

**PIPA CASE SUMMARY P2007-CS-001*****Utilities company makes improvements to safeguard personal information*****Summary**

The complainant reported she received her utilities statement from Direct Energy Regulated Services (DERS) and noticed that, in addition to her own customer name, the name of a First Nation Utilities Corporation also appeared on the statement as an Additional Responsible Party (ARP). DERS reported that the Utilities Corporation had, at their own request, been added as an ARP to the customer accounts of a number of Nation members who were clients of a particular social assistance program. The intent was that, in the event of overdue payment, the Utilities Corporation would be able to obtain account information and pay outstanding amounts before the account was disconnected, thus avoiding any reconnection fees.

The complainant was concerned that an ARP had been added to her account without her knowledge or consent and therefore had unauthorized access to her personal account information.

Jurisdiction

The *Personal Information Protection Act* (“PIPA”) applies to provincially-regulated private sector organizations operating in Alberta, including DERS. The Commissioner has jurisdiction in this case because DERS is an “organization”, as defined in section 1(i) of the Act. Section 36 of the Act empowers the Commissioner to conduct investigations to ensure compliance with any provision of PIPA and make recommendations to organizations regarding their obligations.

Analysis & Findings

Section 20(a) of PIPA states consent is not required to disclose personal information where “a reasonable person would consider that the disclosure of the information is clearly in the interests of the individual and consent of the individual cannot be obtained in a timely way or the individual would not reasonably be expected to withhold consent.” DERS reported that ensuring that accounts are paid and preventing disconnection (thus avoiding a reconnection fee) could be considered to be in the interests of the account holder and that an individual would not reasonably be expected to withhold consent in such circumstances. As such, disclosing personal information of an account holder to an ARP, without consent, may be authorized under section 20(a) of PIPA, in some circumstances.

In the complainant’s case, however, DERS did not rely on section 20(a) in adding the ARP to the account. As the complainant was not a client of the social assistance program in question, DERS reported that adding the Utilities Corporation as an ARP was an error.

As there was no evidence DERS had disclosed the complainant’s personal information to the ARP, the Investigator did not find a contravention of the consent provisions of PIPA. However, Section 34 of PIPA requires that organizations make reasonable security arrangements to protect personal information against risks such as unauthorized access, collection, use, disclosure, copying, modification, disposal or destruction. The Investigator found that DERS contravened section 34 of PIPA for failing to make reasonable security arrangements to protect personal information from such risks as unauthorized access or disclosure. DERS’ s existing ARP policy allowed for the possible disclosure of personal account information to an ARP, without the customer’s knowledge or consent.

Recommendation

DERS agreed to immediately remove the ARP from the complainant’s account, and to revise its ARP policy to require an account holder’s written consent before an ARP would be added to an account. To resolve any issues with accounts already having ARPs (many of which pre-dated the coming into force of PIPA), DERS agreed to mail out a bill insert to all natural gas and electricity account holders in Alberta. The insert explained the ARP concept, described how to determine if an account had an ARP, and the process to add or remove an ARP to or from an account. DERS agreed to respond promptly to any customer requests to remove ARPs from accounts.