



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER P-693

Appeal P-9400166

Ontario Hydro



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ORDER

NATURE OF THE APPEAL:

Ontario Hydro (Hydro) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for a copy of all materials relating to a specific job interview involving the requester. In particular, the requester sought access to the interview questions, the answers which he provided and the written comments of the interviewers.

While Hydro agreed to release the requester's answers and the comments made by the interviewers, it decided not to disclose the interview questions under section 18(1)(g) of the Act (proposed plans of an institution). The requester appealed this decision to the Commissioner's office.

Mediation was not successful and notice that an inquiry was being conducted to review Hydro's decision was sent to the requester (now the appellant) and to Hydro. Representations were received from both parties.

The record at issue in this appeal is in a 17-page document which contains a total of 61 questions posed to the appellant during his job interview. The sole issue to be determined is whether the discretionary exemption provided by section 18(1)(g) of the Act applies to this record.

In order for a record to qualify for exemption under this provision, Hydro must establish that the record:

1. contains information including proposed plans, policies or projects;
and
2. that disclosure of the information could reasonably be expected to result in:
 - (i) premature disclosure of a pending policy decision, **or**
 - (ii) undue financial benefit or loss to a person.

Both elements of this two-part test must be satisfied in order for the exemption to apply.

In its representations, Hydro submits that the interview questions form part of a plan for the purposes of section 18(1)(g) of the Act. Hydro then states that these questions may be used in future job competitions in which the appellant may participate. Hydro argues that the disclosure of the questions could reasonably be expected to result in undue financial benefit to the appellant and undue financial loss to the other applicants, by giving the appellant a comparative advantage in these competitions.

In previous orders issued by the Commissioner's office, the word "plan" has been interpreted to mean "a formulated and especially detailed method by which a thing is to be done; a design or

scheme". In my view, the list of interview questions cannot reasonably be characterized as a detailed method, scheme or design and, hence, a plan for the purposes of the section 18(1)(g) exemption.

In addition, even if I were prepared to accept that the interview questions constitute a plan, Hydro acknowledges that these questions have already been used in the appellant's interview. On this basis, the questions would not qualify under the designation of a **proposed** plan which is the wording used in this exemption.

For the reasons indicated, I find that part one of the test for the application of section 18(1)(g) has not been met with the result that the interview questions should be released to the appellant.

ORDER:

1. I order Hydro to disclose the interview questions to the appellant within fifteen (15) days of the date of this order.
2. In order to verify compliance with this order, I order Hydro to provide me with a copy of the records which were disclosed to the appellant pursuant to Provision 1, **only** upon request.

Original signed by: _____
Irwin Glasberg
Assistant Commissioner

_____ May 27, 1994