

**IN THE MATTER OF A REFERRAL UNDER PARAGRAPH 7(1)b)
OF THE *RIGHT TO INFORMATION ACT*, R.S.N.B. 1973, c. R-10.3**

Between: **Y. X.**

the petitioner

And:

**Jack Keir,
Minister of Energy**

The Minister

RECOMMENDATION

1. This referral, dated August 21, 2007, arises out of an access to information request by the petitioner dated June 20, 2007, and as amended on June 25, 2007. The petitioner is a long-time client of NB Power who had previously submitted Right to Information requests to the Minister requesting information about the petitioner's account and various safety concerns about the power transformer and voltage levels in the petitioner's service area. The purpose of the petitioner's current request was to determine if NB Power has in its possession any additional information relating to the petitioner's safety concerns.

2. The Minister's response, dated August 7, 2007, provided an itemized response to each of the documents requested by the petitioner, as well as copies of available responsive records. The response indicates that the Department is withholding some information from release as it would reveal personal information concerning another person. While the Minister's response does not make specific reference to the relevant legislative provision, this information was withheld pursuant to section 6(b) of the *Right to Information Act* ("the Act").
3. The response also indicates that other information is withheld under section 6(f) of the Act.
4. The relevant provisions of the Act are as follows:
 6. There is no right to information under this Act where its release
 - (b) would reveal personal information concerning another person
 - (f) would disclose legal opinions or advice provided to a person or department by a law officer of the Crown, or privileged communication as between solicitor and client in a matter of departmental business.
5. The New Brunswick *Protection of Personal Information Act* governs the protection of personal information in the hands of public bodies. Principle 5 in the Statutory Code of Practice states that "personal information shall not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required or expressly authorized by law."
6. The section 6(b) personal information exemptions were claimed in relation to NB power records pertaining to other clients of NB power and are properly invoked.
7. The section 6(f) exemption is a broad exemption concerning not only legal opinions or advice provided by a law officer of the Crown, but indeed any privileged communications as between solicitor and client in a matter of departmental business.
8. In this case, the petitioner requested a copy of counsel's "file notes...used to prepare chronology of the events leading to the denial of [my] original damage claim..." The petitioner is effectively requesting documentation from counsel's legal file, which clearly falls within the scope of solicitor-client privilege.

9. **I am satisfied that the Minister's reliance on the exemptions under section 6(b) and 6(f) is applicable in this case and sufficient reason to refuse to disclose the withheld responsive records.**
10. **Consequently, no further disclosure is recommended.**

Dated at Fredericton, this 24th day of October 2008.

Bernard Richard, Ombudsman