public's interest in confidentiality clearly outweighs the need for disclosure. In this specific case, the public interest in disclosure of these records outweighs the interest in non-disclosure.

In addition, California Public Utilities Code section 315 prohibits introducing these records in any proceeding for damages. This offers a utility sufficient protection. In view of the above, the request for disclosure of the staff investigative records regarding the Montclair fire and PG&E's role in the incident is granted.

FINDINGS OF FACT

1. On May 19, 1997, Commission staff received a request under the Public Records Act for staff investigative records regarding the fire on October 13, 1995, in the Montclair area of Oakland, California, and PG & E's role therein.
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 & Electric Co. App. for Rehearing of Resolution L-240 (1993) 49 CPUC2d 241, 243.*)

CONCLUSIONS OF LAW

1. The investigative records in question 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 investigative records, unless ordered by the Commission 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 introducing the investigative reports at issue as evidence in any action for damages.
5. The general policy of the Public Records Act favors disclosure. Non-disclosure of a public record is allowed only if specifically exempted by the Act or upon a showing that the public interest in confidentiality clearly outweighs the public interest in disclosure.
6. The Commission concludes that in this specific case, the public interest in non-disclosure of the records in question fails to clearly outweigh the public interest served by disclosure of the reports

ORDER

1. The request for release of the investigative records regarding the Montclair fire and PG&E's role therein 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