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April 28, 1993

Bernard Jolles
Attorneys at Law
721 Southwest Oak Street
Portland, OR 97205-3791

Re: Petition for Public Records Disclosure Order: PUC Records

Dear Mr. Jolles:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 19.410 to 192.505. Your petition, which we received on April 23, 1993, asks the Attorney General to direct the PUC to make available:

> "1. The original notification and report of an accident which occurred on September 18, 1991, at the Bull Run Watershed at Dodge Park, Oregon, filed by Portland General Electric Company ("P.G.E."), with the Oregon Public Utilities Commission ("PUC").
>
> 2. Any and all other documents filed by P.G.E. with the Oregon PUC relating to the subject accident."

P.G.E. sent the accident report to Bob Sipler of the PUC. Mr. Sipler told this office that the accident report is all that he received. Therefore, we need address only your first request.

For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. See ORS 192.420. If a public record contains exempt and nonexempt material, the public body must separate the materials and make the nonexempt material available for examination if it is "reasonably possible" to do so while preserving the confidentiality of the exempt material. Turner v. Reed, 22 Or App 177, 186 n 8, 538 P2d 373 (1975).

ORS 192.502 exempts some public records from the disclosure requirements of the Public Records Law. Specifically, ORS 192.502(8) exempts:

> "Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law [.]"

The information you seek is exempt from disclosure under Oregon law. ORS 654.715 states, in relevant part, that:

> "(1) Every railroad, public utility and telecommunications utility shall give immediate notice by telegraph, telephone or personally, to the Public Utility Commission of Oregon whenever any accident occurs within this state upon its premises, line of railroad, depot grounds or yards, or directly or indirectly arises from or connected with its maintenance or operation, if the accident is attended by loss of human life or limb or serious injury to person or property."

ORS 654.720 states:

> "No report, or any part thereof, required by ORS 654.715, shall be opened to public inspection or be used as evidence in any action for damages in any suit or action arising out of any matter mentioned in the report."

ORS 654.720 is designed to prevent accident reports which public utilities and others submit to the PUC from being used in actions for damages. The legislature has seen fit not only to state that such reports are inadmissible in evidence, but also to prevent the PUC from disclosing them in the first instance.

For these reasons, we deny your petition to compel disclosure.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

PAG:tjh/JGG067D0
c: Bob Sipler, PUC