

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Legal Division

San Francisco, California

Date: June 26, 2008

Resolution No. L-360

RESOLUTION

**RESOLUTION AUTHORIZING DISCLOSURE OF
RECORDS OF THE CALIFORNIA PUBLIC UTILITIES
COMMISSION CONSUMER PROTECTION AND SAFETY
DIVISION'S INVESTIGATION OF THE OCTOBER, 2007,
WITCH, GUEJITO AND RICE FIRES IN SAN DIEGO
COUNTY, CALIFORNIA**

BACKGROUND

An April 9, 2009, facsimile from Steven S. Kane, Esq. of The Kane Law Firm seeks disclosure of the California Public Utilities Commission ("Commission") Consumer Protection and Safety Division's investigation records concerning the October, 2007, Witch, Guejito and Rice fires in San Diego County, California. The Commission staff could not make the investigation records public without the formal approval of the full Commission. Mr. Kane's facsimile is treated as an appeal to the full Commission for release of the requested records pursuant to Commission General Order 66-C, § 3.4.

DISCUSSION

The requested records are "public records" as defined by the California Public Records Act ("CPRA").¹ The California Constitution, the CPRA, and discovery law favor disclosure of public records. The public has a constitutional right to access most government information.² Statutes, court rules, and other authority limiting access to information must be broadly construed if they further the people's right of access, and narrowly construed if they limit the right of access.³ New statutes, court rules, or other authority that limit the right of access must be

¹ Cal. Gov't Code § 6250, *et seq.*

² Cal. Const. Article I, § 3(b)(1).

³ Cal. Const. Article I, § 3(b)(2).

adopted with findings demonstrating the interest protected by the limitation and the need to protect that interest.⁴

The CPRA provides that an agency must base a decision to withhold a public record in response to a CPRA request upon the specified exemptions listed in the CPRA, or a showing that, on the facts of a particular case, the public interest in confidentiality clearly outweighs the public interest in disclosure.⁵

The Commission has exercised its discretion under Cal. Pub. Util. Code § 583, and implemented its responsibility under Cal. Gov't Code § 6253.4(a), by adopting guidelines for public access to Commission records. These guidelines are embodied in General Order 66-C. General Order 66-C § 1.1 provides that Commission records are public, except “as otherwise excluded by this General Order, statute, or other order, decision, or rule.” General Order 66-C § 2.2 precludes Commission staff’s disclosure of “[r]ecords or information of a confidential nature furnished to or obtained by the Commission ... including: (a) Records of investigations and audits made by the Commission, except to the extent disclosed at a hearing or by formal Commission action.” General Order 66-C § 2.2(a) covers both records provided by utilities in the course of a Commission investigation and investigation records generated by Commission staff.

Because General Order 66-C § 2.2(a) limits Commission staff’s ability to disclose Commission investigation records in the absence of disclosure during a hearing or a Commission order authorizing disclosure, Commission staff denies most initial requests and subpoenas for investigation records. Commission staff usually informs requestors of the option under General Order 66-C § 3.4 to appeal to the Commission for disclosure of the records. If an appeal is received, Commission staff prepares a draft resolution for the Commission consideration.

There is no statute forbidding disclosure of the Commission’s safety investigation records. With certain exceptions for incident reports filed with the Commission, we generally refrain from making most accident investigation records public until investigation of the incident is complete. Commission staff and management need to be able to engage in confidential deliberations regarding an incident investigation without concern for the litigation interests of plaintiffs or regulated entities.

⁴ *Id.*

⁵ The fact that records may fall within a CPRA exemption does not preclude the Commission from authorizing disclosure of the records. Except for records subject to a law prohibiting disclosure, CPRA exemptions are discretionary, rather than mandatory, and the Commission is free to refrain from asserting such exemptions when it finds that disclosure is appropriate. *See* Cal. Gov't Code § 6253 (e); *Black Panthers v. Kehoe* (1974) 42 Cal. App. 3d 645, 656.

The Commission has ordered disclosure of records concerning completed safety incident investigations on numerous occasions.⁶ Disclosure of such records does not interfere with its investigations, and may lead to discovery of admissible evidence and aid in the resolution of litigation regarding the incident under investigation.⁷ Most of these resolutions responded to disclosure requests and/or subpoenas from individuals involved in electric or gas utility accidents or incidents, the families of such individuals, the legal representatives of such individuals or families, or the legal representatives of a defendant, or potential defendant, in litigation related to an incident.

Portions of incident investigation records, which include personal information may be subject to disclosure limitations in the Information Practices Act of 1977 (“IPA”).⁸ The IPA authorizes disclosure of personal information “[p]ursuant to the [CPRA]”.⁹ The CPRA exempts personal information from mandatory disclosure, where disclosure would constitute an unwarranted invasion of personal privacy.¹⁰

The Commission’s investigation of the incident is still open; therefore, the disclosure of the Commission’s investigation records could compromise the Commission’s investigation and interfere with our safety staff’s ability to implement their responsibilities for inspecting and investigation incidents involving utility facilities and operations. Once the investigation is complete, the Commission will determine whether any information in the file requires redaction because its disclosure would constitute an unwarranted invasion of personal privacy, or because it is subject to the attorney-client privilege or another Commission held privilege limiting disclosure. With the exception of such redactions, if any, we will authorize disclosure of these investigation records once the investigation is complete.

We have often stated that Cal. Pub. Util. Code § 315, which expressly prohibits the introduction of accident reports filed with the Commission, or orders and recommendations issued by the Commission, “as evidence in any action for damages based on or arising out of such loss of life, or injury to person or

⁶ Where appropriate, the Commission has redacted portions of investigation records which contain confidential personal information, the disclosure of which would constitute an unwarranted invasion of privacy, and other exempt or privileged information.

⁷ See, e.g., Commission Resolutions L-240 *Re San Diego Gas & Electric Company*, rehearing denied in Decision 93-05-020, (1993) 49 P.U.C. 2d 241; L-309 *Re Corona* (December 18, 2003); L-320 *Re Knutson* (August 25, 2005).

⁸ Cal. Civ. Code § 1798, *et seq.*

⁹ Cal. Civ. Code § 1798.24(g).

¹⁰ Cal. Gov’t Code § 6254(c).

property,” offers utilities sufficient protection against injury caused by the release of requested investigation records.

COMMENTS ON DRAFT RESOLUTION

The Draft Resolution of the Commission’s Legal Division in this matter was mailed to the parties in interest on April 17, 2008, in accordance with Cal. Pub. Util. Code § 311(g). Comments were filed by Steven S. Kane and SDG&E. No reply comments were received during the period authorized for such comments. On May 16, 2008, Mr. Kane did, however, send the Commission’s Executive Director a letter in which he again asked the Commission to disclose its investigation records and indicated his desire to address the Commission at the meeting during which his request would be considered.

Mr. Kane Comments

Mr. Kane comments:

As pointed out in Resolution L-240 Re Arrequin-Maldonado (January 22, 1993), the Commission has routinely released such records unless there is a showing that the need for confidentiality clearly outweighs the public interest in disclosure. Although Draft Resolution L-360 states that the public interest does not favor disclosure, it fails to provide a specific reason why the public interest is harmed, or how the investigation may be compromised.

We read Mr. Kane’s comment as a request that we disclose investigation records while the investigation is ongoing.

Mr. Kane’s May 16, 2008 letter may be summarized as stating that: 1) he represents individuals in litigation intended to make SDG&E compensate people who lost homes and suffered other losses relating to the October, 2007 fires; 2) many people lost homes and suffered other damages; 3) some people were insured, some were not, and some were underinsured; 4) his records request cited a prior resolution in which we balanced the need for confidentiality against the need of fire victims for information; 5) discovery in this litigation is well underway and the litigants would like to obtain the facts concerning our investigation into the fires; 6) we possess documents and other materials that would aid discovery and that could be released without compromising our investigation; 7) he would be happy to discuss with us a resolution that all parties to the litigation would agree to that would provide litigants with what they need

now without interfering with our investigation; and 8) he would like to address the Commission concerning this matter. Mr. Kane subsequently addressed the Commission during one of our regularly scheduled business meetings.

Mr. Kane evidently wrongly assumes we routinely disclose investigation records while our investigations are still pending unless there is a showing that the need for confidentiality clearly outweighs the public interest in disclosure. To the contrary, our longstanding incident investigation records disclosure practice has been to refrain from disclosing incident investigation records until the investigation has been completed, with our balancing of interests for and against disclosure only affecting disclosures of records concerning completed investigations.

In Resolution L-272 (December 17, 1998), for example, we stated that:

As a general rule, the public interest in the confidentiality of the records of accident investigations which have been completed by the Commission 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), and may extend the public's knowledge of and ability to analyze and respond to accidents involving electric utility facilities. (*Id.*, at p. 20 [Finding of Fact No. 14].)

We also found that:

Disclosure of accident investigation records to the public while an investigation is still underway could jeopardize the safety and effectiveness of the staff of the Commission or other governmental entity conducting the investigation. The public interest in the confidentiality of Commission records concerning accident investigations which have not been completed clearly outweighs the public interest in the disclosure of such records (*Id.*, at p. 20 [Finding of Fact No. 12].)

We have seen staff's investigation work disrupted by litigants seeking testimony of Commission staff while staff was still engaged in its incident investigation. Commission staff and lawyers have been required to attend depositions in which a

large percentage of the responses to questions amounted to the assertion of various Commission-held privileges against disclosure of lawyer-client communications and official information. Such disruptions constrain staff's time to work toward investigation incidents and improving the safety of utility facilities and operations, with any potential benefits accruing only to private parties with a financial interest in the outcome of the litigation.

When safety staff time is required to gather and copy documents for active or potential litigants, before staff has completed its own investigations and deliberations regarding an incident, staff has less time to inspect utility facilities, investigate incidents, and engage in other work necessary to implement the Commission's safety responsibilities. Three recent requests seek 53 separate classes of records regarding the October 2007 fires, and SDG&E's facilities and operations. Several other requesters ask for essentially the same material sought by Mr. Kane. The number and detailed nature of these requests highlight our reasons for continuing our general policy of not providing our investigation records to members of the public while our investigations are ongoing. These requests provide timely examples of the disruption of staff's work that could result from the disclosure of detailed records while an investigation is still underway.

In addition, our investigations often involve other governmental agencies with overlapping regulatory or law enforcement responsibilities. Disclosure policies of such other agencies vary, and premature disclosure of Commission investigation records could potentially interfere with the investigation records disclosure practices of such agencies. In this particular case, Cal FIRE is also investigating the October 2007 fires in San Diego, and is expected to complete its own investigation shortly.

We anticipate that our investigation will be complete within the next two or three months. We note that Pub. Util. Code § 315 precludes the use of accident reports filed with, or prepared by, the Commission in any action for damages related to the accident. We have indicated our intention of making public the non-exempt portions of our investigation file once our investigation is complete, in accord with our longstanding policy regarding requests and subpoenas for disclosure of such records. We further note that Mr. Kane and other litigants are free to use standard discovery procedures to seek records and information from SDG&E and others. For these reasons, we do not believe that the interests of litigants or other members of the public will be harmed by our denial of public access to our investigation files while our investigation is still open.

SDG&E's Comments

SDG&E comments:

As discussed below, SDG&E objects to the Commission staff's disclosure of certain confidential or private information to the extent contained within the requested Investigation Records. Without having the benefit of a prior review of all the records subject to disclosure, however, SDG&E submits the following limited objections.

Draft Resolution L-360 authorizes public disclosure of the Commission's Consumer Protection and Safety Division's Investigation Records relating to the Witch, Guejito and Rice fires that ignited in San Diego, California on October 21, 2007. SDG&E recognizes that the request for disclosure made by legal counsel Steven S. Kane of The Kane Law Firm under the Public Records Act. As of the date of this letter the Commission's investigation of the incident is still open; therefore, copies of the Investigation Files/Records at issue are unavailable to SDG&E for a proper determination whether such records contain private customer data or other confidential information that should be protected from disclosure. However, in order to ensure that such information if contained therein remains protected, SDG&E hereby submits its limited objection to the disclosure of such information, *as applicable*.

While DR L-360 states “[o]nce the investigation is complete, the Commission will determine whether any information in the file requires redaction,” SDG&E submits that to the extent that the Investigation Records at issue contain customer-specific information or facility information that, if made public, could compromise system security, SDG&E strongly objects to their disclosure. With respect to customer-specific information, the Commission has previously recognized that utility customers have a reasonable expectation of privacy and accordingly has acted to protect utility customer-specific information from disclosure.¹¹

¹¹ SDG&E footnote 2: “*See, e.g.*: D.97-12-088, 1997 Cal. PUC LEXIS 1139 at *196 (“A utility shall provide customer information to ... unaffiliated entities ... only with prior affirmative customer written consent”); D.99-09-002, 1999 Cal. PUC LEXIS 579 at *16-17 (“[W]e wish to protect the utility’s release of customer-specific information, except where the customer has consented in writing to the specific disclosure”); D.01-07-032, 2001 Cal.PUC LEXIS 540 (denying request of California Narcotic Officers’ Association that utilities release customer information to law enforcement officers in the absence of legal process such as a warrant or subpoena duces tecum approved by a judge). *See also*, Customer List OII, D.90-12-121, 39 CPUC 2d 173 (1990).”

Confidential Reports

In addition, SDG&E objects to the disclosure of utility reports or any information in the Investigation Records that were submitted by SDG&E under Section 583 of the California Public Utilities Code (“Code”) and GO-66-C. Such reports may include Safety-Related Reports as well as Utility Quarterly Reports which are periodically provided to the Commission pursuant to Code Section 583 and GO 66-C and submitted confidential because they typically include names, addresses, and telephone numbers of SDG&E customers. Moreover, Incident Reports provided to the Commission by SDG&E are also “confidential” within the meaning of Section 2.2(a) of GO 66-C.

While the Commission may have the discretion to make such confidential records public, it should do so only when the public interest is served by disclosure. The requester has not shown how its apparent litigation interest outweighs either the legitimate privacy interests of utility customers or the Nation’s interest in ensuring the security of SDG&E’s utility system facilities.

Accordingly, the Commission should appropriately narrow the scope of the information disclosed in the final resolution in order to properly balance the privacy interests of utility customers; the national interest in a secure utility system; and the utility’s confidentially submitted data, with the requester’s litigation interest, by redacting certain information as discussed herein prior to disclosure. The Commission should also provide SDG&E a reasonable opportunity for review and comment on any information to be provided to the requester(s) prior to its release.

Conclusion

For the many reasons discussed above, SDG&E respectfully requests that the Commission redact, *as applicable*, any information contained in its Investigation Records related to the Witch, Guejito and Rice fires that ignited in San Diego County, California, on October 21, 2007, prior to disclosure that: a) is customer-specific; b) details the facilities of SDG&E; c) includes information directly derived from materials provided to the Commission by SDG&E as “confidential” pursuant to Section 583 of the California Public Utilities Code (Code) and/or Section 2.2. of GO 66-C, including specifically SDG&E’s Quarterly Reports and Incident Reports.

Finally, SDG&E requests that it be provided a reasonable opportunity for review and comment on any materials provided by the Commission to the requesting party.

Customer-specific information

Although SDG&E correctly notes that a number of Commission decisions limit the disclosure by utilities of certain customer specific information in the absence of written consent or legal process, we believe our personal information disclosure determination here should be guided by more context-specific authorities.

We have long recognized in our resolutions responding to requests and subpoenas seeking investigation records that: 1) individuals have an interest in the privacy of personal information such as their names, addresses, medical records, and personnel files; 2) medical records and personnel files are more sensitive than simple contact information; 3) some individuals favor privacy of their contact information while others may welcome the opportunity to be in contact with others with similar concerns and interests; 4) in an ideal world, disclosure of personal contact information would be tailored to individual expectations and desires, but this is not always practical, since contact information may be incomplete or out of date; 5) utility and Commission employees who were not injured in an incident have no reasonable expectations of privacy of any personal information in our investigation records; and 6) privacy rights are not absolute, and must be balanced against competing public interests such as the interest in broad discovery and open litigation. (*See, e.g.*, Resolution L-265 (January 7, 1998); Resolution L-272 (December 17, 1998); and Resolution L-357 (February 28, 2008). The essence of these views is echoed in recent judicial opinions regarding individual privacy interests. (*See, e.g., Pioneer Electrics (USA), Inc. v. Superior Court* (2007) 40 Cal.4th 360 and *Puerto v. Superior Court* (2008) 158 Cal. App.4th 1242.)

Most requests and subpoenas for incident investigation come from those directly involved in litigation related to the incident, and little if any redaction of personal information is necessary. Most investigation files contain little personal information beyond brief descriptions of injuries or fatalities, employment history, name and address of individuals suffering injuries or fatalities, and witness identity and contact information. Rarely would our files include treating physician's medical reports, actual personnel records, and similar more sensitive personal information.

Since we have not yet completed our fire investigation or reviewed the complete files to determine the extent of personal information contained therein, we will assume the file follows the usual patterns. In accord with standard practice, we will provide information regarding Commission, utility employees, and others

involved in the investigation or related safety activities, in the absence of sound reason to do otherwise. We will refrain from providing physician reports or personnel records in the absence of individual consent, since disclosure of such information may constitute an unwarranted invasion of personal privacy. Given the large number of individuals affected by the San Diego fires and recent judicial decisions emphasizing the varying nature and reasonableness of privacy expectations and the reasonable interest of litigants in access to witnesses, we will explore an option that may provide access to other personal information in a manner tailored to individual privacy preferences.

Once the investigation is complete, requesters may submit for our approval a letter inviting individuals affected by the fires who are identified in our investigation, for whom we have a name and address, to contact the requester if they so desire. After this letter is reviewed and, if necessary, edited, staff will mail a copy to such individuals, at the requester's expense. We may include a postcard through which individuals can indicate to us their desire to opt-out of future fire-related communications, so we may avoid redundant letters by multiple requesters to people who want privacy. Our disclosure procedure should protect the privacy interests of those who may not wish to communicate with the requester, while offering others the opportunity to communicate.

Information, the disclosure of which could compromise system security.

We agree with SDG&E that there are circumstances in which certain utility system information should be withheld in the interest of national security. However, not every record concerning utility facilities would create a national security risk if disclosed. Our prior resolutions authorizing disclosure of investigation records that include information regarding specific utility facilities provide obvious examples.

We are willing to review any specific concerns SDG&E may have regarding utility facility information it has provided in confidence during our current fire investigations to determine whether we believe such information is subject to an available privilege or exemption from disclosure and may pose a public security risk if disclosed. We invite SDG&E to identify such information, and explain why it believes the public interest clearly favors nondisclosure. If we find it appropriate, we will redact such information from the records we disclose once the investigations are completed.

Records submitted under Section 583 and General Order 66-C

The fact that SDG&E has identified various documents submitted to the Commission during the course of our investigation of the San Diego fires as

confidential pursuant to Public Utilities Code § 583 and General Order 66-C does not mean that such records are confidential. As both courts and the Commission have often stated, § 583 does not require the Commission to give confidential treatment to data that does not satisfy substantive requirements for such treatment created by other statutes and rules. (*E.g.*, D.06-06-066, as modified by D.07-05-032, at pp. 26-29.) Section 583 does not limit our ability to disclose information submitted by utilities. (*Id.*, at pp. 27-28.) Further, § 583 does not relieve the Commission of its responsibility to comply with provisions of the California Constitution and the CPRA that require disclosure of most government records, and to construe broadly laws and rules that favor disclosure.

Section 583 is perhaps best viewed as providing a process for handling information a utility believes is or should be confidential, where the Commission has not already ruled on the confidential status of such information. In such situations, § 583 provides that staff will not disclose information received from regulated utilities unless that disclosure is in the context of a Commission proceeding or is otherwise ordered by the Commission. Section 583 provides no basis for confidential treatment to the extent we have in a previous broad or narrow decision, order, or ruling authorized or required disclosure of utility information, or to the extent an Administrative Law Judge or other staff to whom we may have delegated authority to rule on disclosure issues has ruled in favor of disclosure.

If a utility identifies information it submits to the Commission as confidential, and we have already addressed the confidentiality of such information and determined that it is available to the public, then the utility's assertion will be disregarded to the extent it is contrary to our prior disclosure determination. We decline to delegate to utilities the discretion to overrule past confidentiality decisions without requiring them to file an appropriate application for rehearing or appeal. This would deny due process to those relying on prior disclosure decisions or rulings.

With regard to the fire investigation records at issue here, SDG&E asserts that the incident reports it files with the Commission must remain confidential, in part because they may include personal information. In Resolution L-272, *supra*, we discussed this disclosure issue as follows:

Our accident reporting requirements have evolved over time, and while current accident reports must identify the location of the incident and include the "identification of casualties," they need not contain other personal information. (D.98-07-097, Appendix B.) This should help alleviate future privacy concerns. We intend to further simplify the privacy issue, and

remove any ambiguity regarding future expectations of privacy, by stating here that future accident reports filed by utilities will be subject to public disclosure upon request unless it is shown that in the specific circumstances of a particular accident or related proceeding the public interest in nondisclosure clearly outweighs the public interest in disclosure. Such circumstances include situations in which an accident report contains confidential personal information concerning a victim, the redaction of which is permitted by law. (Resolution L-272, at pp. 11-12.)

Our long series of resolutions authorizing disclosure of records of completed investigations has made public many utility incident reports, yet resulted in no privacy complaints by individuals identified in such reports. We will not reverse our disclosure practice on the basis of SDG&E's current confidentiality request..

We understand it is possible that some records provided in confidence by SDG&E during the course of our fire investigations may legitimately be subject to one or more exemptions against disclosure that the Commission is entitled to assert, and that the public interest in nondisclosure may clearly outweigh the public interest in disclosure of such information.

If SDG&E wishes us to refrain from disclosing information it has provided to the Commission in confidence during the course of our fire investigation, it may identify the specific records or portions of records it believes should not be made public, identify the exemptions and privileges it believes the Commission could assert to keep such information confidential, and explain in detail why it believes the public interest clearly favors non-disclosure. Since we have frequently authorized disclosure of completed investigation records and other safety related information, the fact that SDG&E may have identified an incident report or quarterly report as confidential under § 583 and General Order 66-C will not be considered a sufficient basis for non-disclosure. If we find it appropriate, we will redact information for which SDG&E requests confidential treatment from the records we disclose once the investigations are completed.

We decline to make all of our investigation records available to SDG&E prior to disclosure since it is our responsibility, not SDG&E's, to determine whether such information should be disclosed, and since our disclosure of such information to the utility may limit our options regarding disclosure to others. (Government Code § 6254.5; *Black Panthers v. Kehoe* (1974) 42 Cal.App.3d 645.)

FINDINGS OF FACT

1. The Commission received a facsimile dated April 9, 2008, from Steven S. Kane, Esq. of The Kane Law Firm, which seeks disclosure of the Commission's investigation records concerning Witch, Guejito and Rice fires that ignited in San Diego County, California that occurred in October, 2007. Access to the records in the Commission's investigation file was denied in the absence of a Commission order authorizing disclosure.
2. We have received many other requests for records relating to the October 2007 fires in San Diego.
3. The Commission's investigation of the incident is still open; therefore, the disclosure of the Commission's investigation records could compromise the Commission's investigation and interfere with the ability of Commission staff to perform their safety responsibilities efficiently.
4. At this time, the public interest does not favor disclosure of the requested Commission's investigation records.
5. Once the investigation is complete, the public interest will favor disclosure with the exception of any personal information, the disclosure of which would constitute an unwarranted invasion of personal privacy, or any information subject to the Commission's lawyer-client or other privilege.

CONCLUSIONS OF LAW

1. The documents in the requested Commission's investigation file and report are public records as defined by Cal. Gov't Code § 6250, *et seq.*
2. The California Constitution favors disclosure of governmental records by, among other things, stating that the people have the right of access to information concerning the conduct of the peoples' business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny. The California Constitution requires that statutes, court rules, and other authority favoring disclosure be broadly construed, and that statutes, court rules, and other authority limiting disclosure be construed narrowly; and that any new statutes, court rules, or other authority limiting disclosure be supported by findings determining the interest served by keeping information from the public and the need to protect that interest. Cal. Const. Article I, §§ 3(b)(1) and (2).
3. The general policy of the CPRA favors disclosure of records.

4. Justification for withholding a public record in response to a CPRA request must be based on specific exemptions in the CPRA or upon a showing that, on the facts of a particular case, the public interest in nondisclosure clearly outweighs the public interest in disclosure. Cal. Gov't Code § 6255.
5. The Commission has exercised its discretion under Cal. Pub. Util. Code § 583 to limit Commission staff disclosure of investigation records in the absence of formal action by the Commission or disclosure during the course of a Commission proceeding. General Order 66-C, § 2.2 (a).
6. Cal. Pub. Util. Code § 583 does not limit the Commission's ability to order disclosure of records.
7. Cal. Pub. Util. Code § 315 prohibits the introduction of accident reports filed with the Commission, or orders and recommendations issued by the Commission, "as evidence in any action for damages based on or arising out of such loss of life, or injury to person or property".

ORDER

1. The request for disclosure of the Commission records concerning the investigation of the October 2007 fires in San Diego County, California is denied until the Commission staff has completed its full investigation of the matter.
2. Once the investigation is complete, the Commission staff will release the requested records, with the exception of any personal information, the disclosure of which would constitute an unwarranted invasion of personal privacy, or any information which is subject to the Commission lawyer-client or other privilege.
3. Once the investigation is complete, requesters may submit for our approval a letter inviting individuals affected by the fires who are identified in our investigation, for whom we have a name and address, to contact the requester if they so desire. After this letter is reviewed and, if necessary, edited, staff will mail a copy to such individuals, at the requester's expense.
4. 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 of June 26, 2008, and that the following Commissioners approved it.

PAUL CLANON
Executive Director