

FILE NO. - 96/023

**REPORT WITH RESPECT TO THE APPLICATION
FOR REVIEW OF [REDACTED] WITH RESPECT TO
INFORMATION REQUESTED FROM SASKPOWER**

[REDACTED] applied to SaskPower under *The Freedom of Information and Protection of Privacy Act* (the "Act") for access to records which he described as:

"Agreement: Prov. of Sask. and HBM&S - Document indicating the transfer of Churchill Power Corporation from Hudson Bay Mining and Smelting to the Gov't of Saskatchewan or Sask-Power Inc."

By letter dated August 30, 1996, SaskPower advised the Applicant that his request was denied in the following terms:

"Your Request for Access to these records is denied pursuant to Section 19(1)(b), (c)(ii) and (iii) of *The Freedom of Information and Protection of Privacy Act* as the records contain financial and commercial information of a third party that was created with the understanding that it would be treated on a confidential basis; and the disclosure of which could reasonably be expected to prejudice the competitive position of the third party or interfere with the contractual or other negotiations of the third party.

In addition, access is denied pursuant to Section 18(1)(d) of *The Freedom of Information and Protection of Privacy Act* as the records contain information, the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of SaskPower."

██████████ applied for a review and SaskPower gave the appropriate third party notice to ██████████. In the course of the review I was advised by letter from SaskPower that they had reconsidered their position and had determined that a release of the records in question would not interfere to any extent with the contractual or other negotiations of SaskPower.

██ made a submission opposing the disclosure of these records relying on Section 19(1)(c) of the Act:

"19 (1) Subject to Part 5 and this section, a head shall refuse to give access to a record that contains:

(c) information, the disclosure of which could reasonably be expected to:

- (i) result in financial loss or gain to;
- (ii) prejudice the competitive position of; or
- (iii) interfere with the contractual or other negotiations of;

a third party."

This clause does not depend on whether the records were confidential, and simply put the head must not disclose the record if any of the results stipulated in this clause can be shown to be reasonably probable to occur as a result of disclosure.

I have examined the submissions from [REDACTED] and I have examined the records in question which consist of agreements made between Churchill River Power Company Limited, Saskatchewan Power Corporation and [REDACTED] all dated April 1, 1981.

It is difficult to see how these agreements, made some 15 years ago, if disclosed, would have the result suggested by [REDACTED], and an examination of the agreements does not indicate to me that disclosure, per se, would have the result suggested. No information or facts have been presented to me which would support the conclusion that disclosure of these records would have the probable result in any of the harm contemplated by Section 19(1)(c) being incurred by the third party, nor did [REDACTED] point to any specific information in the agreements which would cause some identifiable harm.

Accordingly, I have concluded that the agreements do not fall within the prohibition contained in Section 19(1)(c) and it is my recommendation that these records be disclosed to the Applicant.

Dated at Regina, Saskatchewan this 18 day of December, 1996.

**Derril G. McLeod, Q.C.,
Commissioner of Information and
Privacy for Saskatchewan**