

ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2022-02

January 25, 2022

ENERGY

Case File Number 021789

Office URL: www.oipc.ab.ca

Summary: On January 30, 2021 an individual (the Applicant) made an access request under the *Freedom of Information and Protection of Privacy Act* (the Act) to Energy (the Public Body) for certain information. Subsequently, on February 3, 2021, the Public Body received a revised access request from the Applicant.

On June 21, 2021, this Office received a request from the Applicant to review the Public Body's failure to respond to his access request.

The Adjudicator found that the Public Body did not comply with section 11 of the Act; however, as the Public Body provided a response to the Applicant during the inquiry, there was nothing further for the Adjudicator to order.

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

I. BACKGROUND

[para 1] On January 30, 2021, an individual (the Applicant) made an access request under the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25 (the Act) to Energy (the Public Body) for certain information. Subsequently, on February 3, 2021, the Public Body received the Applicant's revised access request.

[para 2] On June 21, 2021, this Office received a request from the Applicant to review the Public Body's failure to respond to his request.

[para 3] The Commissioner decided to move the matter directly to inquiry and delegated her authority to conduct the inquiry to me.

II. RECORDS AT ISSUE

[para 4] As the issue in this inquiry relates to the timeliness of the Public Body's response, there are no records at issue.

III. ISSUE

[para 5] The Notice of Inquiry, dated December 20, 2021, states the issue for this inquiry as follows:

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

IV. DISCUSSION OF ISSUE

[para 6] 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 7] Section 11 of the Act requires a public body to make every reasonable effort to respond to an access request not later than 30 days after receiving the request, unless the time for responding to the access request is extended under section 14, or the public body has transferred the access request under section 15.

[para 8] The Applicant submitted his access request to the Public Body on January 30, 2021, and subsequently submitted a revised access request, which was received by the Public Body on February 3, 2021. On June 21, 2021, the Applicant submitted a request to this Office to review the Public Body's failure to respond to his access request.

[para 9] In its submission for this inquiry dated January 24, 2022, the Public Body acknowledged that it did not comply with section 11 of the Act. The Public Body stated:

In response to the Notice of Inquiry[,] the Public Body acknowledges that it did not comply with section 11 of the *FOIP Act*.

The Public Body has made this file a priority and is actively processing it, and expects to be able to respond to the Applicant in the near future.

[para 10] On January 25, 2022, the Public Body notified this Office that it had provided a response to the Applicant's access request.

[para 11] The Public Body has acknowledged that it did not comply with the section 11 of the Act. I find that the Public Body did not comply with section 11 of the Act. However, as the Public Body has now responded to the Applicant, there is nothing further for me to order in this inquiry.

V. ORDER

[para 12] I make this Order under section 72 of the Act.

[para 13] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. As the Public Body has now responded to the Applicant's access request, it is not necessary for me to order the Public Body to respond to the Applicant under the Act.

Carmen Mann
Adjudicator
/kh