



Office of the  
Saskatchewan Information  
and Privacy Commissioner

## **REVIEW REPORT 022-2016**

### **Saskatchewan Transportation Company**

**April 6, 2016**

**Summary:** In response to an access to information request regarding ridership numbers, Saskatchewan Transportation Company applied subsection 18(1)(b) and 18(1)(f) of *The Freedom of Information and Protection of Privacy Act* (FOIP) to the record. The Commissioner found that subsection 18(1)(f) of FOIP applied to the record.

#### **I BACKGROUND**

- [1] On November 24, 2015, Saskatchewan Transportation Company (STC) received an access to information request for “the number of routes that average less than seven riders per trip (year-to-date for the current fiscal year as well as the last two fiscal years)”. On December 18, 2015, STC responded to the Applicant, indicating that responsive records were being withheld pursuant to subsections 18(1)(b) and 18(1)(f) of *The Freedom of Information and Protection of Privacy Act* (FOIP).
- [2] On February 22, 2016, the Applicant requested a review by my office. On the same day, we notified STC and the Applicant of our intention to undertake the review.

## II RECORDS AT ISSUE

- [3] The record consists of two pages. The first page contains a table which describes STC's 2013 Average Riders per Trip. The second contains a table which describes STC's 2014 Average Riders per Trip. STC has applied subsections 18(1)(b) and 18(1)(f) of FOIP to the two pages in their entirety.
- [4] STC has indicated that these tables have not yet been prepared for 2015 and 2016. A government institution is not obligated to create a record for the purposes of responding to an access request.

## III DISCUSSION OF THE ISSUES

### 1. Does subsection 18(1)(f) of FOIP apply to the record?

- [5] Subsection 18(1)(f) of FOIP states:
- 18(1)** A head may refuse to give access to a record that could reasonably be expected to disclose:
- ...
- (f) information, the disclosure of which could reasonably be expected to prejudice the economic interest of the Government of Saskatchewan or a government institution;
- [6] In order to qualify, the public body must show how the information is expected to prejudice economic interests. The public body does not have to prove that the prejudice is probable, but needs to show that there is a "reasonable expectation of prejudice" if any of the information/records were to be released.
- [7] Prejudice in this context refers to detriment to economic interests. Economic interest refers to both the broad interests of a public body and for the government as a whole, in managing the production, distribution and consumption of goods and services. The term also covers financial matters such as the management of assets and liabilities by a public

body and the public body's ability to protect its own or the government's interests in financial transactions.

[8] STC asserted the following in its submission:

STC works within a competitive business environment that is regulated by the Highway Traffic Board (HTB). There are competitors operating within the province that are providing intercity and other bus services. If the information was made public, competitors could apply for rights to operate on STC's profitable or high volume routes....

With only 25 routes in the network, subsequent requests for information could focus on other ridership levels or variations on the same theme of questions and the resulting data could quickly be used to identify the ridership levels throughout the network. This could become an incremental strategy to dissect the internal workings of the organization including revenues and costs structures.

[9] I am persuaded that if released, the information could reasonably prejudice the economic interests of STC. Therefore, STC appropriately applied subsection 18(1)(f) of FOIP.

[10] There is no need to consider subsection 18(1)(b) of FOIP.

#### **IV FINDING**

[11] Subsection 18(1)(f) of FOIP applies to the record.

#### **V RECOMMENDATION**

[12] I recommend that STC take no further action with regard to this request.

Dated at Regina, in the Province of Saskatchewan, this 6th day of April, 2016.

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