

other public policy issues associated with the Point Lepreau Nuclear Generating Station. These would include, but not be restricted to, ownership, joint ventures, leasing arrangements, economic and financial aspects, privatization, refurbishment and/or permanent closure.

- 2) Copies of all minutes of the committees, task forces, or other working groups referred to in 1) above.
 - 3) A list of all the titles of all studies commissioned by the department of energy, please provide copies of the title page, Table of Contents, and Executive Summary.
 - 4) For all studies done by or for the Department of Energy, please provide copies of the title page, Table of Contents, and Executive Summary.
2. The Minister's response, dated July 6, 2006, disclosed a number of the minutes of committee meetings requested. The non-responsive elements of those minutes were redacted as were the names of individuals, on the basis that their disclosure is exempted under paragraph 6(b) of the Act. The Minister also withheld certain responsive documents which, at the time were being reviewed by the Ombudsman in the context of an access request made to the same Minister and NB Power by another individual. The Minister indicated that the documents withheld in that file would not be released pending the Ombudsman's review of the issue in the other case. The Minister also undertook to make further disclosure of those documents if warranted.
3. This office released a recommendation into the other petition referenced by the Minister on July 12, 2006. The petitioner filed his petition on July 27, there has been no response to the Ombudsman recommendation of July 12, and no further disclosure to the petitioner of the other responsive documents identified in his request. For the purposes of this review, I have labeled these documents A to G with the following descriptors:
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| A. Sept. 24, 2003 | Deputy Minister's Ad Hoc Committee on Energy Point Lepreau Review Working Group (PLRWG terms of reference: 4 pp.) |
| B. Nov. 14, 2003 | PLRWG Risk Meeting with NB Power Nov. 12, 2003 (3 pp.) |
| C. Nov. 7, 2003 | PLRWG Update- November 7, 2003 (1 page) |
| D. Nov. 12, 2003 | Lepreau Refurbishment Working Group Minutes of Meeting (Risk Workshop #1) (6 pp.) |
| E. Nov. 17, 2003 | Lepreau Refurbishment Working Group, Minutes of November 17, 2003 (2 pp.) |

F. Nov. 25, 2003 Working Group Minutes (2 pp.)

G. Dec. 1, 2003 PLRWG Summary Risk Analysis (3 pp.)

4. All the above mentioned records are marked Confidential Advice to Ministers. A review of the departmental files in camera, pursuant to section 7 (4) of the Act did not identify any other responsive records to the March 9 request.
5. The petitioner did file with his right to information petition a two page letter outlining the Conservation Council's submissions in this matter. The petitioner submits that the Minister did not provide all the information requested and has redacted sections which should have been disclosed. Specifically, the petitioner requested that I verify that the list of committees be complete for the period from January 1, 1998 to March 24, 2006; that all minutes of all committees be disclosed; that the redacted portions of minutes disclosed be provided consistent with the original request; that the names or initials of officials be disclosed where they appear as this is not personal information within the meaning of the exemption; that the department of Energy did not disclose the list of titles of studies in its possession; and the Department failed to provide copies of the Title page, table of contents and executive summary of all reports as requested.
6. The Minister has not made any formal submissions in this matter. My findings and recommendation follow.
7. For ease of reference I will deal with the concerns raised by the petitioner in the order presented above. The first issue is that the petitioner claims the list of committees requested is not complete. The problem with this request is that it is not in itself a request for responsive documents under the Act. The early jurisprudence in New Brunswick suggested that unless the petitioner sought disclosure of a specific document there was no obligation upon a Minister to compile the information for purposes of response: see *Re Lahey* (1984), 56 NBR (2d) 1. However, the approach in *Lahey* has been abandoned in more recent cases in favour of a broad purposeful interpretation for the benefit of citizens. The current approach is that if the information exists in government documents in some form, the information requested should be disclosed¹. For instance the list could be compiled in this case from the existing minutes of such meetings.
8. In this case the Minister responded indicating the names of seven committees. Prior to the review of the documents under subsection 7(4) however, the Minister's officials indicated that three of the committees listed were identical to another three on the list and only represented a name change for the committees in question. It was also confirmed that all existing minutes were

¹ *Woods v. Premier of New Brunswick* [2003] NBJ No. 149 (NBQB) Russell, J.; *Coon v. N.B. Electric Power Commission* (1989), 98 NBR (2d) 65 (Q.B.)

available for review, only the committee minutes indicated in paragraph 3 above had been withheld, and that any other committees had met without any formal minutes having been taken or kept. This in my view is as full and complete a response as can be provided to the petitioner in the circumstances.

9. With respect to the Minister's failure to disclose the Minutes of meetings set out in paragraph 3 above, I find that the objection raised by the Minister does not constitute an existing or relevant ground for refusing disclosure in this case. Specifically the Minister has objected that the documents in question had been identified as responsive documents to a right to information request filed by another petitioner and that the failure to disclose them in that case had been made the subject to an Ombudsman review which, at the time of the Minister's response was underway. In any event, given that my recommendation was made in the other matter last July, that there has been no further release or grounds given motivating a refusal to disclose information to the petitioner, and no formal submissions on this point, I would recommend that the further responsive documents identified be released to the petitioner at this time, subject to the following limitations.
10. I have reviewed the documents in question and while they have all been identified in the page headers or footers as "Confidential - Advice to Minister" or by some such similar rider, I am not satisfied that all the documents can be exempted under paragraph 6(g). I recommend that documents A, C, and E referred to above be disclosed unredacted to the petitioner.
11. As for the portions of the disclosed minutes which were redacted by the Minister as non-responsive, I agree that the petitioner's initial submission did not limit the disclosure sought to only those portions of the minutes that dealt with the Point Lepreau refurbishment. Having reviewed the redacted minutes in their unredacted form, I can assure the petitioner that all relevant portions of the minutes relating to the Point Lepreau refurbishment have been duly disclosed. However, if the petitioner wishes to insist upon the integral disclosure of the minutes as originally requested, I would recommend that the Minister do so, subject to further review to identify any additional grounds for exemptions which may apply to the redacted portions.
12. Furthermore, I agree with the petitioner's submission that it is not necessary for the Minister in this case to invoke the paragraph b) exemption to redact portions of the minutes which identify the names of individuals present at the meetings or tasked at the meetings with certain functions or activities. The name of a public official in this context does not disclose personal information within the meaning of the Act. See *Barnett v. Minister of Family and Community Services* NBRIOR 2006-06, and also *The Corporation of the Town of Pickering* OIPC M-477 John Higgins Inquiry Officer, February 28, 1995.

13. Finally I find that the Minister has provided the petitioner with all the responsive documents in the Department's possession relating to the 3rd and 4th numbered paragraphs of his original request.
14. **In conclusion therefore, I recommend that the Minister disclose the minutes outlined in Documents A, C and E, listed in paragraph 3, that the Minister refrain from the general practice of deleting the names of officials when he releases information under the *Right to Information Act* and, if so requested by the petitioner, that he further review the redacted portions of the minutes disclosed earlier with a view towards their release in full.**

Dated at Fredericton, New Brunswick this 2nd day of November, 2006.

Bernard Richard, Ombudsman