



Tel: 416. [REDACTED] 280

Fax: 416. [REDACTED] 467

Toll-free: 1-866- [REDACTED]

Email: DuncanGlaholt@ [REDACTED]

www. [REDACTED]

CERTIFIED BY THE LAW SOCIETY AS A  
SPECIALIST IN CONSTRUCTION LAW

28 March 2018

**Via Email: admin@muskratfallsinquiry.ca**

The Honourable Justice Richard D. LeBlanc, Commissioner  
Commission of Inquiry Respecting the Muskrat Falls Project  
Beothuk Building, 5<sup>th</sup> Floor  
20 Crosbie Place  
St. John's, NL A1B 3Y8

Dear Mr. Justice LeBlanc:

**Re: Astaldi Canada Inc. ("Astaldi")**  
**Re: Commission of Inquiry Respecting the Muskrat Falls Project**  
**Re: Application for Standing**  
**Our File No. 66/15**

---

Astaldi respectfully makes the following submissions for full standing before the Commission of Inquiry, in accordance with the Commission's call for applications dated 15 March 2018.

Astaldi's request for standing is based on the following considerations set out at section 5(2) of the *Public Inquiries Act* and paragraph 10 of the Commission's Rules of Procedure:

1. whether the person's participation would further the conduct of the Inquiry;
2. whether the person's interest may be adversely affected by the findings of the Commission; and
3. whether the person's participation would contribute to the openness and fairness of the Inquiry.

The Commission has been tasked, in part, to inquire into the reasons why the cost of Project execution exceeded the estimated cost at time of Project sanction. The Commission's inquiry in respect of Project execution is to include investigation of contractual arrangements, project management structures, risk transfer, and other aspects of the dealings between Nalcor and its contractors.

*First*, Astaldi's participation would further the conduct of the Commission. On 28 September 2012, prior to Project sanction, SNC-Lavalin as EPCM contractor to Nalcor issued a request for proposals from pre-qualified bidders for the work eventually performed by Astaldi. The Project was officially sanctioned on 17 December 2012. Astaldi delivered its proposal on 16 April 2013. In May of 2013, SNC-Lavalin released the SNC-Lavalin Risk Assessment referred to by the Commissioner at paragraph 41 of his 14 March 2018 interpretation of the terms of reference. Among the "very high risk" items identified by SNC-Lavalin in its Risk Assessment are a number of the items that eventually affected the cost and schedule of the Astaldi contract. These included: (i) limited possibility to develop new work packages; (ii) very aggressive schedule; (iii) inability to meet local labour requirements; (iv) decisional team more familiar with oil and gas industry than with heavy civil and hydro works, leading to sub-optimal decision-making; and (v) the possibility of community protest. Astaldi's participation would assist the Commission in reaching a full understanding of these issues.

*Second*, Astaldi's interest may be adversely affected by the findings of the Commission. Astaldi and its over 10,000 employees have a 95-year track record of delivering important public infrastructure projects and large-scale civil engineering works to governments around the world. Astaldi is a publicly traded company and the stock market will be following the work of Commission closely. The Commission's findings with respect to project execution could impact Astaldi's reputation and the award of prospective future projects to Astaldi in Canada and worldwide.

*Third*, Astaldi's involvement would contribute to the openness and fairness of the Inquiry. Granting standing to Astaldi will further the Commission's goal of an open inquiry by allowing Astaldi to present evidence regarding some of the central circumstances giving rise to the increases in Project cost and schedule delays.

Astaldi therefore seeks to be granted standing at the Inquiry, including the right to receive disclosure of anticipated statements of evidence and documents, to call and cross-examine witnesses, and to enter exhibits into evidence at the Commission hearings, to the extent necessary to help providing a complete understanding of the Project and to assist the Commission in its inquiry.

If oral submissions are necessary, Astaldi respectfully advises of its preference for a hearing in St. John's on 6 April 2018. Astaldi looks forward to being of assistance to the Commission in fulfilling its mandate.

Yours very truly,

**GLAHOLT LLP**



Duncan W. Glaholt

Duncan Glaholt Professional Corporation

DWG/lw