



Commission of Inquiry Respecting the Muskrat Falls Project

STANDING APPLICATIONS FOR THE NEWFOUNDLAND LABRADOR BUILDING AND CONSTRUCTION TRADES COUNCIL AND THE RESOURCE DEVELOPMENT TRADES COUNCIL OF NEWFOUNDLAND AND LABRADOR FOR THE MUSKRAT FALLS INQUIRY

DECISION

APRIL 6, 2018

LEBLANC, J.:

INTRODUCTION

[1] Jointly, the Newfoundland Labrador Building and Construction Trades Council and the Resource Development Trades Council of Newfoundland and Labrador have applied for limited standing at the hearings of the Commission of Inquiry Respecting the Muskrat Falls Project.

[2] The first co-applicant represents a number of the unions involved in construction on the Project and also has a mandate regarding construction industry workers in this Province. The second co-applicant has acted for and represented all of the affiliated unions representing employees employed in construction of this Project. As such, both organizations submit that the investigations, findings and recommendations of this Commission of Inquiry would impact them and the employees represented by them. They claim that the Commission may well cause further impact as regards major construction projects in this Province including future “special project orders”, collective bargaining and work conditions. They also submit that the Commission will likely be investigating the performance, productivity and conduct of employees they represent who were involved in the

Project construction. The applicants believe it is necessary to give the employees who worked and continue to work on the project who they represent a “voice” at the hearings and that their involvement will further the conduct of the Inquiry.

[3] They also argue that as Nalcor and other major contractors for the Project will likely seek standing, it is only fair that they obtain some form of standing at the hearings on behalf of the unionized employees working for those companies.

[4] Both co-applicants seek to have limited standing in the sense that they can participate at the hearings on all matters involving them as regards the construction of the Project and, particularly, section 4(b) of the Commission’s Terms of Reference. That Term speaks generally to why there has been a significant escalation in the cost of the Project since the time of its sanction bearing in mind a number of factors including Nalcor’s retention and dealings with contractors and suppliers as well as Nalcor’s contractual arrangements and procurement strategy.

[5] I am satisfied that the co-applicants being given limited standing as requested at the hearings will further the conduct of the Inquiry. The employees they represent may well have information that could assist the Commission in its investigation. The participation of both of these parties jointly will contribute to the openness and fairness of the Inquiry as well. Therefore, the co-applicants will be granted a limited standing in that their participation will be limited to that part of the hearings where the Commission is dealing with section 4(b) issues under its Terms of Reference in those matters that engage their interests.

[6] I have decided to conduct the hearings in three phases. Phase Two of the Inquiry hearings, which I have tentatively scheduled to begin in February 2019, will deal with the matters related to the construction of the Project. The applicants jointly will have standing during Phase Two of the hearings as to matters that engage their interests. As well, they will be permitted to make submissions at the conclusion of the Inquiry related to their interests.

[7] Counsel for both applicants will be entitled to make suggestions and recommendations to Commission co-counsel on evidence to be called, they will be provided with documents relevant to witnesses to be called, they will be permitted to receive advance notice of the schedule of those witnesses to be called and will receive a statement of the witnesses expected testimony related to those issues for which they have been granted limited standing. Counsel will also have the right to cross-examine witnesses and to make closing submissions as I have indicated above.

[8] I would suggest that counsel for the co-applicants coordinate their involvement with Commission co-counsel. I will also caution counsel to avoid unnecessary examination of witnesses or duplication of efforts on the part of other counsel.



JUSTICE RICHARD D. LEBLANC
COMMISSIONER