



**FINAL DETERMINATION**

IN THE MATTER OF	:
	:
ELIZABETH MALMER,	:
Requester	:
	:
v.	: Docket No.: AP 2021-1800
	:
PENNSYLVANIA TURNPIKE	:
COMMISSION,	:
Respondent	:

On August 27, 2021, Elizabeth Malmer (“Requester”) submitted an appeal to the Office of Open Records (“OOR”), challenging the Pennsylvania Turnpike Commission’s (“Commission”) alleged denial of her request (“Request”) made pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* However, the Requester’s appeal submission did not include a copy of the Request. For the reasons that follow, the appeal is **dismissed**.

On August 30, 2021, the OOR issued an Order notifying the Requester that the appeal was deficient because it failed to include copy of the Request. The OOR informed the Requester that she was required to cure the deficiency and directed her to file a copy of the Request pursuant to 65 P.S. § 67.1303(b). However, to date, the Requester has not complied with the OOR’s Order.<sup>1</sup>

By the Requester’s failure to provide copy of the Request, the record in this appeal is not sufficient. Without this document, the OOR does not have a complete record upon which to base

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<sup>1</sup> The Requester was directed to submit the Request by September 13, 2021.

its determination. Additionally, the OOR would be unable to present a complete record on appeal to an appellate court as required by Section 1303(b) of the RTKL. As the Requester has failed to comply with the OOR's Order, this matter is **dismissed**.<sup>2</sup>

For the foregoing reasons, the Commission is not required to take any further action. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Commonwealth Court. 65 P.S. § 67.1301(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to Section 1303 of the RTKL. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>3</sup> This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: 14 September 2021**

*/s/ Joshua T. Young*

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JOSHUA T. YOUNG  
DEPUTY CHIEF COUNSEL

Sent to: Elizabeth Malmer (via email only);  
L. Evan Van Gorder, Esq., AORO (via email only)

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<sup>2</sup> Nothing in this Final Determination precludes the Requester from submitting the Request to the Commission and, if necessary, filing an appeal pursuant to Section 1101(a) of the RTKL. 65 P.S. § 67.1101(a)(1).

<sup>3</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).