



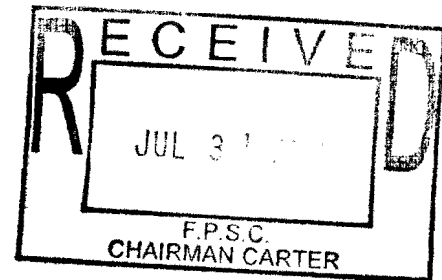
# FIRST AMENDMENT FOUNDATION

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28 July 2009

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The Honorable Matthew M. Carter, III, Chairman  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Compensation Information and Florida's Public Records Law

Dear Chairman Carter:

It has come to our attention that at least one public record request has been made for compensation information obtained by the Florida Public Service Commission (PSC) from Florida utility companies. We've been told that the PSC will not make a determination as to the release of this information until mid-August, subject to an interpretation by PSC staff of the public record exemption afforded by § 366.093(1), Florida Statutes. This exemption allows a utility company to assert that information provided to the PSC is proprietary confidential business information and therefore is not subject to disclosure under Florida's public records law once the Commission makes a finding that the information meets the statutory definition of "proprietary confidential business information" provided in § 366.093(3).

Paragraph (3) states that "proprietary confidential business information "includes, but is not limited to" certain, specified information including, in § 366.093(3)(f), "employee personnel information *unrelated to compensation*, duties, qualifications, or responsibilities." (emphasis added) Clearly, then, compensation information provided to the PSC is not exempt and we do not believe that disclosure of such information, particularly when not tied to an employee's name, "would cause harm to the ratepayers" or the utility "company's business operations."

Because compensation information is expressly *not* exempt, the delay in providing such information pursuant to a public records request is, at the very least, extremely troubling. Florida's public records law allows us a reasonable right of access, and § 119.07(1)(c), F.S., requires that an agency respond to a request for records in "good faith". Delaying disclosure of non-exempt public record information for many weeks is not, in our opinion, "reasonable", nor is it a "good faith" response as required by law.

We appreciate your attention to our concerns, Chairman Carter, and look forward to hearing from you. If you have any questions, please don't hesitate to contact us.

Sincerely,

Barbara A. Petersen, President

Cc: The Honorable Nancy Argenziano, Commissioner, Florida Public Service Commission  
Jon Kaney, Cobb & Cole, General Counsel, First Amendment Foundation  
JoAnn Carrin, Director, Office of Open Government

DOCUMENT NUMBER-DATE

07910 AUG-30

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