



Hydro Place, 500 Columbus Drive,
P.O. Box 12800, St. John's, NL
Canada A1B 0C9
t. 709.737.1440 f. 709.737.1800
nalcorenergy.com

December 2, 2019

VIA EMAIL

s. 40(1)

Attention:

Dear

s. 40(1)

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* (File #: PB/840/2019)

On November 1, 2019, Nalcor Energy received your request for access to the following records/information:

I would like to request some information used to calculate Graham D. Dillabough's pay in lieu of termination from Nalcor Oil & Gas. Could you please provide details of how the years of service were calculated and the total pay in lieu given to Mr. Dillabough.

Please note that your request for information has been refused pursuant to section 40(1) of the *Access to Information and the Protection of Privacy Act, 2015* (ATIPPA) as well as section 17(2)(b) of the ATIPPA.

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

An employee's years of service as well as employment status is personal information and is protected under section 40(1) of the ATIPPA.

Nalcor is also unable to confirm or deny the existence of certain elements relating to your request pursuant to section 17(2)(b) of the ATIPPA. Nalcor is unable to confirm or deny whether an employee received pay in lieu of notice from Nalcor. Confirming or denying the existence of this information would be an unreasonable invasion of an employee's personal privacy under section 40(1) of the ATIPPA as it could disclose information relating to an employee's employment history and/or employment status.

It is the goal to publish this letter following a 72 hour period after it is sent electronically to you or five business days in the case where the letter has been mailed to you.

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 (*the Act*). 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. Your appeal should identify your concerns with the request and why you are submitting the appeal.

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
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division 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 of the Act has been enclosed for your reference).

If you have any further questions, please feel free to contact the undersigned by telephone at (709) 733-5346 or by e-mail at granthiscock@nalcoreenergy.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Grant Hiscock". The signature is stylized and written over a horizontal line.

Grant Hiscock
Access and Privacy Officer

Content of final response for access

17. (1) In a final response to a request for access to a record, the head of a public body shall inform the applicant in writing

- (a) whether access to the record or part of the record is granted or refused;
- (b) if access to the record or part of the record is granted, where, when and how access will be given; and
- (c) if access to the record or part of the record is refused,
 - (i) the reasons for the refusal and the provision of this Act on which the refusal is based, and
 - (ii) that the applicant may file a complaint with the commissioner under section 42 or appeal directly to the Trial Division under section 52 , and advise the applicant of the applicable time limits and how to file a complaint or pursue an appeal.

(2) Notwithstanding paragraph (1)(c), the head of a public body may in a final response refuse to confirm or deny the existence of

- (a) a record containing information described in section 31 ;
- (b) a record containing personal information of a third party if disclosure of the existence of the information would be an unreasonable invasion of a third party's personal privacy under section 40 ; or
- (c) a record that could threaten the health and safety of an individual.

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).