



OFFICE *of* GOVERNMENT INFORMATION SERVICES

December 22, 2015 — Sent via email

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

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Re: Case No. 201500661
NG: HK: CM: AS

Dear [REDACTED]:

This responds to your April 26, 2015, request for assistance from the Office of Government Information Services (OGIS), pertaining to your Freedom of Information Act (FOIA) request to the Federal Energy Regulatory Commission (FERC) for a copy of the [REDACTED], [REDACTED]. We are sorry for our delay in responding to your request for assistance.

As you are aware, Congress created OGIS to complement existing FOIA practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

We carefully reviewed your submission. On [REDACTED], FERC denied your request for an un-redacted copy of the document identified as [REDACTED] under FOIA Exemption 6, 5 U.S.C. § 552(b)(6). You appealed the Commission's determination and FERC responded to your appeal by affirming the agency's initial decision on your request. You dispute this response and seek OGIS's assistance with this matter.

In your submission to OGIS, you assert that the information you seek has, in essence, already been released because a map of the [REDACTED] has been made public by the company involved with the project. For this reason, you explain that Exemption 6 should not be applied to your response as your privacy was already violated when your information was released to [REDACTED].

We discussed your request and appeal with FERC Attorney Michelle A. Davis. According to Ms. Davis, FERC is firm in its position on your request and appeal. In cases where an agency is firm in its position, there is little for OGIS to do beyond providing more information about the agency's actions.



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Exemption 6, 5 U.S.C. § 552(b)(6), protects information from release that would be a “clearly unwarranted invasion of personal privacy.” Courts have found that individuals have a privacy interest in their name, address, date of birth, place of birth, employment history, and other personal information, and the privacy interest in protecting the information outweighs the public interest in the release of the information.

When making release determinations pursuant to Exemptions 6, an agency must weigh the public interest against an individual’s right to privacy. Courts have consistently held that the central purpose of FOIA is to allow people to learn about the conduct of agencies, not to discover information about other individuals. The Supreme Court held that “the statutory purpose [of FOIA] is not fostered by disclosure of information about private citizens that is accumulated in various governmental files but that reveals little or nothing about an agency’s own conduct.” *U.S. Dep’t of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 773 (1989). In your case, FERC believes that the other homeowners’ privacy interests outweigh the public interest in the record.

In your submission, you argue that because you believe your privacy rights have already been violated by ██████’s release of ██████, the information you seek regarding other ██████ ██████ should be made available to you. You should know that the Supreme Court has observed that a FOIA requester’s identity typically “has no bearing on the merits of his or her FOIA request.” Therefore, the basic access rights are neither increased nor decreased based upon the requester’s particular interest in the records sought.

I hope you find this information useful. At this time, OGIS can offer you no further assistance. Thank you for bringing this matter to OGIS. We will close your case.

Sincerely,

/S/

JAMES V.M.L. HOLZER

Director

cc: FERC FOIA Office, via email

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.