

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2023-11**

March 15, 2023

**ENERGY**

Case File Number 028367

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

**Summary:** On December 15, 2021, an individual (the Applicant) submitted an access request for certain information to Energy (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act).

On September 27, 2022, the Applicant requested a review by this Office, indicating that the time limit for responding to the access request under the Act had expired and the Public Body had not provided a response.

The Adjudicator found that the Public Body failed to comply with section 11; however, as the Public Body had since responded to the access request, the Adjudicator did not need to order the Public Body to respond.

**Statutes Cited: AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 14 and 72.

**I. BACKGROUND**

[para 1] On December 15, 2021, an individual (the Applicant) submitted an access request for certain information to Energy (the Public Body) under the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25 (the Act).

[para 2] On September 27, 2022, the Applicant requested a review by this Office, indicating that the time limit for responding to the access request under the Act had expired and the Public Body had not provided a response.

[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 February 17, 2023, 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 requires a public body to make every reasonable effort to respond to an access request not later than 30 days after receiving the request. 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 14 of the Act states:

*14(1) The head of a public body may extend the time for responding to a request for up to 30 days or, with the Commissioner's permission, for a longer period if*

- (a) the applicant does not give enough detail to enable the public body to identify a requested record,*
- (b) a large number of records are requested or must be searched and responding within the period set out in section 11 would unreasonably interfere with the operations of the public body,*

(c) *more time is needed to consult with a third party or another public body before deciding whether to grant access to a record, or*

(d) *a third party asks for a review under section 65(2) or 77(3).*

(2) *The head of a public body may, with the Commissioner's permission, extend the time for responding to a request if multiple concurrent requests have been made by the same applicant or multiple concurrent requests have been made by 2 or more applicants who work for the same organization or who work in association with each other.*

(3) *Despite subsection (1), where the head of a public body is considering giving access to a record to which section 30 applies, the head of the public body may extend the time for responding to the request for the period of time necessary to enable the head to comply with the requirements of section 31.*

(4) *If the time for responding to a request is extended under subsection (1), (2) or (3), the head of the public body must tell the applicant*

(a) *the reason for the extension,*

(b) *when a response can be expected, and*

(c) *that the applicant may make a complaint to the Commissioner or to an adjudicator, as the case may be, about the extension.*

[para 8] In its submission, the Public Body advised that it received the Applicant's access request on December 16, 2021. The Public Body further stated:

On January 10, 2022, the Public Body notified the Applicant of a 30 day time extension as per section 14(1)(b) of the *FOIP Act*.

On March 2, 2022, a request for time extension was submitted to the Office of the Information and Privacy Commissioner (OIPC) due to the large volume of records. The extension was granted (OIPC Decision #024927) with a revised due date of June 3, 2022.

On May 30, 2022, a second request for time extension was submitted to the OIPC due to the large volume of records. The extension was granted (OIPC Decision #026189) with a revised due date of September 1, 2022.

On August 30, 2022, a third request for time extension was submitted to the OIPC due to the additional time required for consultation with another public body. The extension was denied (OIPC Decision #027206) on October 29, 2022.

[para 9] Given that the Public Body's third time extension request was denied by the Commissioner, the final extended deadline for the Public Body to respond to the access request was September 1, 2022.

[para 10] In its submission, the Public Body stated:

The Public Body acknowledges that it did not comply with section 11 of the FOIP Act. However, on March 14, 2023, the Public Body responded to the Applicant's request.

[para 11] The Public Body has admitted that it failed to comply with section 11. As the final extended deadline for the Public Body to respond to the Applicant was September 1, 2022 and it did not respond to the Applicant's access request until March 14, 2023, I find the Public Body failed to comply with section 11; however, as the Public Body has now responded, I do not need to order it to respond.

## **V. ORDER**

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

[para 13] I find that the Public Body failed to 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