§114. Utility personnel records

1. Confidential. The following records of public utilities are confidential and, except as otherwise provided in subsection 3, are excluded from the books, accounts, papers, records, memoranda, documents and information otherwise available to the commission under this Title and may not be open to public inspection:

A. Materials prepared for and used specifically in the examination or evaluation of applicants for positions with a public utility, including working papers, research materials, records and examinations; [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Records containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references;

(3) Information pertaining to the credit worthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; or

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations or any other information or materials that may result in disciplinary action; or [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. Other information to which access by the general public is prohibited by law. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Compliance. Failure or refusal by any public utility or any officer, agent or attorney of any public utility to comply with any order, data request or subpoena calling for the production of those records other than an order issued pursuant to subsection 3, shall not serve as the basis for any civil or criminal fine, penalty or forfeiture.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. In camera inspection. Upon request by the commission staff, the Public Advocate or intervenor in a matter before the commission or upon the commission's own motion and for good cause shown, the commission may order a public utility to produce for in camera inspection by the commission or hearing examiner the records designated confidential under subsection 1. The employee whose records are the subject of such a request shall be notified by the commission of the request and shall be given the opportunity to be heard before an order to produce is issued. If the commission or hearing examiner determines after in camera inspection that a record is reasonably relevant to the matter before it and that production of the record is not unjust or unlawful and that the materiality of the record outweighs any harm to the employee from its disclosure, the commission or hearing examiner may order that the record be made a part of the discovery or evident aspects of the proceedings, subject to the terms and conditions that are just, due consideration being given to the privacy interests of the employee involved.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

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