

080677-EI

STATE OF FLORIDA

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Public Service Commission

August 3, 2009

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COMMISSION  
CLERK

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

Re: Compensation Information and Florida's Public Records Law

Dear Ms. Petersen:

Your letter of July 28, 2009, has been forwarded to me by Chairman Carter's office for response. The referenced compensation data was obtained by Commission staff through discovery requests in docketed rate case proceedings for Florida Power & Light Company (FPL)(Docket Number 080677-EI) and Progress Energy Florida, Inc. (PEF)(Docket Number 090079-EI). The utilities have filed petitions requesting that the information be treated as confidential pursuant to Section 366.093, Florida Statutes (F.S.). By statute, we are prohibited from releasing the non-public portion of this information until a determination is made by the Commission concerning the confidential status of the information, and the appeal period for that decision has expired. Section 366.093(2), F.S., provides in part:

Any records provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the commission and the office of the Public Counsel and any other party subject to the public records law as confidential and shall be exempt from s. 119.07(1), pending a formal ruling on such request by the commission or the return of the records to the person providing the records. Any record which has been determined to be proprietary confidential business information and is not entered into the official record of the proceeding must be returned to the person providing the record within 60 days after the final order, unless the final order is appealed. If the final order is appealed, any such record must be returned within 30 days after the decision on appeal.

We do not believe there has been an unreasonable delay or lack of good faith in responding to the public records request received by the Commission on July 21, 2009. The last round of discovery was not due to the Commission until last Monday, July 27, 2009. Further, in order to ensure a consistent ruling is made on the confidentiality requests in the two dockets, it is appropriate that the matter be considered by the full Commission. The requests are scheduled to be heard at the next regularly scheduled Agenda Conference, August 18, 2009.

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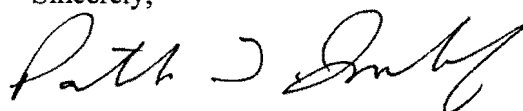
Ms. Barbara Petersen

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We appreciate your concern regarding the release of these records and we are working toward a timely resolution of these issues under Florida law. If you have any questions, please don't hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick L. Imhof". The signature is fluid and cursive, with a large initial "P" and "I".

Patrick L. "Booter" Imhof  
General Counsel

PLI:wt

cc: Dr. Mary Andrews Bane, Executive Director  
Mr. William Garner, Assistant to Chairman Carter  
Ms. Roberta Bass, Assistant to Comm. Edgar  
Ms. Lorena Holley, Assistant to Comm. McMurrian  
Mr. Larry Harris, Assistant to Comm. Argenziano  
Mr. Bill McNulty, Assistant to Comm. Skop  
Docket Files 080677-EI (FPL) and 090079-EI (PEF)