

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Aleithia Artemis) FOIA Control No. 2015-866
On Request for Inspection of Records)

MEMORANDUM OPINION AND ORDER

Adopted: February 1, 2016

Released: February 4, 2016

By the Commission:

1. By this Order we deny an Application for Review by Aleithia Artemis seeking review of the Consumer and Governmental Affairs Bureau's (CGB) response to her Freedom of Information Act (FOIA) request. We conclude that CGB conducted a reasonable search in responding to Ms. Artemis's request. We therefore uphold CGB's determination that the Commission has no records responsive to the request.

I. BACKGROUND

2. The FOIA and Commission regulations give the public the right to request that an agency produce records that are not routinely available for public inspection. Generally, the agency must conduct a reasonable search and produce the responsive records unless the agency determines that one or more of the FOIA's nine statutory exemptions apply.

3. On September 25, 2015, Ms. Artemis filed a FOIA request with the Commission. The request stated, in total, "This is a FOIA request for the FCC Complaint made by someone with Western Investments, concerning their experiences in dialing 206-[XXX]-[XXXX]. The Complainant's contact info may have been included in their Complaint. It is: 575-[XXX]-[XXXX]."

4. The FOIA request was assigned to CGB, which maintains the Commission's informal complaint database. Staff within CGB searched the informal complaint database for "Western Investments," the 206 phone number, and the 575 phone number. CGB also consulted with the Enforcement Bureau (EB) to determine if EB had any responsive documents. EB searched the Enforcement Bureau Activity Tracking System (EBATS) and canvassed EB staff for records responsive

1 Letter from Aleithia Artemis to Office of General Counsel, Federal Communications Commission (filed Oct. 20, 2015) (AFR).

2 Letter from Nancy Stevenson, Deputy Chief, Consumer Policy Division – Consumer and Governmental Affairs Bureau, to Aleithia Artemis (rel. Oct. 16, 2015) (Response Letter).

3 5 U.S.C. § 552(a)(3); 47 C.F.R. § 0.461.

4 5 U.S.C. § 552(a)(3),(b); 47 C.F.R. §§ 0.457, 0.461(f).

5 For reasons of privacy, the telephone numbers, with the exception of the area codes, have been redacted from this order. Ms. Artemis's FOIA request included the full telephone numbers.

to Ms. Artemis's request. Neither CGB nor EB located any responsive records.⁶ CGB responded to the requester and informed her that the Commission had no records responsive to her FOIA request.⁷

5. Ms. Artemis now appeals CGB's response that there are no responsive records. She argues that Commission staff are concealing records responsive to her request.⁸ She bases this argument on the fact that she did not receive an automatically generated confirmation e-mail in response to her FOIA request, confirming that the request had been received.⁹

II. DISCUSSION

6. We find that CGB conducted a reasonable search for responsive records and, therefore, we deny Ms. Artemis's appeal. CGB searched the relevant database using all the search terms provided by Ms. Artemis's request. CGB also consulted with EB to determine if that bureau would have responsive records. While these efforts did not locate any responsive records, we nonetheless determine that CGB has conducted a reasonable search as required by the FOIA. The fact that Ms. Artemis did not receive a confirmation e-mail regarding her request does not support the contention that Commission staff are concealing records.¹⁰ Ms. Artemis's appeal is denied.

III. ORDERING CLAUSE

7. ACCORDINGLY, IT IS ORDERED that the Application for Review filed by Aleithia Artemis IS DENIED. Ms. Artemis may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).¹¹

⁶ EB's search revealed no documents whatsoever. CGB's search located one record, a complaint filed by Ms. Artemis; however, as that complaint was not filed by a person with Western Investments, it was deemed not responsive to the request.

⁷ Response Letter at 1.

⁸ AFR at 2.

⁹ *Id.*

¹⁰ In this instance, no e-mail address for Ms. Artemis was entered into FOIAonline, the Commission's FOIA system; therefore, the system could not send the standard confirmation e-mail.

¹¹ We note that as part of the Open Government Act of 2007, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect Ms. Artemis's right to pursue litigation. Ms. Artemis may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448.

8. The officials responsible for this action are the following: Chairman Wheeler, and Commissioners Clyburn, Rosenworcel, Pai, and O’Rielly.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary