

## RESOLUTION NO. 2624

December 27, 2022

### AMENDING THE RESOLUTION PROVIDING FOR BENTON PUD'S ORGANIZATIONAL STATEMENT AND ESTABLISHING RULES FOR INSPECTION AND COPYING OF PUBLIC RECORDS

BE IT HEREBY RESOLVED By the Commission of Public Utility District No. 1 of Benton County that the following be adopted:

#### 1.0 ORGANIZATIONAL STATEMENT

The Public Utility District No. 1 of Benton County ("Benton PUD") is engaged in the transmission and distribution of electric energy throughout Benton County. Benton PUD is further engaged in the construction, development, operation, and maintenance of wholesale telecommunications service. Field crews are maintained out of two offices located in Kennewick and Prosser, Washington. Benton PUD's main administration office is located at 2721 West 10<sup>th</sup> Avenue, Kennewick, Washington. A branch office of Benton PUD is located at 250 North Gap Road, Prosser, Washington.

Benton PUD is a municipal corporation organized under the laws of the State of Washington, Title 54 RCW. The powers of Benton PUD are exercised through a Commission, consisting of three elected Commissioners. Each Commissioner serves for a six-year term, with a Commissioner position on the electoral ballot every two years in even numbered years.

The Commission establishes policy of Benton PUD and appoints a General Manager who is charged with the responsibility of operating the District within established policy. The Commission meets regularly twice a month, and rules of procedure are established by resolution or motion at these meetings. The Benton PUD Commission's regularly scheduled meetings are held on the second and fourth Tuesday of each month at 9:00 a.m. at the Kennewick Administration Office. These meetings are open to the public.

All proceedings of the Commission are by motion or resolution and are recorded in its Minute Books. The Minute Books are the official record of the Commission wherein the following items may be found: final opinions of the Commission, statements of policy, administrative staff instructions, and planning policies and goals, including long-range system plans, reports, and studies, all of which are retained in Benton PUD's files in accordance with the laws of the State of Washington.

The customary office hours for the Kennewick and Prosser Administration Offices are 7:30 a.m. to 5:30 p.m. Monday through Thursday. The General Manager will, from time to time, establish and maintain an organizational chart which shall be available to the public.

## **2.0 PUBLIC RECORDS INDEXES**

All policies adopted by the Commission will be maintained by Index and that Index will be available to the public.

The Commission, by separate policy, has determined that keeping a centralized public records index is unduly burdensome due to multiple departments keeping electronic databases and recordkeeping systems for indexing and information. The Commission supports open government and public transparency, and will make available to the public during normal business hours general indexes of departmental records.

## **3.0 PUBLIC RECORDS RETENTION REQUIREMENTS**

The District is not required to retain all public records that it uses or creates for an indefinite period of time. RCW 40.14, the Preservation and Destruction of Public Records, defines local agency requirements for managing, storing, retaining, and ultimately destroying public records. The District manages its public records in accordance with the State's retention requirements and through District records retention schedules.

## **4.0 PUBLIC RECORDS FEE SCHEDULE STATEMENT**

The District is not calculating actual costs for copying its records because to do so would be unduly burdensome for the following reasons: The District does not have the resources to conduct a complete study to determine actual copying costs for all of its records; to conduct such a study would interfere with other essential agency functions, and through the legislative process, the public and requestors have commented on and been informed of authorized fees and costs provided in the Public Records Act, including RCW 42.56.120 and other laws. Therefore, in order to timely implement a fee schedule consistent with the Public Records Act, it is more cost efficient, expedient and in the public interest for Benton PUD to adopt the State Legislature's approved fees and costs for most of the District's records, as authorized in RCW 42.56.120, and as published in the District's fee schedule included with this policy.

Benton PUD therefore adopts Attachment A as the District's Public Records Fee Schedule for copy costs pursuant to the authority found in RCW 42.56.120(2)(b).

## **5.0 PUBLIC RECORDS REQUESTS**

The Commission of Benton PUD recognizes that full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to sound governance and, to the extent allowed by law, that full access to public

records is necessary to provide continuing public confidence and to assure that public interest will be fully protected.

Public records retained by Benton PUD are considered valuable administrative and/or historical documents. Benton PUD will maintain its public records in a reasonably organized manner and will take reasonable actions to protect records from damage and disorganization. Review of and requests for public records will be allowed during normal business hours, while preventing excessive interference with other essential functions of the District.

**5a. Public Records Officer:** The established place where public records are available is the District's main office in Kennewick, Washington. The General Manager shall designate a Public Records Officer, knowledgeable and trained on the requirements of the Washington Public Records Act, whose responsibility it will be to serve as a point of contact for members of the public requesting public records, and whose responsibility it will be to oversee Benton PUD's compliance with the Washington Public Records Act.

The Public Records Officer, or designee, will review and schedule all inspections and/or requests for identifiable public records to ensure compliance with public records laws and to ensure the least disruption possible to the operations of the District during such inspection/copying. Copies of public records will not be furnished, nor inspection allowed when and to the extent that it would unreasonably disrupt the operations of Benton PUD.

**5b. Requesting Public Records:**

- 1) A variety of records are available on the Benton PUD website at [www.bentonpud.org](http://www.bentonpud.org). Requestors are encouraged to view the documents available on the website prior to submitting a records request.
- 2) Public records may be inspected and/or copies obtained upon compliance with this policy. Benton PUD shall respond promptly to requests for inspection and copying of its public records and shall not make any distinctions in releasing or not releasing records based on the identity of the person or agency requesting the public records, absent statutory provisions, or other law to the contrary.
- 3) A public records request must be for identifiable records. A request for all (or substantially all) records not relating to a specific topic is not considered a public records request, and the request will be denied.
- 4) Automatically generated or "bot" requests may be denied. A "bot" request consists of multiple requests from a requestor within a 24-hour period that the District reasonably believes is being automatically generated by a computer program or script. This type of request may impact other daily functions of the District and cause excessive interference with the normal business of the utility.

5) Requests for public records must be submitted to the Public Records Officer, in writing, and should be reasonably identifiable as a request for public records. The following methods shall be used to submit a public records request:

- a. Via an on-line form on the District's web site.
- b. Via a paper form, downloadable from the District's web site, and also available at both the Kennewick and Prosser offices.
- c. Via e-mail or U.S. mail to "Records" Benton PUD, 2721 West 10<sup>th</sup> Avenue, Kennewick, Washington 99336.

Requests should identify to the best of the requestor's ability, what record is being requested or a description of the subject record to assist staff in identifying responsive records. Contact information, including a telephone number and address, should be submitted to allow for any communication needed to clarify and/or complete the request.

Requestors should contact the District's Public Records Officer after five (5) days if no response is received to ensure the request was received by the District.

6) If a request is complex and/or unclear, or if the request is for a list of individuals, the requestor may be asked to utilize the District's public records request form.

7) Upon receipt of a public records request, the District shall respond to the requestor within five business days using one or more of the following responses:

a. Provide the records. This may include informing the requestor that the records are available for inspection and/or copying, or the requestor may be provided the District's internet address and link to the record(s) requested in the event they have internet access.

b. Acknowledge receipt of the request and provide the requestor with a reasonable estimate of time when the records will be available. Staff may need to clarify all or a portion of the request. To the greatest extent possible, a reasonable estimate of time to produce the requested records will be provided to the requestor; however, that time estimate may be changed upon clarification. If the entire request is unclear and the requester fails to respond by clarifying the request, the District will not continue with the public records request and the requestor will be notified. If a portion of the request is clear, that portion will be processed.

c. Deny the request. The request can only be denied if it is not an actual request for public records, a record does not exist, or if the record in its entirety is legally exempt from disclosure. Any exemptions from disclosure will be clearly identified to the requestor.

In the event the records requested contain information that may affect the privacy rights of individuals, or other information that may be exempt from public disclosure, the District may provide notice to the affected individual(s) prior to releasing the records. This notice allows the potentially affected third party to ask for relief through a court order to prevent or limit disclosure. This third-party notice will identify the name of the requestor (if known) and the public records being requested.

Upon receipt of a public records request, any responsive records scheduled for destruction in accordance with the District's records retention schedules will be maintained and not destroyed until conclusion of the public records request.

**5c. Rules for Inspection and Copying of Public Records:** The District will provide the utmost cooperation to the public in responding to requests for public records, and ensure records are provided in an expedient and efficient manner. The Public Records Officer, or designee, will oversee public review of any public records in order to ensure the integrity and security of the District's records.

- 1) Public records shall be made available for inspection and/or copying during the customary office hours of the District.
- 2) The District will not be required to fabricate, construct, reconstruct or manufacture records that do not already exist.
- 3) Public records will normally be provided in their existing format. For electronic records, consideration for disclosure in an alternate electronic format shall be contingent upon the reasonableness of the request and the technical feasibility to accomplish the request.
- 4) Because an electronic record is usually more susceptible to manipulation and alteration than a paper record, the District will keep, when feasible, an electronic copy of the electronic records it provides to a requestor to be able to show the exact records it has provided, if necessary.
- 5) At the District's discretion and with the requestor's consent as to any charges incurred, the District may provide customized access to data if an electronic record is not easily locatable or not reasonably translatable. The District may charge a fee for such customized access and may require a 10% deposit. An estimate of the customizable charge will be provided prior to the customized work being accomplished in order to give the requestor the opportunity to modify their request.
- 6) Copying public records may be referred to outside copying facilities, at the discretion of the District, to ensure timely production of records. All actual costs will be charged for copying jobs sent to outside resources for processing.
- 7) A deposit in an amount not-to-exceed 10% of the estimated cost of providing copies may be assessed.
- 8) Complex requests (defined as requests that may require extensive research, require third party notification and/or exemption review) or requests anticipated to produce a large amount of records, may be provided in installments to expedite fulfilling the request. If a request is fulfilled on a partial or installment basis, the requestor will be required to review the installment and/or provide for payment of each installment within 30 days of notification of availability or the remainder of the request will not be fulfilled. A 10% deposit of the estimated charges may be imposed prior to fulfilling the request in full or in installments.

9) If a requestor has an outstanding balance on a records request, and additional records requests are submitted, the requestor will be required to provide payment on the outstanding balance prior to additional records requests being processed.

**5d. Charges and Fee Schedule:** Inspection of public records, including the assembling and gathering of public records for review, is provided free of charge.

Fees for copying public records are found in Attachment A to this policy. The Public Records Officer, or designee, has the discretion to waive copying charges for entities doing business with the District. No charge will be incurred for copying public records if the total amount does not exceed \$5.00. All charges over \$5.00 will include the total amount, including the first \$5.00.

Requestors will be notified in advance of potential charges and will be given the opportunity to revise their request due to cost impacts. All charges for copying public records will be payable in advance of providing the records.

**5e. Statutory Exemptions – Commercial Purposes:** The District will not provide or sell public records for private gain or commercial purposes. A requestor will not be asked to disclose the purpose of the request with two exceptions:

a) If the request is for a list of individuals, the requestor will be required to fill out an affidavit relating to commercial purpose usage. Records will not be produced until an affidavit is provided to the District if it is determined that a commercial purpose may exist. The District, by law, is not allowed to disclose public records lists for individuals when the intent is to use the information for commercial purposes.

b) A requestor may be asked the purpose of the request only if such information will sufficiently allow a determination if another statute prohibits disclosure.

**5f. Statutory Exemptions – General:** The Washington Public Records Act specifically identifies types of records that may be exempt or partially exempt from public disclosure.

To the extent required to prevent disclosure of statutorily protected information, or to protect information within a document that partially meets an exemption under federal or state law, such exempt information shall be deleted in a manner consistent with legal requirements prior to being made available under a public records request. In each case, the justification for the deletion shall be explained fully to the requestor in writing.

Below is a list of those exemptions identified as most applicable to Benton PUD records. This list may change from time to time. The District's failure to list an exemption shall not affect the efficacy of the exemption. The District reserves the right to determine whether any other

requested public record, or portion thereof, is exempt from inspection under state or federal law:

- Attorney-Client privilege documents.
- Local Government Whistleblower Protection documents.
- Self-Insurance Program reserves document.
- The content of real estate appraisals obtained by Benton PUD until the prospective sale is abandoned or until such property has been acquired.
- Valuable formula, designs, drawings, and research data obtained by the District within five (5) years of the request for disclosure when disclosure would produce private gain and public loss.
- Preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies are formulated or recommended.
- Employee records protected by the Health Insurance Portability and Accountability Act.
- Personal information contained in personnel files to the extent that disclosure could violate an employee's right to privacy.
- Test questions, scoring keys and other examination data used to administer pre-employment examinations.
- Applications for public employment, including names of applicants, resumes and related materials submitted with respect to an applicant.
- Employee residential addresses, residential telephone numbers, personal e-mail addresses, and personal cell phone numbers.
- Customer residential addresses, residential telephone numbers, electronic contact information, and other related contact and personal account and bank information.
- Individual residential customer usage information in increments less than monthly usage.

**5g. Statutory Exemptions – Law Enforcement:** In accordance with the Washington Public Records Act, law enforcement authorities may not request inspection or copying of public records held by Benton PUD that would normally be exempted from public disclosure under state law unless an official law enforcement authority provides identification and signature stating the requested public information would be used by such authority pursuant to the requirements of the Public Records Act for law enforcement agencies.

Additionally, due to state and federal requirements for privacy, identity theft and HIPAA, Benton PUD will require a subpoena for disclosure of information within public records that contain, but are not limited to, the following: banking information (including routing numbers), social security numbers, and credit card numbers.

**5h. Petition for Review -- Denial of Public Records or Estimation of Costs or Time:**

A customer may petition in writing for an internal review of the following: 1) District's denial of a public records request, or 2) District's estimate of time and/or estimation of charges relating to the production of a public records request. Petitions for review shall be submitted to the District Auditor or General Manager. Within two (2) days of petition receipt, a written response will be provided to the customer either affirming or reversing the decision. Petitions for review may not be accepted if submitted more than 24 months after the District's last response or production of records.


The requestor has the right to seek judicial review in the appropriate legal venue.

## 6.0 STAFF PROCEDURE


The General Manager shall develop subordinate procedures for processing of public records requests to ensure compliance with the Washington Public Records Act, RCW 42.56, and this policy.

FURTHER BE IT RESOLVED that this Resolution supersedes Resolution No. 2428 and replaces all previous resolutions regarding copying of public records and Organizational Statement.

ADOPTED By the Commission of Public Utility District No. 1 of Benton County at an open meeting, with notice of such meeting being given as required by law, this 27th day of December 2022.

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Barry A. Bush, Vice-President

ATTEST:

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Jeffrey D. Hall, Secretary



<b>PUBLIC RECORDS FEE SCHEDULE</b>	
<b>Resolution No. 2624</b>	
Inspection of Records	No fee
Requestor downloading and Accessing Website Records	No fee
Photocopy of paper records, or printed (paper) copies of electronic records (applies if requester asks for paper copies)	\$.15 per page*
Electronic copy of scanned paper records (applies if paper copies must be scanned in order to produce in electronic format)	\$.10 per page*
Files & attachments uploaded to email, cloud-based data storage service, or other means of electronic delivery	\$.05 for each 4 electronic files or attachments*
Files & attachments loaded and delivered) in an electronic format or for the use of agency equipment to send the records electronically.	\$.10 per gigabyte*
Records provided on CD/DVD	Actual cost
Records provided in mailer/envelope	Actual cost
Records on USB drive	Actual cost
Postage or delivery charges	Actual cost
Records sent to an outside vendor due to unusual size or format, or other factors making copying by office unfeasible	Cost varies - actual cost
Deposits (includes records copied in installments or when providing a customized service)	10% of estimated cost to fulfill
Customized Service (Data compilations prepared or accessed as a customized service. Cost is in addition to above fees for copies/mailing. (RCW 42.56.120(3)).)	Cost varies – actual cost (based upon request)

*\* No charge for copies of public records totaling \$5.00 or less. Over \$5.00 will include all charges and must be paid in advance.*

**NOTE:**

1. All applicable charges may be combined when more than one charge applies to records produced in response to a request.
2. All applicable charges are assessed for each installment of records.
3. All charges may be waived in limited circumstances as identified in this policy.
4. Advance notice of potential charges will be provided to allow the requestor the opportunity to revise their request due to cost impacts.
5. All charges for public records are payable in advance of providing copies of the records.