

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2017-05**

January 20, 2017

**ALBERTA JUSTICE AND SOLICITOR GENERAL**

Case File Number 004455

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** The Applicant made an access request to Alberta Justice and Solicitor General (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for “all records as defined by Section 1(q) of the Act related to Pure North S’Energy Foundation” for the period January 1, 2011 to the date of the request. The Public Body responded and confirmed that it had received the access request and would attempt to process the request in the time allotted by the Act. The Applicant did not receive a response to her access request from the Public Body.

The Adjudicator found that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. Therefore, the Adjudicator ordered it to do so.

**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 June 6, 2016, the Applicant made a request to Alberta Justice and Solicitor General (the Public Body) for “all records as defined by Section 1(q) of the Act related to Pure North S’Energy Foundation” for the period January 1, 2011 to the date of the request.

[para 2] The Public Body acknowledged receipt of the request by letter dated June 7, 2016. The Public Body informed that Applicant it would make every reasonable effort to respond by July 7, 2016 and that its response time may exceed the 30 day requirement due to a high volume of requests at its office. The Public Body did not respond to the request.

[para 3] On December 6, 2016, the Applicant requested a review of the Public Body's failure to respond to her request. On December 13, 2016, the Office of the Information and Privacy Commissioner issued a Notice of Inquiry. I received submissions from the Public Body.

## **II. ISSUE**

[para 4] The Notice of Inquiry dated December 13, 2016 states the issue in this inquiry as follows:

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

## **III. DISCUSSION OF ISSUE**

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

[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 Public Body acknowledges that it has missed the deadline imposed by section 11. It states that it has numerous late files and is processing them in the order in which they have come in, with the exception of those that are given priority because of Court date and other such things. It further states it has made this file a priority and expects to have a response to the Applicant in the near future and will waive all fee related to this file.

[para 7] I understand that the lack of resources with which to process the volume of requests received by the Public Body are serious issues the Public Body is having to deal with when attempting to respond to this specific access request. While I sympathize with the predicament in which the Public Body currently finds itself, section 11 of the Act sets out a statutory obligation which has not been met. Therefore, I find that the Public Body has breached section 11 of the Act.

#### **IV. ORDER**

[para 8] I make this Order under section 72 of the Act.

[para 9] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. While it is too late for the Public Body to now comply with that section of the Act, I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act.

[para 10] 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 it.

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Keri H. Ridley  
Adjudicator