

MADISON SUBURBAN UTILITY DISTRICT

PUBLIC RECORDS ACCESS POLICY

Adopted: _____

BACKGROUND AND PURPOSE

Utilities in Tennessee must abide by the Public Records Act. Generally, this Act requires that most utility documents must be open for public inspection by any citizen of Tennessee.

The Tennessee Comptroller of the Treasury has established an "Office of Open Records Counsel". The Office of Open Records Counsel serves as the contact for concerns on access to local government public records under the Tennessee Public Records Act (Tenn. Code Ann. Sections 10-7-501 et seq.). The Office assists in obtaining public records from local government, both in guiding citizens to correct offices/officials and in working to resolve disputes regarding access to public records. The Office promotes education and awareness of the Tennessee public records and open meetings laws through direct outreach and through coordination with existing organizations. This effort is addressed both to citizens and to local governments.

All utilities should visit their web site located at:

<http://www.comptroller.tn.gov/openrecords/index.asp>

Many questions dealing with records can be answered by reading the FAQ section and most forms that you made need in dealing with request for records are available. Other contact information for the office is:

*Office of Open Records Counsel
505 Deaderick Street, Suite 1600
James K. Polk Building
Nashville, TN 37243-1402
Phone: (615)401-7891
Toll free phone: 1-866-831-3750
Fax: (615)741-1551
Email: open.records@cot.tn.gov*

Elisha Hodge, JD is the Open Records Counsel for the state.

All utilities should adopt a "Best Practices Guidelines" to follow when implementing this Policy.

POLICY STATEMENT

1...Procedures Regarding Access, Inspection, and Copying of Public Records:

(a) Consistent with the Public Records Act of the State of Tennessee, Madison Suburban Utility District (the District) shall provide full access and assistance in a timely and efficient manner to citizens of the State of Tennessee who request access to open public records. Upon request the requestor shall provide picture identification with a current address to verify Tennessee citizenship.

(b) Employees of the District shall protect the integrity and organization of public records with respect to the manner in which such records are inspected and copied. All requests for the inspection and copying of public records shall be directed to the District Manager who is the District's designated records custodian.

(c) To prevent excessive disruptions of the work, essential functions and duties of the employees of the District, persons requesting inspection may, but are not required to, complete the District's records request form. Persons requesting copying of public records shall complete a records request form to be furnished by the District. If a requestor chooses not to complete a records request form, or if a requestor requesting copying of public records refuses to complete a records request form, a District employee shall complete the form with the information provided by the requestor.

(d) The requestor shall describe the records with specificity so that the records may be located and made available for public inspection or duplication.

(e) When records are requested for inspection and/or copying, the District Manager shall make the records available as promptly as possible taking into account the number of requests, the amount of records requested, the accessibility and location of the records and the District personnel available to locate, retrieve, compile, review and redact and/or copy the records requested. If the District is not able to make the records available promptly, the District's Manager has seven (7) business days to do any of the following:

- (1) produce the records requested;
- (2) deny the request in writing and give an explanation for the denial; or,
- (3) furnish the requestor a complete records request response form developed by the office of open records counsel stating the time reasonably necessary to produce such record or information or a time when a determination regarding access to the records will be provided.

(f) If the public records requested are frail due to age or other conditions and copying of the records will cause damage to the original records, the requestor may be required to make an appointment for inspection.

(g) No charge will be assessed to a requestor for inspecting public records only.

2... Charges for Copies if Public Records

(a) The District will assess a charge of fifteen (15) cents per page per account requested for each standard 8 ½ x 11 or 8 ½ x 14 black and white copy produced. A duplex copy will be assessed the equivalent of the charge for two (2) copies.

(b) If a public record is maintained in color and the District has the capability of making color copies, the requestor shall be advised that the record can be produced in

color if the requestor is willing to pay a charge higher than that of a black and white copy. If the requestor then requests a color copy, the District may assess a charge of fifty (50) cents per page for each 8 ½ x 11 or 8 ½ x 14 color copy produced.

(c) When the District is legitimately unable to produce copies in its office because of the size or shape of the public record, the large volume of copies requested or for any other legitimate reason, the District will use an outside vendor to produce copies of the requested records, and the requestor shall pay the costs of the outside vendor to produce the requested records.

3... Additional Production Charges

(a) The District will use the most cost efficient method of producing the requested records.

(b) Delivery of copies of records to a requestor shall be by hand delivery when the requestor returns to the District's office to retrieve the requested records. If the requestor chooses not to return to the District's office to retrieve the copies, the District may deliver the copies through means of the United States Postal Service, and the cost incurred in delivering the copies will be assessed in addition to any other permitted charge. The District has the discretion to deliver copies of records through other means, including electronically, and to assess the costs related to such delivery.

(c) If the District is assessed a charge to retrieve requested records from archives or any other entity having possession of requested records, the District will assess the requestor the cost assessed to it for retrieval of the records.

4... Labor Charges

(a) **"Labor"** is defined as the time reasonably necessary to produce the requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the records.

(b) **"Labor threshold"** is defined as the labor of the employee or employees reasonably necessary to produce requested material for the first hour incurred by the District in producing the material.

(c) The District will charge the hourly wage of the employee or employees reasonably necessary to produce the requested records above the "labor threshold". The hourly wage is based upon the base salary of the employee or employees and does not include benefits. If an employee is not paid on an hourly basis, the hourly wage shall be determined by dividing the employee's annual salary by the required hours to be worked per year. For example, an employee who is expected to work a 37.5 hour work week and receives \$39,000 in salary on an annual basis will be deemed to be paid \$20 per hour.

(d) In calculating the charge for labor, the District shall determine the number of hours each employee spent producing a request. The District shall then subtract the one (1) hour threshold from the number of hours the highest paid employee spent producing the request. The District will then multiply the total number of hours to be charged for the labor of each employee by that employee's hourly wage. Finally, the District will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.

Example:

The hourly wage of Employee #1 is \$15.00. The hourly wage of Employee #2 is \$20.00. Employee #1 spends two (2) hours on a request. Employee #2 spends two (2) hours on the same request. Because employee #2 is the highest paid employee, subtract the one (1) hour threshold from the hours employee #2 spent producing the request. Multiply the number of hours each employee is able to charge for producing the request by that employee's hourly wage and then add the amounts together for the total amount of labor that can be charged (i.e. $(2 \times 15) + (1 \times 20) = \50.00). For this request, \$50.00 could be assessed for labor.

(e) For purposes of this policy, during each calendar month the District will aggregate the number of requests for copies made per requestor. When the total number of requests made by a requestor within a calendar month exceeds four (4), the District will begin to charge the requestor a fee for any and all labor that is reasonably necessary to produce the copies of the requested records after informing the requestor that the aggregation limit has been met. Request for items that are routinely released and readily accessible, such as agendas for current calendar month meetings and approved minutes from meetings held in the previous calendar month are exempt from this policy. Additionally, the District will aggregate the total number of public records requests made by a requestor and by any other individual, if the records custodian reasonably believes the requestor to be acting in concert with or as the agent of another person, entity or organization. When the District chooses to aggregate requests by multiple requestors, the District will inform the requestors of the determination to aggregate and that they have the right to appeal the decision to aggregate to the Office of Open Records Counsel. When aggregating the labor of multiple requestors, the District will file a Notice of Aggregation of Multiple Requestors with the Office of Open Records Counsel.

5... Estimate of Charges and Waiver of Charges

(a) The District will provide the requestor with an estimate of the copying charges, additional production costs and labor costs of locating, retrieving, reviewing, redacting and reproducing the requested records. When the estimate of the charges exceeds \$5.00, the District will require payment of the estimate before producing the copies.

(b) When the charges for copying charges, additional production costs and labor costs are \$5.00 or less, the records custodian may waive the payment of these charges.

Policy

ADOPTION DATE: _____

EFFECTIVE DATE: _____