

January 25, 2023

**VIA EMAIL**

**Attention:** [REDACTED]

**Dear** [REDACTED]

**Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* (File #: PB/20/2023)**

On January 5, 2023, we received your request for access to the following records/information:

*Any and all records relating to projects "Winston" and "Lucy" for 2022.*

On January 6, 2023, you updated the request to include the Executive Staff.

Please be advised that access to the records responsive to the Churchill River Energy Analysis Team "Project Winston" and "Project Lucy" have been refused in accordance with the following exceptions to disclosure, as specified in the **Access to Information and Protection of Privacy Act (the ATIPPA)** and the **Energy Corporation Act (the ECA)**:

**Section 29(1)(a) of the ATIPPA:** The head of a public body may refuse to disclose to an applicant information that would reveal advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

**Section 34(1)(a)(i) of the ATIPPA:** The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to harm the conduct by the government of the province of relations between that government and the following or their agencies the government of Canada or a province;

**Section 35(1)(d) of the ATIPPA:** The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party;

**Section 35(1)(f) of the ATIPPA:** The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on

behalf of the government of the province or a public body, or considerations which relate to those negotiations;

**Section 35(1)(g) of the ATIPPA:** The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body.

**Section 5.4(1)(a), (b), (c)(ii)(iii), (d)(i) of the ECA:** Notwithstanding section 7 of the Access to Information and Protection of Privacy Act, 2015, in addition to the information that shall or may be refused under Part II, Division 2 of that Act, the chief executive officer of the corporation or a subsidiary, or the head of another public body,

- (a) may refuse to disclose to an applicant under that Act commercially sensitive information of the corporation or the subsidiary; and
- (b) shall refuse to disclose to an applicant under that Act commercially sensitive information of a third party where the chief executive officer of the corporation or the subsidiary to which the requested information relates, taking into account sound and fair business practices, reasonably believes
- (c) that the disclosure of the information may
  - (i) harm the competitive position of,
  - (ii) interfere with the negotiating position of, or
  - (iii) result in financial loss or harm to the corporation, the subsidiary or the third party; or
- (d) that information similar to the information requested to be disclosed
  - (i) is treated consistently in a confidential manner by the third party;
  - (ii) is customarily not provided to competitors by the corporation, the subsidiary or the third party.

In keeping with our standard practice, it is our intention to post this letter on the Newfoundland and Labrador Hydro website.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of **the Access to Information and Protection of Privacy Act, 2015** (the Act) (a copy of this section has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner  
2 Canada Drive  
P. O. Box 13004, Stn. A  
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Email: [commissioner@oipc.nl.ca](mailto:commissioner@oipc.nl.ca)

You may also appeal directly to the Supreme Court within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section has been enclosed for your reference).

If you have any further questions, please contact me by telephone at (709) 733-5346 or by email at [CassandraHearn@nlh.nl.ca](mailto:CassandraHearn@nlh.nl.ca).

Sincerely,

*Cassandra Hearn*

Cassandra Hearn  
Access and Privacy Officer

**Access or correction complaint**

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.
- (2) A complaint under subsection (1) shall be filed in writing not later than 15 business days
- (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
- (b) after the date the head of the public body is considered to have refused the request under subsection 16(2).
- (3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.
- (4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.
- (5) The commissioner may allow a longer time period for the filing of a complaint under this section.
- (6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.
- (7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.
- (8) A complaint shall not be filed under this section with respect to
- (a) a request that is disregarded under section 21;
- (b) a decision respecting an extension of time under section 23;
- (c) a variation of a procedure under section 24; or
- (d) an estimate of costs or a decision not to waive a cost under section 26.
- (9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

**Direct appeal to Trial Division by an applicant**

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.
- (2) An appeal shall be commenced under subsection (1) not later than 15 business days
- (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
- (b) after the date the head of the public body is considered to have refused the request under subsection 16(2).
- (3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.
- (4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).