

# MICHIGAN SOUTH CENTRAL POWER AGENCY

## WRITTEN PUBLIC SUMMARY OF FOIA PROCEDURES AND GUIDELINES

Consistent with the requirements of the Michigan Freedom of Information Act, Act 442, Public Acts of Michigan, 1976, as amended (“FOIA”), the following is the Written Public Summary of the Michigan South Central Power Agency (MSCPA) FOIA Procedures and Guidelines. This document is meant to provide a summary of the FOIA procedures, but all persons submitting a request for public records are encouraged to review the full Procedures and Guidelines. If you have any questions about submitting a request or the FOIA process, please contact Robert Russell, the FOIA Coordinator at russellr@mscpa.net.

### 1. How do I submit a FOIA request to the Michigan South Central Power Agency (MSCPA)?

- a. Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the MSCPA must be submitted in writing.
- b. A request must sufficiently describe a public record so as to enable the MSCPA to find it.
- c. No specific form to submit a written request is required.
- d. Written requests can be made by delivery to the MSCPA office in person or by mail, and should be addressed to the attention of the FOIA Coordinator.
- e. Requests can also be made by facsimile to (517) 279-6969.
- f. A request may also be submitted by e-mail to russellr@mscpa.net. To ensure a prompt response, e-mail requests should contain the term "FOIA" or "FOIA Request" in the subject line.

*Note: If you are serving a sentence of imprisonment in a local, state or federal correctional facility you are not entitled to submit a request for a public record.*

### 2. When and how will MSCPA respond to my request?

- a. Within 5 business days of receipt of a FOIA request the MSCPA will issue a response. If a request is received by facsimile or e-mail the request is deemed to have been received on the following business day.
- b. If the request is emailed and goes to the spam or junk mail folder, it will not be considered “received” until 1 day after the MSCPA becomes aware of the request.
- c. The MSCPA will respond to your request in one of the following ways:
  - i. Grant the request- This means the MSCPA will make the requested public records available for inspection or will provide copies of the requested public records.
  - ii. Issue a written notice denying the request- This notice will contain an explanation as to why the MSCPA has denied the request. A request will be denied if the information requested is exempt from disclosure under FOIA or another statute, or if the requested public record does not exist.
  - iii. Grant the request in part and issue a written notice denying in part the request- If some of the requested public record is exempt from disclosure, the MSCPA will make the non-exempt portions of the public record available for inspection or will provide copies.
  - iv. Issue a notice indicating that due to the nature of the request the MSCPA needs an additional 10 business days to respond. The MSCPA may issue one 10-day extension.
  - v. Issue a written notice indicating that the public record requested is available at no charge on the MSCPA’s website. If the requested public records are posted on the

MSCPA's website, the MSCPA will provide with reasonable specificity the location of these public records.

- d. If the request is granted, or granted in part, the MSCPA will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available. If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the MSCPA will require a deposit before processing the request.

**3. What are the MSCPA's deposit requirements?**

- a. If the MSCPA has made a good faith calculation that the total fee for processing the request exceeds \$50.00, the MSCPA will require that you provide a deposit in the amount of 50% of the total estimated fee. When the MSCPA requests the deposit it will provide you a non-binding best efforts estimate of how long it will take to complete your request following receipt by the MSCPA of your deposit.
- b. If you have not paid the MSCPA for copies of public records made in fulfillment of a previously granted written request, the MSCPA will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request when certain conditions exist.

**4. How does the MSCPA calculate the fee for completing a FOIA request?**

- a. There are six (6) fee components the MSCPA will charge for, and which are provided in more detail in the Procedures and Guidelines and the Fee Itemization Form:
  - i. Labor costs for searching for, locating, and examining public records;
    - 1. Cost will be charged in 15 minute increments with all partial time rounded down.
    - 2. Cost will be the hourly wage of the lowest-paid employee capable of performing the tasks, regardless of who actually performs the task, and will also include a charge to cover or partially cover the cost of fringe benefits.
  - ii. Labor costs for redacting public records;
    - 1. Cost will be charged in 15 minute increments with all partial time rounded down.
    - 2. Cost will be the hourly wage of the lowest-paid employee capable of performing the tasks, regardless of who actually performs the task, and will also include a charge to cover or partially cover the cost of fringe benefits.
    - 3. If the FOIA Coordinator determines there is no employee capable of redacting the exempt information, the FOIA Coordinator may contract for the labor and treat the contracted labor costs in the same manner as employee labor costs, but the hourly rate charged may not exceed six times the State's minimum hourly wage rate.

- iii. Copies provided on non-paper physical media;
  - 1. The fee charged will be the actual and most reasonably economical cost of the non-paper physical media, such as computer discs, computer tapes, or other digital or similar media.
- iv. Copies provided on paper;
  - 1. The MSCPA will charge \$0.10 per sheet of paper for copies made on 8 ½ by 11-inch or 8 ½ by 14-inch paper.
  - 2. The fee for all other sized paper will be the actual and total incremental cost.
- v. Labor costs for duplication or publication of the public records;
  - 1. Cost will be charged in 1 minute increments with all partial time rounded down.
  - 2. Cost will be the hourly wage of the lowest-paid employee capable of performing the tasks, regardless of who actually performs the task, and will also include a charge to cover or partially cover the cost of fringe benefits.
- vi. Mailing the public records.
  - 1. The fee charged shall be the actual cost of mailing the public records in a reasonably economical and justifiable manner.
  - 2. The MSCPA may charge for the least expensive form of postal delivery confirmation.
- b. The portion of the labor costs related to searching for, locating and examining a public record, and deleting and separating exempt from non-exempt information will only be charged if the cost to the MSCPA is unreasonably high. The MSCPA will determine whether completing a FOIA request results in an unreasonably high cost on a case-by-case basis, based on the nature of the particular request.

**5. How do I challenge the denial of a public record?**

- a. If your FOIA request was denied in whole or in part and you believe this denial was improper, you may file an appeal with the General Manager. The appeal must be in writing, must specifically include the word “appeal” and must identify the reason or reasons you believe the denial was improper.
- b. Within 10 business days of receiving the appeal, the General Manager will respond in writing to do one of the following:
  - i. Reverse the denial;
  - ii. Issue a written notice upholding the denial;
  - iii. Reverse the denial in part and issue a written notice to uphold the denial in part; or
  - iv. Issue a notice extending the response period for up to 10 business days.
- c. Within 180 days after receiving a final determination from the General Manager or the MSCPA has failed to respond, you may commence a civil action.

**6. How do I challenge an excessive fee?**

- a. If you are charged a fee that you believe exceeds the amount permitted under FOIA and the Procedures and Guidelines, you may submit a written appeal for a fee reduction to the General Manager. This written appeal must include the word “appeal” and identify how the fee exceeds the amount permitted. The MSCPA will respond within 10 business days of receiving the appeal and shall do one of the following:
  - i. Waive the fee;
  - ii. Reduce the fee and issue a written determination of the specific basis supporting the remaining fee, with a certification from the General Manager that the

- statements are accurate and the fee amount complies with the Procedures and Guidelines and FOIA;
- iii. Uphold the fee and issue a written determination indicating the specific basis supporting the fee, with a certification from the General Manager that the statements are accurate and the fee amount complies with the Procedures and Guidelines and FOIA; or
  - iv. Issue notice extending the response period for up to 10 business days and detailing why the extension is necessary.
- b. Within 45 days after a determination of an appeal to the General Manager is received or the MSCPA has failed to respond, you may commence a civil action.

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