Federal Communications Commission
Washington, DC 20554

October 9, 2026

VIA ELECTRONIC MAIL

Conor S. Gaffney, Counsel
Protect Democracy Project
2020 Pennsylvania Ave. NW, Suite #163
Washington, DC 20006
FOIA@protectdemocracy.org

Re: FOIA Control No. 2026-000871

Mr. Gaffney:

This letter responds to your Freedom of Information Act (FOIA) request to the Federal Communications Commission (Commission) for communications to/from Danielle Thumann Severs regarding various broadcast media matters.[1]

The Office of General Counsel searched for responsive records. Of the responsive records located, 194 pages are produced here. Some material on the pages produced has been redacted for one or more of the reasons discussed below. The remaining 24 records are withheld in full for one or more of the reasons discussed below.

Exemption 5. Records responsive to your request were withheld or redacted under FOIA Exemption 5.[2] Exemption 5 protects certain inter-agency and intra-agency records that are normally considered privileged in the civil discovery context.[3]

Exemption 5 encompasses a deliberative process privilege that generally covers "documents reflecting advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated."[4] To fall within the scope of this privilege, the agency records must be both (i) predecisional, meaning generated before the adoption of the agency decision and (ii) deliberative, meaning it reflects the "give-and-take" of the decision-making process.[5] As applied to the instant matter, email communications and attachments that included pre-decisional, deliberative communications between FCC employees were withheld or redacted pursuant to this exemption. Specifically, communications between subordinates and supervisors providing analysis and evaluating different options for agency action were redacted or withheld. Similarly, candid staff

[1] Your request has been assigned FOIA Control No. 2026-000871 (submitted Aug. 19, 2026).

[2] 5 U.S.C. § 552(b)(5).

[3] *See id.*

[4] *NLRB v. Sears Roebuck & Co.*, 421 U.S. 132, 150 (1975).

[5] *Id.* at 151-52; *Jud. Watch, Inc. v. FDA*, 449 F.3d 141, 151 (D.C. Cir. 2006); *Coastal States Gas Corp. v. Dep't of Energy*, 617 F.2d 854, 867 (D.C. Cir. 1980).

discussions weighing the merits of arguments and making recommendations were redacted or withheld. Such communications are inherently deliberative and pre-decisional in nature.

We have determined that disclosure of these records would cause specific reasonably foreseeable harms to the deliberative process and the quality of agency decisions, both of which Exemption 5 is intended to protect.[6] Particularly, the release of the withheld or redacted records is likely to inhibit staff candor and frankness in providing advice or recommendations during deliberations; result in premature disclosure of proposals not yet adopted; and cause confusion regarding the ultimate rationale for agency decisions.

Exemption 5 also encompasses the attorney-client privilege. The attorney-client privilege covers "confidential communications between an attorney and [the attorney's] client relating to a legal matter for which the client has sought professional advice."[7] Specifically, some material containing legal advice from Office of the General Counsel staff was redacted. We have determined that it is reasonably foreseeable that disclosure would harm the attorney-client relationship, which Exemption 5 is intended to protect. Release of this information would foreseeably impair open and frank communication between the agency and its counsel in receiving or giving legal advice.

Exemption 6. Records responsive to your request were withheld or redacted under FOIA Exemption 6.[8] Exemption 6 protects "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."[9] Specifically, material consisting of mobile phone numbers, non-public email addresses, and personal email addresses of members of the public has been redacted. Balancing the public's right to disclosure against the individual's right to privacy, we have determined that release of this information would constitute a clearly unwarranted invasion of personal privacy. We have determined that it is reasonably foreseeable that disclosure would harm the privacy interest of the persons mentioned in these records, which Exemption 6 is intended to protect.

Exemption 7(A). Records responsive to your request were withheld under Exemption 7(A), which authorizes the withholding of "records or information compiled for law enforcement purposes [the production of which] . . . could reasonably be expected to interfere with enforcement proceedings."[10] Specifically, the records in question relate to one or more FCC enforcement investigations that have not yet been resolved. These records were specifically compiled for a law enforcement purpose, and the material relates to one or more law enforcement proceeding(s) that remain(s) pending. Because the law enforcement matter(s) to which the materials relate(s) have not yet been adjudicated, we reasonably expect that premature release of the information will cause harm to the ongoing enforcement proceeding(s). Accordingly, we have determined that it is reasonably foreseeable that disclosure would harm the Commission's or the Federal government's law enforcement activities, which Exemption 7 is intended to protect.

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[6] *NLRB*, 421 U.S. at 151.

[7] *Mead Data Cent., Inc. v. U.S. Dep't Air Force*, 466 F.2d 242, 252 (D.C. Cir. 1977).

[8] 5 U.S.C. § 552(b)(6).

[9] *Id.*

[10] 5 U.S.C. § 552(b)(7)(A).

We are required by both the FOIA and the Commission's own rules to charge requesters certain fees associated with the costs of searching for, reviewing, and duplicating the sought after information.[11] To calculate the appropriate fee, requesters are classified as: (1) commercial use requesters; (2) educational requesters, non-commercial scientific organizations, or representatives of the news media; or (3) all other requesters.[12]

Pursuant to section 0.466(a)(5)-(7) of the Commission's rules, you have been classified as category (2), "educational requesters, non-commercial scientific organizations, or representatives of the news media."[13] For such requesters, the Commission assesses charges to recover the cost of reproducing the records requested, excluding the cost of reproducing the first 100 pages. [[*If production was provided in electronic form or involved 100 or fewer pages of copying, state, as applicable:* The production in response to your request did not meet these thresholds. Therefore, you will not be charged any fees. *Otherwise, note the cost of duplication, which is calculated at $0.10 per page or $5 per computer disk.*]]

You have requested a fee waiver pursuant to section 0.470(e) of the Commission's rules.[14] Because you are not required to pay any fees in relation to your FOIA request, the Office of the General Counsel, which reviews such requests, does not make a determination on your request for a fee waiver.[15]

You may seek review of this determination by filing an application for review with the Office of General Counsel within 90 calendar days of the date of this letter.[16] Your appeal must articulate specific grounds for review, identify factors warranting further consideration of the issue presented, and specify the relief being sought.[17]

If you would like to discuss this response before filing an application for review to attempt to resolve your dispute without going through the appeals process, you may contact the Commission's FOIA Public Liaison for assistance at:

FOIA Public Liaison
Federal Communications Commission
Office of the Managing Director
Performance and Program Management
45 L Street NE, Washington, DC 20554
202-418-1379
FOIA-Public-Liaison@fcc.gov

[11] *See* 5 U.S.C. § 552(a)(4)(A); 47 CFR § 0.470.

[12] 47 CFR § 0.470.

[13] 47 CFR § 0.466(a)(5)-(7).

[14] 47 CFR § 0.470(e).

[15] 47 CFR § 0.470(e)(5).

[16] 47 CFR §§ 0.461(j), 1.7 (documents are considered filed with the Commission upon their receipt at the location designated by the Commission), and 1.115.

[17] *See* 47 CFR §§ 0.251(j) (applications for review may be dismissed for failure to articulate specific grounds for review), 1.115(b) (an application for review must specify with particularity the questions presented for review and specify the factor(s) (from an enumerated list) warranting Commission consideration of the questions).

If you are unable to resolve your FOIA dispute through the Commission's FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road–OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
https://www.archives.gov/ogis

Sincerely,

Kristi Thompson

Digitally signed by Kristi Thompson
Date: 2026.10.09 13:31:19 -04'00'

Kristi Thompson
Attorney Advisor
Office of the General Counsel
Federal Communications Commission

Enclosure(s)

cc: FCC FOIA Office