



Commission of Inquiry Respecting the Muskrat Falls Project

**STANDING APPLICATION FOR
CONSUMER ADVOCATE
FOR THE MUSKRAT FALLS INQUIRY**

DECISION

APRIL 6, 2018

LEBLANC, J.:

INTRODUCTION

[1] Dennis Browne, Q.C., in his capacity as Consumer Advocate pursuant to section 117 of the *Public Utilities Act*, R.S.N.L. 1990 c. P-47 and paragraph 9(2)(a) of the *Independent Appointments Commission Act* representing the interest of domestic and general service electricity and power consumers, has applied for full standing and funding so that he can participate in the hearings to be held for this Inquiry on behalf of the electricity consumers and ratepayers in this Province.

[2] While I would welcome the involvement of Mr. Browne in these hearings based upon his past experience representing consumers before the Public Utilities Board, I have a concern regarding his authority to act on their behalf at this Inquiry.

[3] The office of the Consumer Advocate is a statutory creature and any authority given to that office is provided by the statute creating it. There is no authority at present in any statute that would permit him being the Consumer Advocate for power consumers or on behalf of ratepayers before this Commission of Inquiry. I understand that the Department of Justice and Public Safety may well now be taking

necessary steps to permit the appointment of Mr. Browne to appear on behalf of the Province's power ratepayers at this Inquiry as a Consumer Advocate. If that should happen, that would obviously address any concerns I have related to his authority to act as a Consumer Advocate before this Inquiry.

[4] To be frank, I would welcome the appearance of a Consumer Advocate to represent the interests of electricity consumers and ratepayers of this Province.

[5] As a result, I have decided to defer this request for standing pending the Government of Newfoundland and Labrador cloaking Mr. Browne with the necessary authority to appear on behalf of all electricity consumers in the Province before this Commission of Inquiry. I would welcome his involvement should and when this occurs.

[6] If given standing, I will be encouraging Mr. Browne to work collaboratively with other groups given standing who have similar or common interests. Working together will avoid duplication with regards to the questioning of witnesses in the presentation of evidence.

[7] Next, as to Mr. Browne's request for funding, I would refer to section 5(5) of the *Public Inquiries Act, 2006*, S.N.L. 2006 c. P-38.1 which states the following:

A commission may recommend that the Government of the Province provide funding for counsel and other expenses of a person who is permitted to participate in an inquiry.

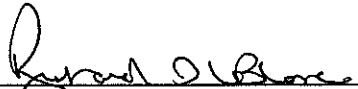
[8] I will now obviously be deferring my consideration of this funding application pending Mr. Browne's appointment as a Consumer Advocate for the purposes of this Inquiry. Having said this, I feel it is necessary to make an initial comment about part of his application for funding, something that it is my hope the Government of Newfoundland and Labrador will have to consider.

[9] Mr. Browne is not only seeking a recommendation for funding for legal counsel but he is also seeking funding for himself. I recognize that Mr. Browne is a lawyer and, as I understand it, there is no compensation paid to him as a Consumer Advocate other than as provided for in those statutes that authorize his appointment. While I am prepared to consider a recommendation for funding for counsel for Mr. Browne should standing be granted, as well as necessary expenses, I do not have the authority to recommend to government that Mr. Browne be paid for his participation as a Consumer Advocate in the Inquiry as a lawyer. It will be for the Government of Newfoundland and Labrador to negotiate and pay Mr. Browne if he is acting as the Consumer Advocate.

[10] Notwithstanding the request to do so, I am not prepared to recommend to Government at this time that it pay expenses for expert reports and consultants if required. The marshalling of witnesses and evidence is to be done through Commission co-counsel. As such, it will be up to Mr. Browne, on his being given standing, to consult with and make suggestions and recommendations to Commission co-counsel in this regard.

[11] I do wish to point out, notwithstanding Mr. Browne's indication there is to be, or has been, a discussion between the Commission and the Government of Newfoundland and Labrador regarding this application, that to my knowledge there are no such discussions ongoing and nor do I expect there will be.

[12] I would ask Mr. Browne to advise me of his appointment as a Consumer Advocate immediately so that I can then deal with his standing and funding application.



JUSTICE RICHARD D. LEBLANC
COMMISSIONER