Office of the
Saskatchewan Information
and Privacy Commissioner

INVESTIGATION REPORT 074-2020

Saskatchewan Power Corporation

November 17, 2021

Summary: When adding the Complainant to an existing account, Saskatchewan Power Corporation (SaskPower) requested that the Complainant provide their name, date of birth and driver's licence number. The Complainant provided their name and date of birth, but declined to provide their driver's licence number. The SaskPower customer representative requested the Complainant provide their mother's maiden name as an alternative to the driver's licence number. The Complainant complied. Then, the Complainant called SaskPower regularly to request the monthly billing amount. About one year after being added to the account, the Complainant discovered that SaskPower had collected their driver's licence number from Saskatchewan Government Insurance's (SGI) motor licensing database. The Complainant submitted a complaint to the Commissioner. The Commissioner made a number of findings including how section 25 of *The Freedom of Information and Protection of Privacy Act* (FOIP) authorized SaskPower to collect personal information to verify individual's personal information; however, he found that SaskPower did not meet the requirements of section 26 of FOIP when it indirectly collected the Complainant's driver's licence number from SGI's motor licensing database nor did SaskPower abide by the need-to-know and data minimization principles that underlie Part IV of FOIP. The Commissioner recommended SaskPower provide training to the coordinator who accessed the Complainant's driver's license number from SGI's database to ensure that the coordinator is meeting the requirements of section 26 of FOIP and following SaskPower's reference guide for circumstances where identification is missing or incorrect.

I BACKGROUND

[1] On August 22, 2018, the Complainant contacted Saskatchewan Power Corporation (SaskPower) by telephone to request their monthly bill amount. The Complainant provided the account number to the SaskPower customer service representative. The customer service representative noted that the Complainant was not listed on the account. Therefore, the customer service representative added the Complainant to the account by requesting the following:

- The spelling of the Complainant's first and last name and their middle initial
- Date of birth
- Driver's licence number

[2] The Complainant offered the spelling of their first and last name plus their middle initial. They also offered their date of birth. However, they declined to provide their driver's licence number. The customer service representative then requested the Complainant's mother's maiden name, which the Complainant provided. The customer service representative explained that when the Complainant calls in the future, the Complainant would need to provide their name, date of birth and mother's maiden name in order to verify their identity.

[3] The Complainant regularly contacted SaskPower by telephone to learn the bill amount due on the SaskPower account. The Complainant would provide either their account number or service address and then would offer their name, date of birth and mother's maiden name to verify their identity. Sometimes, after verifying their identity, the customer service representative would ask the Complainant if they would like to have their driver's licence number added to SaskPower's notes as another way to verify their identity. The Complainant repeatedly declined to provide their driver's license number.

[4] On August 6, 2019, the Complainant spoke with a customer service representative. During this call, the Complainant requested to speak to management as they were dissatisfied with SaskPower.

[5] On August 7, 2019, a SaskPower coordinator left a voicemail for the Complainant requesting that the Complainant call the coordinator.

[6] Also on August 7, 2019, the SaskPower coordinator accessed the Complainant's information on Saskatchewan Government Insurance's (SGI) motor licensing database and recorded the Complainant's driver's license number.

[7] On August 9, 2019, the SaskPower coordinator called the Complainant again. The SaskPower coordinator and the Complainant discussed the Complainant's concerns. The SaskPower coordinator did not take steps to verify the Complainant's identity during this call.

[8] On August 26, 2019, the Complainant called SaskPower and spoke to a customer service representative to request the monthly bill amount. To verify the Complainant's identity, the customer service representative requested the Complainant's driver's license number. The Complainant declined and said that SaskPower does not have that information anyway. The customer service representative responded by saying that SaskPower did indeed have the Complainant's driver's licence number. After verifying the Complainant's identity by requesting their date of birth and mother's maiden name, the customer service representative indicated to the Complainant that the Complainant's driver's license number was recorded on August 7, 2019 by the SaskPower coordinator with whom the Complainant spoke to on August 9, 2019.

[9] On September 3, 2019, the Complainant submitted a privacy complaint to SaskPower. The Complainant expressed their concern about SaskPower adding their driver's license number to the account.

[10] In a letter dated April 30, 2020, SaskPower responded in writing to the Complainant. In the response, SaskPower explained that on August 6, 2019, a customer service representative asked if the Complainant resided at the address to which the account is linked. The Complainant indicated they did not. On August 7, 2019, a SaskPower coordinator reviewed the information provided by the Complainant and discovered that approximately one year

prior, on August 22, 2018, a customer service representative had misspelled the Complainant's last name on the account. SaskPower explained that due to the inconsistencies in the information, the coordinator accessed the Complainant's information stored on SGI's motor licensing database to verify the Complainant's identity. In its letter, SaskPower included quotes and highlights of clauses 7.2 and 7.7 of SaskPower's Terms and Conditions accepted by its customers as follows:

> 7.7 Joint Billing
>
> (a) Liability
>
> Each party on an account, or residing at a Customer's Property whether or not that party is in billing, may be held liable for that account. If Electrical Service or any other SaskPower Service is being provided to several individuals, they shall be jointly and severally responsible for the debt.
>
> (b) Denial of Electrical Service
>
> SaskPower may deny Electrical Service or any other SaskPower Service to any Person that is applying for such service, either individually or jointly with another individual, if any Person connected with that application for Electrical Service or any other SaskPower Service has a bad debt with SaskPower.
>
> 7.2 Customer Information
>
> (a) Individuals
>
> The following information is required for billing of an individual:
>
> (i) Two pieces of identification acceptable to SaskPower;
>
> (ii) Information, including place of employment, contact name, residential and business phone number, date of birth, mailing address and previous address; and
>
> (iii) Identification of all Persons over the age of 18 whom will be receiving Electrical Service or any other SaskPower Service.

[11] In its letter to the Complainant, SaskPower also cited section 8(3) of *The Power Corporation Act*, which provides:

> **8**(3) Notwithstanding any other Act but subject to subsection (5), every person who accepts, uses or otherwise is the recipient of a service provided by the corporation shall:
>
> (a) pay any charges and rates; and
>
> (b) comply with any terms and conditions;

established and revised by the corporation.

[12] SaskPower also cited sections 29(2)(e), (f)(i), (u) of *The Freedom of Information and Protection of Privacy Act* (FOIP) and section 16(1)(i) of *The Freedom of Information and Protection of Privacy Regulations* (FOIP Regulations) as authority for the disclosure of the Complainant's driver's licence number from SGI to SaskPower. Therefore, SaskPower's position was there was no privacy breach. However, SaskPower indicated that it had removed the Complainant's driver's license number from the Complainant's customer record and that extra notes had been added so that future customer service representatives will know that the Complainant is authorized for the specific account.

[13] On May 11, 2020, the Complainant indicated they were not satisfied with SaskPower's response and requested that my office undertake an investigation into this matter.

[14] On May 12, 2020, my office notified SaskPower and the Complainant that it would be undertaking an investigation.

II DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[15] SaskPower qualifies as a "government institution" pursuant to section 2(1)(d)(ii) of FOIP and section 3 and Part I of the Appendix of the FOIP Regulations. Therefore, I have jurisdiction to conduct this investigation.

2. Does this matter involve personal information as defined by section 24(1) of FOIP?

[16] This matter involves SaskPower relying on a driver's licence number as a way to identify the Complainant. Section 24(1)(d) of FOIP provides:

> **24**(1) Subject to subsections (1.1) and (2), **"personal information"** means personal information about an identifiable individual that is recorded in any form, and includes:
>
> ...
>
> (d) any identifying number, symbol or other particular assigned to the individual, other than the individual's health services number as defined in *The Health Information Protection Act*;

[17] In 2008, the Office of the Privacy Commissioner of Canada (OPC), the Office of the Information and Privacy Commissioner of Alberta (AB IPC), and the Office of the Information and Privacy Commissioner of British Columbia (BC IPC) published a resource entitled *Collection of Driver's Licence Numbers Under Private Sector Privacy Legislation*. The OPC, AB IPC and BC IPC highlighted how driver's licence numbers are uniquely identifying numbers that are static and therefore, reliable for retailers for the purpose of identifying individuals when these individuals (i.e. customers) make purchases, return items or rent equipment. Since driver's licence numbers are attractive to retailers, they are also attractive to identity thieves. The OPC, AB IPC and BC IPC asserted that identity thieves use driver's licence numbers to give credibility to their false claims about who they are.

[18] As quoted in my Review Report 146-2017, the Court of Appeal of Alberta in *Leon's Furniture Limited v. Alberta (Information and Privacy Commissioner)*, 2011 ABCCA 94 (CanLII) (*Leon's*) at paragraph 49 found that a driver's licence number is "personal information" as it is used to identify a particular person:

> [49] **The adjudicator's conclusion that the driver's licence number is "personal information" is reasonable, because it (like a social insurance number or a passport number) is uniquely related to an individual. With access to the proper database, the unique driver's licence number can be used to identify a particular person**: *Gordon v. Canada (Minister of Health)*, 2008 FC 258, 324 F.T.R. 94, 79 Admin. L.R. (4th) 258 at paras. 32-4. But a vehicle licence is a different thing. It is linked to a vehicle, not a person. The fact that the vehicle is owned by somebody does not make the licence plate number information about that individual. It is "about" the vehicle. The same reasoning would apply to vehicle information (serial or VIN) numbers of vehicles. Likewise a street address identifies a property, not a person, even though someone may well live in the property. The licence plate number may well be connected to a database that contains other personal information, but that is not determinative. The appellant had no access to that database, and did not insist that the customer provide access to it.

[Emphasis added]

[19] Section 24(1) of FOIP defines personal information as information about an identifiable individual that is recorded in any form. However, section 24(2) of FOIP carves out certain types of information to not be included in the definition of personal information, including section 24(2)(e) of FOIP. Section 24(2)(e) of FOIP provides:

> **24**(2) **"Personal information"** does not include information that discloses:
> …
> (e) details of a licence, permit or other similar discretionary benefit granted to an individual by a government institution;

[20] The Court of Appeal for Saskatchewan's *General Motors Acceptance Corporation of Canada Ltd. v. Saskatchewan Government Insurance, 1993* CanLII 6655 (SKCA) (*GMAC*) and the Court of Queen's Bench for Saskatchewan's *Shook Legal, Ltd v. Saskatchewan (Government Insurance)*, 2018 SKQB 238 (*Shook*) determined that information sought by applicants such as the name and address of the owner of a specific vehicle combined with a vehicle registration would not qualify as personal information pursuant to section 24(2)(e) of FOIP. However, neither *GMAC* nor *Shook* addressed driver's licence numbers.

[21] When I consider: (1) the resource by the OPC, AB IPC and the BC IPC and its description of the driver's licence number as an identifying number, (2) *Leon's* by the Court of Appeal of Alberta and its description of the driver's licence number as a identifying number, and (3) the fact that SaskPower collects driver's license numbers as a way to identify individuals, then I find that the Complainant's driver's licence number qualifies as personal information as defined by section 24(1)(d) of FOIP. Driver's licence numbers being used as a uniquely identifying number for individuals means the information is about an identifiable individual and are not "details of a licence".

3. Did SaskPower have authority under section 25 of FOIP to collect the Complainant's personal information?

[22] Section 25 of FOIP provides:

> **25** No government institution shall collect personal information unless the information is collected for a purpose that relates to an existing or proposed program or activity of the government institution.

[23] FOIP does not define the term "collect". My office has defined "collection" to mean the gathering, obtaining access to, acquiring, receiving, or obtaining personal information from any source by any means (Investigation Report F-2014-002 at paragraph [29]).

[24] As noted in the background of this Report, SaskPower cited sections 29(2)(e), (f)(i), (u) of FOIP and section 16(1)(i) of the FOIP Regulations in its letter to the Complainant. I note that these are disclosure provisions and do not address the "collection" of personal information. SaskPower did not cite its authority under FOIP to collect (or use) the Complainant's personal information in its letter to the Complainant or in its submission to my office.

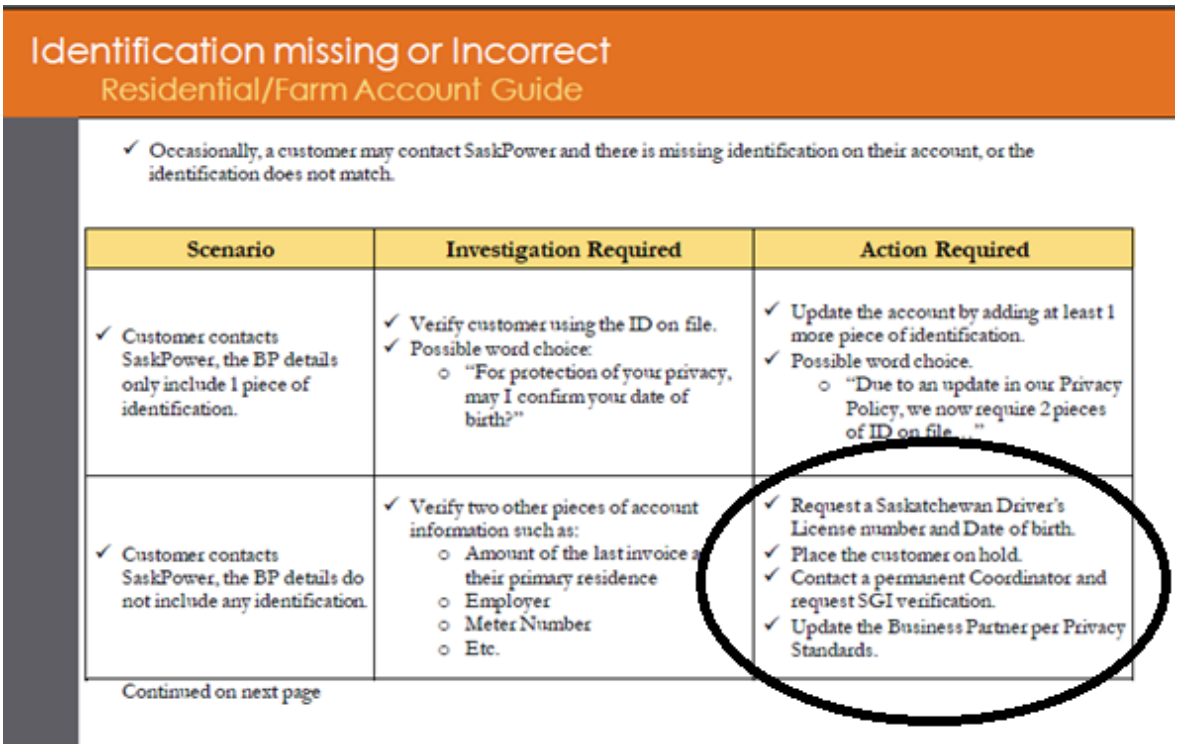
[25] Nevertheless, SaskPower collects personal information for the purpose of verifying customers' identities. I find that section 25 of FOIP authorizes SaskPower to collect customers' personal information for the purpose of verifying their identities.

4. Did SaskPower meet the requirements of section 26 of FOIP when it collected the Complainant's driver's license information from SGI?

[26] Section 26(1) of FOIP provides that a government institution must, where reasonably practicable, collect personal information directly from the individual. I note section 26 also provides for limited circumstances in which personal information may be collected indirectly. Further, section 26(2) of FOIP provides that where information is collected directly from the individual, the government institution shall inform the individual of the purpose for which the information is collected.

[27] SaskPower provided my office with a copy of the reference guide its customer service representatives follow when there is missing or incorrect information. If and when a customer service representative plans to use the driver's license number to verify the

customer's identity, the customer service representative is to request the number from the customer *before* SaskPower contacts SGI. This sequence of events would allow the customer service representative to fulfill the requirements of sections 26(1) and (2) of FOIP. SaskPower's reference guide provides:



Identification missing or Incorrect
Residential/Farm Account Guide

✓ Occasionally, a customer may contact SaskPower and there is missing identification on their account, or the identification does not match.

Scenario	Investigation Required	Action Required
✓ Customer contacts SaskPower, the BP details only include 1 piece of identification.	✓ Verify customer using the ID on file. ✓ Possible word choice: ○ "For protection of your privacy, may I confirm your date of birth?"	✓ Update the account by adding at least 1 more piece of identification. ✓ Possible word choice. ○ "Due to an update in our Privacy Policy, we now require 2 pieces of ID on file…"
✓ Customer contacts SaskPower, the BP details do not include any identification.	✓ Verify two other pieces of account information such as: ○ Amount of the last invoice a their primary residence ○ Employer ○ Meter Number ○ Etc.	✓ Request a Saskatchewan Driver's License number and Date of birth. ✓ Place the customer on hold. ✓ Contact a permanent Coordinator and request SGI verification. ✓ Update the Business Partner per Privacy Standards.

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[28] The above clearly lays out the sequence of events that should occur. That is, the customer service representative should request that the customer provide their driver's license number and date of birth *before* contacting SGI to verify the customer's identity. By requesting the information from the customer first, SaskPower is in a position to inform the customer the purpose for which the information is collected pursuant to section 26(2) of FOIP. The customer would be given the opportunity to ask questions and express concerns at this point. For example, not all individuals have a driver's licence. Therefore, this would be the time to raise this fact with the customer service representative to explore alternative options. Others may have concerns about potential misuse of their driver's licence information and ask about SaskPower's safeguards and other possible methods to verify their identity.

[29] However, in this case, the SaskPower coordinator did not collect the Complainant's driver's licence information directly from the Complainant as required by section 26(1) of FOIP. Where reasonably practicable, SaskPower must collect personal information directly from the individual. SaskPower has not made the case as to why the SaskPower coordinator had to collect the Complainant's personal information indirectly from SGI on August 7, 2019. The SaskPower coordinator could have sought information directly from the Complainant during their call on August 9, 2019 to verify the Complainant's identity before discussing the Complainant's concerns.

[30] Further, SaskPower did not explain how indirectly collecting the driver's licence number from SGI on August 7, 2019 actually assisted SaskPower in verifying the Complainant's identity. After all, on August 9, 2019, the SaskPower coordinator did not use the driver's licence number to verify the Complainant's identity during the call. On August 26, 2019, the customer service representative was able to verify the Applicant's identity using the Applicant's name, date of birth and mother's maiden name.

[31] I find that SaskPower did not meet the requirements of section 26 of FOIP when it indirectly collected the Complainant's driver's licence number from SGI.

[32] I recommend that SaskPower provide training to the coordinator who accessed the Complainant's driver's licence number from SGI's database. SaskPower should ensure this particular coordinator is meeting the requirements of section 26 of FOIP and following SaskPower's reference guide for circumstances where identification is missing or incorrect. I also recommend SaskPower conduct an audit of the coordinator's work to ensure that the coordinator has not collected other individual's personal information in a way that is not in compliance with section 26 of FOIP. If so, I recommend that SaskPower take steps to notify those individuals of what has occurred and take steps to amend the information.

5. Did SaskPower meet the data minimization and need-to-know principles?

[33] In past reports, I have said that two important principles underlie Part IV of FOIP: (1) the need-to-know principle; and (2) the data minimization principle. Authority to collect only exists when these principles are abided by. The "need-to-know" principle requires a government institution to only collect information that is on a need-to-know basis. The "data minimization" principle requires a government institution to collect the least amount of personal information necessary for the purpose (Investigation Report 133-2015 at paragraphs [18] to [19]).

[34] As summarized in the background of this Report, SaskPower collected the Complainant's name, date of birth and mother's maiden name on August 22, 2018 for the purpose of verifying their identity.

[35] Also summarized in the background of this Report, SaskPower removed the Complainant's driver's licence number from the customer record in response to the Complainant's concern. This suggests that SaskPower did not (and does not) require the driver's licence number to verify the Complainant's identity. I find that SaskPower has not abided by the need-to-know and data minimization principles.

[36] In my office's Investigation Report F-2012-001, my office considered the need for Saskatchewan Telecommunications (SaskTel) to collect unique identifiers such as a driver's licence number to verify an individual's identity:

> [58] If making inquiries over the phone, why would name, contact and account related information and date of birth not be sufficient proof of identity, especially when coupled with a password?

[37] I should be clear that I support SaskPower taking steps to verify a customer's identity prior to releasing any account details. Verification of identity is key in preventing privacy breaches. However, as I have already suggested at paragraph [14] in Investigation Report 260-2019, SaskPower should consider providing customers with alternate options to authenticate their identity rather than collecting pieces of identification such as a driver's licence unnecessarily. Requiring customers to provide their driver's licence numbers only increases the risk of identity theft of its customers. Further, with such sensitive data,

SaskPower must take extra care to safeguard such sensitive information. Alternative methods to verify identities should be considered by SaskPower in order to reduce risk for both itself and its customers. I recommend that SaskPower explore alternate options for its customers to authenticate themselves rather than relying on sensitive types of information such as the driver's licence number.

III FINDINGS

[38] I find that I have jurisdiction to conduct this investigation.

[39] I find that the Complainant's driver's licence number qualifies as personal information as defined by section 24(1)(d) of FOIP.

[40] I find that section 25 of FOIP authorizes SaskPower to collect customers' personal information for the purpose of verifying their identities.

[41] I find that SaskPower did not meet the requirements of section 26 of FOIP when it indirectly collected the Complainant's driver's licence number from SGI.

[42] I find that SaskPower has not abided by the need-to-know and data minimization principles.

IV RECOMMENDATIONS

[43] I recommend that SaskPower provide training to the coordinator who accessed the Complainant's driver's licence number from SGI's database. SaskPower should ensure this particular coordinator is meeting the requirements of section 26 of FOIP and following SaskPower's reference guide for circumstances where identification is missing or incorrect.

[44] I recommend that SaskPower conduct an audit of the coordinator's work to ensure that the coordinator has not collected other individuals' personal information in a way that is not in compliance with section 26 of FOIP or SaskPower's reference guide for circumstances

where identification is missing or incorrect. If so, I recommend that SaskPower take steps to notify those individuals of what has occurred and take steps to amend the information.

[45] I recommend that SaskPower explore alternate options for its customers to authenticate themselves rather than relying on sensitive types of information such as the driver's licence number.

Dated at Regina, in the Province of Saskatchewan, this 17th day of November, 2021.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy Commissioner