

## **FREEDOM OF INFORMATION ACT POLICY**

### **1. Purpose:**

It is the intent of this Policy to provide clear-cut procedures for citizens and TCL&P officials in disclosing public records. The intent of this Policy is to comply in all respects with the Freedom of Information Act (FOIA), but in the unintended event of a conflict, the FOIA shall control and be deemed part of this Policy.

### **2. FOIA Coordinator:**

The Controller is hereby designated and delegated duties as the FOIA Coordinator. With the exception of Section 4 of this Policy, all TCL&P officials and employees receiving document disclosure inquiries shall immediately transfer them to the FOIA Coordinator. All written requests for public records shall be forwarded to the FOIA Coordinator to keep for no less than one a year.

### **3. Procedure:**

With the exception of information requested described in Section 4 of this Policy, all responses to requests for information under the FOIA shall be forwarded to and reviewed by the FOIA Coordinator prior to granting the request according to the following procedure:

- A. Requests to review and for copies of records under the FOIA shall be in writing.
- B. The request shall be date-stamped by the receiving department.
- C. The request shall immediately be forwarded to the FOIA Coordinator.
- D. The FOIA Coordinator shall distribute the request to all applicable departments, who shall return the information to the FOIA Coordinator.
- E. The FOIA Coordinator shall prepare the response, with review by the TCL&P Attorney when appropriate.

### **4. Routine Information:**

Requests for information from departments shall be handled by that department if the request is verbal and/or written FOIA requests of a more routine nature:

- (1) The request is for records that are routinely provided to the public by that department;
- (2) The records are readily available; or on TCL&P's website;
- (3) The records do not fall into a category exempt from disclosure under the FOIA;
- (4) The records exist at the time of the request;
- (5) The record is sufficiently described; and

- (6) No other department would be likely to have the requested records;
- (7) If a verbal request for information is available on the website, the employee shall inform the requestor about the website's address.

The fees described in Section 7 of this Policy shall be applicable to such requests.

**5. Rules to Prevent Excessive and Unreasonable Interference with TCL&P Functions:**

- A. Records may be personally examined only during normal business hours, i.e. between 8:00 a.m. and 5:00 p.m. on TCL&P business days and such requests shall be routed through the FOIA Coordinator.
- B. TCL&P staff shall be given ample opportunity to review files for exempt or privileged records prior to allowing public examination.
- C. TCL&P staff may defer a request to personally examine records within the time limits indicated in the FOIA.

**6. Rules to Protect Records:**

To protect records from loss, unauthorized alteration, mutilation or destruction, each department may adopt rules to protect the records of his or her department. The following are general records protection rules for all departments:

- A. Records are to remain in the departmental vicinity while being reviewed.
- B. Records are not to be altered in any manner.
- C. Pens are not allowed in review rooms.
- D. Copies of records are to be made by TCL&P staff or its designee, with the exception of microfilmed records. At the discretion of the TCL&P secretary, microfilmed records may be made by the person reviewing the records.
- E. For documentation purposes, staff shall keep copies of or a list of documents released or copied.
- F. Records may not be removed from binders.
- G. Records within files shall be kept intact and in order.
- H. Copies of TCL&P computer records shall be made on computer discs or flash drives provided by TCL&P.
- I. Copies of tapes shall be made on tapes provided by the requesting person.
- J. Records that are copied may be identified by tape flags or "Post-It" notes, by separate written description, or by inserting loose paper between pages.
- K. Copyrighted material shall not be photocopied.

## 7. Fees:

### A. Copies.

10 cents per page for 8 ½” x 11” and 8 ½” x 14” Actual costs for all other sized pages  
Non-Paper Physical Media such as computer discs, flash drives or other digital media  
devices – Actual Cost

If duplication requires outside services, actual cost

Double-sided copies shall be made when possible and is cost saving

B. Mailing. Actual mailing and packaging costs shall be charged at the reasonable  
economical and justified rate.

C. Labor. The labor cost to locate, separate exempt from non-exempt, and  
copy/duplicate records, including 40% overhead, of the lowest paid employee capable  
performing such work, regardless if that employee is available.

D. Contracted labor. The contractual labor costs when calculating charges under this  
shall not exceed an amount equal to 6 times the state minimum hourly wage rate.

E. Costs set by Law. Documents which are required to be prepared and sold for a specific  
fee under Michigan or federal law shall be sold in accordance with the applicable  
Michigan or federal law.

F. Detail Standard Form. The Detail Standard Form is designated as the Itemized Cost  
Worksheet document, which provides a detailed itemization that lists and explains the  
allowable charges.

The FOIA Coordinator is authorized to establish such other fees and charges in situations not covered by this Policy. TCL&P may require a deposit from the person requesting the public record or series of public records if the fees will exceed \$50.00 as determined by a good faith estimate prepared by the FOIA Coordinator. The deposit shall not exceed one-half of the total fee for the request. Detailed itemization of the estimated cost and an estimate of the timeframe needed to provide the records shall be provided to the requestor.

TCL&P may require a deposit of 100% of the estimated processing fee before beginning to search for a public record if the following conditions exist:

- the final fee for a prior written request is not more than 105% of the estimated fee;
- the public records made available contained the information sought in the prior written request and remain in TCL&P’s possession;
- the public records were made available to the individual, subject to payment, within the time frame estimated by TCL&P to provide the records;
- 90 days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
- the individual is unable to show proof of prior payment to TCL&P; and
- the FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request’s increased estimated fee deposit;

The FOIA Coordinator shall not require an increased estimated fee deposit if any of the following apply:

- the person making the request is able to show proof of prior payment in full to TCL&P;

- TCL&P is subsequently paid in full for the applicable prior written request; or
- 365 days have passed since the person made the request for which full payment was not remitted to TCL&P.

A copy of a public record shall be furnished without charge for the first \$20.00 of the fee for such request if the individual requesting such information submits an affidavit demonstrating that the individual is receiving public assistance, or if not receiving public assistance, is unable to pay the cost because of indigence consistent with the provisions of FOIA.

**8. Appeals:**

A requesting person, in lieu of seeking a Court determination regarding a final determination of the FOIA Coordinator, may file a written appeal to the Executive Director. Pursuant to the FOIA, the Executive Director shall respond to the written appeal not more than 10 business days after receiving the written appeal. The Executive Director shall take one of the following actions in response to the filing of an appeal:

- A. Reverse the denial.
- B. Issue a written notice to the appellant affirming the denial.
- C. Reverse the denial in part and issue a written notice to the appellant affirming the denial in part.
- D. If necessary due to unusual circumstances, issue a notice extending for not more than 10 business days the period during which the Executive Director may respond to the appeal.

**9. Exemptions:**

The FOIA Coordinator is authorized to exempt from disclosure a public record pursuant to Section 13 of the FOIA, including records of information specifically described and exempted from disclosure by others statutes, including without limitation, Section 33a of the Michigan Energy Employment Act of 1976, subject to appeal to the Executive Director and the Executive Director is also authorized to so exempt a public record.

*Timothy J. Arends*

---

Timothy J. Arends  
Executive Director and Secretary  
Traverse City Light and Power Board