

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2016-52

October 26, 2016

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Numbers 003662 and 003663

Office URL: www.oipc.ab.ca

Summary: The Applicant made access requests to Alberta Energy and to Alberta Justice and Solicitor General (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for “all ministerial orders and policies related to ministerial orders”. The Public Body acknowledged it did not respond to the Applicant within the time frame of section 11 of the Act. The Adjudicator ordered the Public Body to comply with the Act.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 72.

I. BACKGROUND

[para 1] This inquiry arises from a request for records made by the Applicant to Alberta Energy on December 8, 2015 (Case file 0003663). He requested the following:

All Ministerial Orders and policies related to ministerial orders.

[para 2] On the same day, the Applicant also requested the same information from Alberta Justice and Solicitor General (Case file 0003662). For both requests, the Applicant requested records for the time period October 12, 2011 to date received.

[para 3] The request to Alberta Energy was transferred to Alberta Justice and Solicitor General and the Applicant agreed to combine the requests. Also, at that time, the request was clarified to include “any policies regarding creating and issuing ministerial orders”.

[para 4] The Applicant states that the Public Body has not responded to the access requests. The Applicant has therefore requested review by the Commissioner of the Public Body’s compliance with section 11 of the Act.

II. ISSUE

Did the Public Body comply with section 11 of the Act (time limit for responding)?

III. DISCUSSION OF ISSUE

[para 5] Section 11 of the Act states:

11(1) The head of a public body must make every reasonable effort to respond to a request not later than 30 days after receiving it unless

- (a) that time limit is extended under section 14, or*
- (b) the request has been transferred under section 15 to another public body.*

(2) The failure of the head to respond to a request within the 30-day period or any extended period is to be treated as a decision to refuse access to the record.

[para 6] The Applicant’s requests for access to information were dated December 8, 2015.

[para 7] The Public Body submits the inquiry into Case File Number 003663 be closed as the Applicant agreed to combine the request for information from Alberta Energy with the request for information from Alberta Justice. The Public Body submits their internal request file for Alberta Energy is closed and the same should be applied to this portion of the inquiry.

[para 8] I decline to do so. While the Applicant agreed to combine the requests and the Public Body’s file is closed with Alberta Energy, neither request for information has been addressed by a response by Alberta Justice and Solicitor General. The fact a file has been closed or combined by the Public Body does not address the issue of whether a timely response has been made to that request for information. The Applicant has applied to this Office for a review of Public Body’s failure to respond to his requests.

[para 9] The Public Body acknowledges that it did not comply with section 11 of the Act.

[para 10] In submissions to this Inquiry, the Public Body states:

The Public Body has numerous late files and, in order to be fair to all its applicants, it has been processing them in the order in which they were received. The exceptions to this have been files which were required to be prioritized due to Court dates, subjects of OIPC Orders to process requests, etc.

Given the above information, the Public Body made the decision not to request an extension from the Office of the Information and Privacy Commissioner (OIPC) in accordance with section 14 of the Act, as it was expected the OIPC would not approve the length of time the Public Body would require to process the request.

In response to the Notice of Inquiry, the Public Body made this file a priority and is actively processing this request. It expects to be able to respond to the Applicant in the near future.

[para 11] It further states as it is late in responding to the Applicant, the Public Body will waive all fees related to the access request.

[para 12] The Public Body also states it is actively processing the Applicant's request and expects to be able to respond to the Applicant in the near future.

[para 13] Finally, the Public Body states it is taking steps to address the issue of its inability to respond to access to information requests.

[para 14] I find the Public Body has failed to meet its obligations under section 11 of the Act.

IV. ORDER

[para 15] I make this Order under section 72 of the Act.

[para 16] I find the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act.

[para 17] I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act.

[para 18] I order the Public Body to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with the Order.

Neena Ahluwalia Q.C.
Adjudicator

