

GUIDELINES FOR ACCESS TO INFORMATION BY BENEFICIARIES OF ELECTRICITY COMMUNITY AND CUSTOMER TRUSTS

1. Definitions

1.1 “Document” means a document in any form, and includes:

- (a) Any writing on any material;
- (b) Any information recorded or stored by means of any tape-recorder, computer, or other device, and any material subsequently derived from information so recorded or stored;
- (c) Any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means;
- (d) Any book, map, plan, graph, or drawing;
- (e) Any photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being produced.

1.2 “Trust” means either a “community trust” and/or “customer trust” as those terms are defined in the Electricity Act 1992.

2. Purpose

2.1 The purpose of these Guidelines is to:

- (a) Promote the accountability of Trusts to their beneficiaries;
- (b) Provide a process for dealing with requests for access to information by beneficiaries;

3. Status

3.1 The trustees of a Trust are at all times obliged to comply with their obligations under the relevant trust deed, the Trustee Act 1956, the Electricity Act 1992, the common law and any other applicable rule of law.

3.2 These Guidelines are subject to the obligations of the trustees described in paragraph 3.1.

4. Commencement Date

4.1 These Guidelines shall apply to any Trust from the date on which they are formally adopted and/or approved by that Trust.

5. Meetings of Beneficiaries

5.1 Pursuant to section 158C of the Electricity Act 1992 the Trust is obliged to hold an annual meeting of beneficiaries at which time:

- (a) The beneficiaries will appoint an auditor to hold office from the conclusion of that meeting until the conclusion of the next annual meeting of beneficiaries; and
- (b) The beneficiaries will be allowed a reasonable opportunity to question, discuss or comment upon the management of the Trust.

6. Disclosure of Information

6.1 The Trust is obliged to make available to beneficiaries upon request:

- (a) The trust deed which governs the Trust;
- (b) Financial statements of the Trust, which may include a statement of assets and liabilities and a statement of income and expenditure;
- (c) The Trust's annual report;
- (d) Minutes of annual meetings;
- (e) These Guidelines.

6.2 Beneficiaries may request disclosure of information other than that referred to in clause 6.1.

6.3 Any information requested under clause 6.2 may be withheld by the Trust in the following circumstances:

- (a) To protect the privacy of a natural person, including that of deceased natural persons; or
- (b) Where the making available of the information would or would be likely to prejudice the commercial position of the person who supplied or is the subject of the information; or
- (c) Where the disclosure of the information would or would be likely to prejudice the commercial position of any other person, whether or not that person supplied the information to the Trust; or
- (d) To protect information which is otherwise subject to an obligation of confidence;
- (e) Where the information is required to be withheld in order to enable the Trust, or any entity in which the Trust has any form of investment, to carry out, without prejudice or disadvantage, commercial activities or negotiations; or
- (f) Where the disclosure of the information would or would be likely to prejudice the commercial position of the Trust or any entity in which the Trust has any form of investment; or
- (g) To prevent the disclosure or use of the information for improper gain or improper advantage; or
- (h) To maintain legal professional privilege including litigation privilege; or

- (i) To protect information relating to the exercise by the trustees of any discretionary power, subject to any contrary principle of law; or
 - (j) Where the request for information is frivolous or vexatious.
- 6.4 Where a request under these Guidelines relates to information described in clause 6.2 the Trust, if it is satisfied that the interests protected by that information would be likely to be prejudiced by the disclosure of the existence or non-existence of such information, may give notice in writing to the beneficiary that it neither confirms nor denies the existence or non-existence of that information.

7. **Procedures**

- 7.1 A beneficiary may request disclosure of information orally or in writing. The Trust may require a beneficiary to put any oral request for information in writing.
- 7.2 Before the Trust is required to respond to the request the beneficiary must provide evidence to demonstrate to the Trust's satisfaction that person's status as a beneficiary of the Trust.
- 7.3 Once the Trust is satisfied of the beneficiary's status it shall as soon as is practicable, and no longer than 15 working days after receipt of the request for information, decide whether the request is to be granted.
- 7.4 The request for information shall be dealt with in the following manner:
- (a) If the Trust agrees to disclose the whole or any part of the information requested then, where the information is comprised in a document, that information may be made available for inspection at every office of the Trust or at any other place advised by the Trust, or by providing to the beneficiary a copy of the document. If the information requested is comprised in a document and there is a good reason for withholding other information contained in that document, the information in that document may be made available with such deletions or alterations as are necessary.
 - (b) Subject to paragraph 6.4 above, if the request is declined in whole or in part the Trust will provide the beneficiary the reasons for the refusal.
- 7.5 The Trust shall inform the beneficiary in writing of his or her right to seek a review of the refusal by the Trust to provide any information requested. The Trust shall also inform the beneficiary that if the beneficiary wishes for a Reviewer to be appointed then the beneficiary must advise the Trust in writing.

8. **Reviewer**

- 8.1 The decisions of the Trust under clause 7 above shall be subject to review pursuant to these Guidelines by a Reviewer appointed by either the President of the District Law Society within which the Trust is situated, or by the President of the New Zealand Law Society.
- 8.2 Upon receipt of written notice from the beneficiary requesting the appointment of a Reviewer the Trust shall initiate the appointment process in paragraph 8.1.

8.3 The Trust shall notify the beneficiary of the identity and contact details of the Reviewer once appointed.

9. **Review Process**

9.1 The Reviewer shall conduct and conclude the investigation with due expedition and no later than 60 working days after receipt of the complaint. Within that time the Reviewer shall give the beneficiary and the Trust the opportunity to provide written submissions.

9.2 At the conclusion of the investigation the Reviewer shall issue a written opinion concerning the complaint. In the written opinion the Reviewer may, among other things:

- (a) Recommend to the Trust that the whole or any part of the information requested by the beneficiary be provided to the beneficiary;
- (b) Uphold the Trust's decision not to disclose the information on the grounds advanced by the Trust or other grounds identified by the Reviewer consistent with the provisions of these Guidelines;
- (c) Without limiting the above, the Reviewer may decide to recommend that the information not be disclosed to the beneficiary if the Reviewer considers that:
 - (i) The length of time that has elapsed between the date when the complaint arose and the date when the complaint was made in such that actions or recommendations in respect of the complaint are no longer practicable or desirable; or
 - (ii) The subject matter of the complaint is trivial; or
 - (iii) The complaint is frivolous or vexatious or is not made in good faith.

9.3 The Trust shall not be required to carry out any recommendations made by the Reviewer pursuant to paragraph 9.2(a).

9.4 The reviewer shall be entitled to charge the Trust the reasonable costs incurred in respect of the investigation and the opinion.

10. **Monitoring of Compliance with Guidelines**

10.1 The Trust in its annual report shall report on the operation of the Guidelines during the financial year including:

- (a) The number of requests for information received;
- (b) The costs incurred to process those requests;
- (c) The number of Trust decisions which were subject to review;
- (d) A summary of the outcome of those reviews; and
- (e) The costs incurred in respect of those reviews.

10.2 The Trust acknowledges that the auditor appointed by the beneficiaries at the annual meeting shall audit the Trust's records in relation to the information disclosed in the annual report concerning the operation of the Guidelines. The Trust shall advise the auditor that this requirement is to form part of the auditor's duties.

10.3 The Trust acknowledges that the Minister of Energy may require disclosure of the outcome of any audit .

11. **Review of Guidelines**

11.1 These Guidelines shall be reviewed annually by each Trust in advance of the annual meeting of beneficiaries. Each Trust shall in the annual report presented at the annual meeting of beneficiaries comment upon the outcome of that review.

12. **Energy Trusts of New Zealand Inc**

12.1 The Energy Trusts of New Zealand Inc shall:

- (a) Consult with Trusts in respect of the content of these Guidelines
- (b) Encourage all Trusts to adopt these Guidelines;
- (c) May, in its discretion, make recommendations to any Trust concerning the review of the Guidelines.

13. **Publicity**

13.1 Upon adoption and approval of these Guidelines by a Trust, that Trust shall publicise the adoption of these Guidelines in a suitable manner to inform the beneficiaries of such adoption, and of how they can obtain or inspect a copy of these Guidelines.