

Matthew M. Carter II
Chairman

State of Florida



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Public Service Commission

July 31, 2009

Barbara Petersen, President
First Amendment Foundation
336 East College Avenue
Suite 101
Tallahassee, FL 32301

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COMMISSION
CLERK

Re: Compensation Information and Florida's Public Records Law/*Ex Parte* Communications

Dear Ms. Petersen:

Our office has received your letter dated July 28, 2009, concerning compensation information and Florida's Public Records Law.

In my view, it is possible that the content of your letter may constitute an *ex parte* communication prohibited by s. 350.042, F.S., and I have therefore prevented Chairman Carter from viewing it. This statute prohibits a Commissioner from considering *ex parte* communications concerning the merits in any proceeding implicating the interests of a party.

As the subject of your letter addresses, among other things, the merits of an item scheduled for disposition by the Commission at its next regularly scheduled Agenda Conference on August 18, 2009, I believe it is the type of communication prohibited by the statute.

However, because your letter addresses the public records law and its application, our agency is directing immediate attention to the concerns raised therein, and I will include the correspondence in the appropriate docket files presently so that all interested parties and the public may have access to it. In the meantime, I have forwarded the letter to our agency's Executive Director, Dr. Mary Bane, and to our General Counsel, Mr. Patrick "Booter" Imhof, for their attention and consideration.

In order to expedite consideration of your concerns, which are of great public importance, please direct any such future correspondence to our agency's Executive Director and General Counsel.

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I know that Chairman Carter has the greatest respect for the First Amendment Foundation and its purpose, and that he is an ardent advocate of open and transparent government. Thank you for your attention to this issue, and for your comments.

Sincerely,



William C. Garner,
Chief Advisor to Chairman Carter
Florida Public Service Commission

Cc: Jon Kaney, Cobb & Cole, General Counsel, First Amendment Foundation
JoAnn Carrin, Director, Office of Open Government
Mary Bane, Executive Director, Florida Public Service Commission
Booter Imhof, General Counsel, Florida Public Service Commission
Ann Cole, Clerk, Florida Public Service Commission
Roberta Bass
Lorena Holley
Larry Harris
Bill McNulty