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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Claire Bessette and the New London Day
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0814

Chairman, Board of Directors, Connecticut Municipal
Electric Energy Cooperative; and Board of Directors,
Connecticut Municipal Electric Energy Cooperative
Respondent(s)

August 18, 2017

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2:00 p.m. on Wednesday, September 13, 2017**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE August 30, 2017**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE August 30, 2017**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE August 30, 2017** and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

Wendy R. B. Paradis
Acting Clerk of the Commission

Notice to: Claire Bessette and the New London Day
Attorney Robin Kipnis

FIC# 2016-0814/ITRA/VRP//KKR/WRBP/2017-08-18

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Claire Bessette and the
New London Day,

Complainants

against

Docket #FIC 2016-0814

Chairman, Board of Directors,
Connecticut Municipal Electric
Energy Cooperative; and
Board of Directors, Connecticut
Municipal Electrical Energy
Cooperative

Respondents

August 18, 2017

The above-captioned matter was heard as a contested case on February 14, 2017, at which time the complainants and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The hearing was continued to March 23, 2017 to permit the parties additional time to resolve the complaint. On March 22, 2017, the complainant reported to the Commission that only three issues remained unresolved, and requested a continuance of the hearing, which was granted. The continued hearing was then opened on April 24, 2016, at which time the complainant appeared and presented testimony and argument, but the respondent did not appear.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. By letter of complaint filed November 17, 2016, the complainants appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide copies of public records.
3. It is found that the complainants made an October 26, 2016 request to the respondents for:

(a) the “invitee list” regarding “the Kentucky Derby trip;”

- (b) a copy of the 2015 audit of the respondents' budget, "including the Margin fund and all special project funds," which the complainant requested to be provided electronically;
- (c) "an itemized list of expenses covered in the operating budget line item titled "Board/Agency Expenses (M&G)" for 2015 actual and 2016 as budgeted;"
- (d) "a specific explanation as to why nearly all of the line items in what appears to be the Revenues section are blacked out, including the title at the top of the section. Under what FOI law exemption are you claiming to justify the blacked out portions. Also, the entire bottom half of the Margin page is blacked out. Please explain what is in that section and under what specific FOI exemptions are you claiming to justify the blacked out portions.
- (e) "the distribution of Margin revenues to the member utilities for 2015 and 2016 to date;" and
- (f) "itemized expenses for the 'Delegation Related Expenses' line item in the Margin sheet for 2015 and 2016.

4. At the continued hearing, the complainants represented that the requests described in paragraph 4, above had been satisfied, and that the only remaining unresolved issue was a later request for the respondents' 2017 approved budget.

5. It is found that the complainant, at the respondents' November 17, 2016 meeting, made a request for a copy of their annual budget, which was approved at that meeting.

6. It is found that the complainant's November 17, 2016 request was denied after she immediately reduced it to writing at the request of the respondents.

7. The respondents presented no evidence to prove that their approved annual budget is exempt from disclosure.

8. Section 1-200(5), G.S., provides:

"Public records or files" means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

9. Section 1-210(a), G.S., provides in relevant part:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

10. Section 1-212(a), G.S., provides in relevant part that “[a] person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

11. It is concluded that the requested approved annual budget is a public record within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

12. It is concluded that the respondents violated the FOI Act by failing to provide the complainants with a copy of the budget approved at their November 17, 2016 meeting.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. If they have not already done so, the respondents shall forthwith provide the complainant a copy of the budget approved at their November 17, 2016 meeting, free of charge.



Victor R. Perpetua
As Hearing Officer