

Sustainable Energy Utility, Inc.
Policies and Procedures Regarding FOIA Requests

Purpose

Title 29, Chapter 80, Subchapter II **The Energy Act**, Section 8059 **Sustainable Energy Utility** subsection (e) **Oversight Board**, 1(b) states "The SEU Oversight Board (SEU) shall be governed and subject to the Delaware Freedom of Information Act." The purpose of this policy is to set forth the rules and procedures for responding to requests from the public for Public Records under Title 29, Chapter 100 of the **Delaware Code**, the Freedom of Information Act (FOIA). To the extent any provision in this policy conflicts with any other law or regulation, such law or regulation shall control, and the conflicting provision herein is expressly superseded.

Definitions

The following words and terms, when used in this policy, shall have the following meaning unless the context clearly indicates otherwise:

"FOIA Request" or "Request" means a request to inspect or copy Public Records pursuant to Title 29, Section 10003 of the Delaware Code and in accordance with the policy hereunder.

"FOIA Request Form" means the form posted on the EnergizeDelaware.org website that is based on the form promulgated by the Office of the Attorney General (ATTACHED).

"Public Record" shall have the meaning set forth in 29 **Del.C.** §10002.

Records Request, Response Procedures and Access

All FOIA Requests shall be made in writing to the SEU in person, by email, by fax, or online. FOIA Requests may be submitted using the FOIA Request Form promulgated by the Office of the Attorney General but shall not be denied solely because the request is not on the proper form.

FOIA Requests may be mailed or delivered to The SEU Executive Director, 500 West Loockerman Street, Suite 400, Dover, DE 19904, by email to: Tony.DePrima@deseu.org or via online request form, which may be found on the SEU's home page at www.energizedelaware.org. The Executive Director shall coordinate the SEU's responses and keep a record of all FOIA requests.

All requests shall describe the records sought in sufficient detail to enable the SEU to locate such records. The Requesting Party shall be as specific as possible when requesting records. The SEU may request that the Requesting Party provide additional information to clarify the request.

If a Requesting Party initiates a FOIA Request that would more appropriately be directed to a state agency it shall be promptly forwarded to the relevant agency and promptly notify the Requesting Party that the request has been forwarded. The SEU shall provide the Requesting Party with the name and phone number of the FOIA Coordinator of the relevant agency.

SEU Response to Requests

The SEU shall respond to a FOIA Request as soon as possible, but in any event within fifteen (15) business days after the receipt, either by providing access to the requested records; denying access to the records or parts of them; or by advising that additional time is needed because the request is for voluminous records, requires legal advice, or a record is in storage or archived. If access cannot be provided within fifteen (15) business days, the SEU shall give reasons why more time is needed and provide a good-faith estimate of how much additional time is required to fulfill the request. If the SEU denies a request in whole or in part, the SEU's response shall indicate the reasons for the denial.

If all or any portion of a FOIA Request seeks records controlled by the SEU but that are either not within its possession or cannot otherwise be fulfilled by the SEU with reasonable effort from records it possesses (collectively, the "Non-Custodial Records"), then the SEU shall promptly request that the relevant public body provide the Non-Custodial Records to the SEU. Before requesting any Non-Custodial Records, the SEU shall provide a written cost estimate to the Requesting Party, listing all charges expected to be incurred in retrieving such records. Upon receipt of the estimate, the Requesting Party may decide whether to proceed with, cancel or modify the request. The SEU shall provide reasonable

access for reviewing Public Records during regular business hours. Appointments for viewing must be made in advance. Under no circumstances will original records be allowed to leave the SEU offices.

Prior to disclosure, records shall be reviewed by the SEU to ensure that those records or portions of records deemed non-public may be removed pursuant to in 29 Del. C. §10002 or any other applicable provision of law. In reviewing the records, all documents shall be considered Public Records unless subject to one of the exceptions set forth in 29 Del. C. §10002 or any other applicable provision of law.

Fees

The SEU shall provide a written cost estimate of fees to the Requesting Party, listing all charges expected to be incurred in retrieving such records. Upon receipt of the estimate, the Requesting Party may decide whether to proceed with, cancel or modify the request. Payment of all fees shall be due no later than the time the records are released to the Requesting Party. The SEU may require pre-payment of all fees prior to performing any services hereunder

(1) Photocopying fees. – In instances in which paper records are provided to the requesting party, photocopying fees shall be as follows:

Standard sized, black and white copies: -- The first 20 pages of standard sized, black and white copied material shall be provided free of charge. The charge for copying standard sized, black and white public records for copies over and above 20 shall be \$0.10 per sheet (\$0.20 for a double-sided sheet). This charge applies to copies on the following standard paper sizes: 8.5" x 11"; 8.5" x 14", and 11" x 17".

Oversized copies/printouts: -- The charge for copying oversized public records shall be as follows: 18" x 22", \$2.00 per sheet; 24" x 36", \$3.00 per sheet; documents larger than 24" x 36", \$1.00 per square foot.

Color copies/printouts: -- An additional charge of \$1.00 per sheet will be assessed for all color copies or printouts for standard-sized copies (8.5" x 11", 8.5" x 14", and 11" x 17") and \$1.50 per sheet for larger copies.

Administrative fees shall be levied for requests requiring more than one hour of staff time to process. These charges will be billed at the current hourly pay grade (pro-rated for quarter hour increments) of the lowest-paid employee capable of performing the service. Administrative fees shall not include any cost associated with the SEU's legal review of whether any portion of the requested records is exempt from FOIA. The SEU shall make every effort to ensure that administrative fees are minimized, and may only assess such charges as shall be reasonably required to process FOIA requests. In connection therewith, the SEU shall minimize the use of nonadministrative personnel in processing FOIA requests, to the extent possible.

Charges for copying records maintained in an electronic format will be calculated by the material costs involved in generating the copies (including but not limited to DVD, CD, or other electronic storage costs) and administrative costs.

Requests for Confidentiality

A person may request that certain records or portions of records submitted to SEU be held confidential. Certain information may be determined confidential if its disclosure could potentially cause substantial competitive harm to the person or business from whom the information was obtained. In order for SEU to make a determination that information submitted is of a confidential nature, and therefore to be afforded confidential status, a request must be made in writing to the Executive Director at the time the record is submitted. The request shall provide substantiation for the allegation that the information should be treated as confidential. The Executive Director will make a final determination as to whether the information shall be considered public or confidential. The person making the confidentiality request will be notified in writing of the Executive Director's determination.

Adopted: November 15, 2012

Updated: October 26, 2017 – updated SEU mailing address.

REQUEST FOR PUBLIC RECORDS

PURSUANT TO THE DELAWARE FREEDOM OF INFORMATION ACT

Title 29 Delaware Code Chapter 100

TO (name of public body):

YOUR NAME:

DATE OF REQUEST:

MAILING ADDRESS:

TELEPHONE NUMBER:

EMAIL:

RECORDS REQUESTED: (Be as specific as possible, describing types of records, dates, parties to correspondence, subject matter, etc. the public body will make every reasonable effort to assist you in identifying the record/s being sought. Requests for voluminous records may be delayed.)

There may be costs involved in responding to your request. PLEASE CONTACT ME IF COSTS WILL BE GREATER THAN \$
Within 15 business days from receipt of your request the public body must either provide you with access to the records, deny your request, or state the additional time is needed.

SUBMIT THIS FORM VIA:

Email – Lisa.Gardner@deseu.org

Mail or Hand Deliver – Delaware Sustainable Energy Utility, 500 W. Loockerman Street, Suite 400, Dover, DE 19904

Fax – 302-736-9717