



Commission of Inquiry Respecting the Muskrat Falls Project

STANDING APPLICATION FOR TERRY PADDON, TODD STANLEY (PUBLIC SERVANTS OF THE GOVERNMENT OF NEWFOUNDLAND AND LABRADOR WITH INVOLVEMENT IN THE MUSKRAT FALLS PROJECT)

DECISION

OCTOBER 15, 2018

LEBLANC, J.:

INTRODUCTION

[1] Terry Paddon and Todd Stanley (the “Applicants”) are past public servants employed by the Government of Newfoundland and Labrador who have had involvement with the Muskrat Falls Project, particularly prior to its sanction in late 2012 based upon the information they provided in their application.

[2] Mr. Paddon was the Deputy Minister of Finance from early 2004 until May 31, 2012 when he was appointed as the Auditor General for the Province. He served in that position until October 31, 2017 at which time he retired.

[3] Mr. Stanley, as a Solicitor with the Department of Justice from 2001 to 2013, provided advice to the Department of Natural Resources regarding such matters as energy policy, resource-related legislation and regarding the Muskrat Falls Project. He was subsequently appointed as the Assistant Deputy Minister of the Department of Justice in 2013 and in 2017 was appointed Deputy Minister of the Department of

Justice and Public Safety as it was then known. He has since resigned and is involved in the private practice of law.

[4] Based upon what the Commission of Inquiry is aware of at this time, as well as the application filed by both Applicants, I am satisfied that both Applicants have had considerable involvement on behalf of the Government of Newfoundland and Labrador regarding policy, legislation and negotiations generally relevant to the Muskrat Falls Project. Their involvement clearly involves matters falling within the mandate of this Commission of Inquiry.

[5] I would note that the Applicants have only applied for standing subsequent to the commencement of the Commission's hearings. No reason has been provided for this delay in doing so. Notwithstanding this, I have decided to deal with their application at this time.

[6] Because of their involvement with the Muskrat Falls Project as public servants, they have already been scheduled as witnesses for the Inquiry hearings and have also been interviewed by Commission counsel. They now seek to have standing as parties during Phase 1 of the Commission's hearings requesting to reserve the right to apply for further standing in the subsequent Phases of the Inquiry.

[7] In the application filed, Mr. Paddon states that, as Deputy Minister of Finance, he had involvement in pre-sanction matters related to giving advice concerning the options considered by the Government to meet the power generation needs of the Province, reviewing project scenarios and alternatives and, as well, he indicates that he can speak to what information was provided to Government prior to the sanction of the Muskrat Falls Project. He also states that he is able to provide information related to the decision of the Government to exempt the Public Utilities Board from consideration of the Muskrat Falls Project to the extent of that exemption.

[8] As such, I am prepared to accept, after full consideration of s. 5 of the *Public Inquiries Act, 2006*, S.N.L. 2006 c. P-38.1 as well as the Terms of Reference as interpreted by me, that Mr. Paddon's participation in the Inquiry as a party will

further the conduct of the Inquiry and that his interests may be affected by the findings of this Commission of Inquiry. In saying this, I believe that it is appropriate to grant standing to Mr. Paddon for Phase 1 of the Inquiry. While he was Auditor General from June 2012 to 2017, at this time I see no reason to grant Mr. Paddon standing on Phase 2 issues.

[9] For Mr. Stanley, I am fully satisfied that his involvement in Phase 1 of the Inquiry will meet the legislated criteria to grant standing in this case. His acting as Solicitor to the Department of Natural Resources and his involvement in such matters as the drafting of the Provincial Energy Plan, the establishment of Nalcor Energy, the development of the water and management regime, as well as the Terms of Reference for the Public Utilities Board support his being granted standing for Phase 1. Obviously his involvement in negotiations with Emera and the Federal Loan Guarantee also will assist the conduct of this Inquiry in Phase 1.

[10] While I accept that Mr. Stanley may be able to speak to the reporting structure between the Government and Nalcor at various times as the Project progressed, I am not satisfied that it is necessary for Mr. Stanley to be a party during Phase 2 of the Inquiry based upon the information that the Commission has at this time.

[11] As a result, both Applicants will be granted full standing during Phase 1 of the Inquiry hearings only. As such, they will be provided with disclosure of all documents already provided to the other parties with full standing on all Phase 1 issues.

[12] It is my understanding that neither Mr. Paddon nor Mr. Stanley seek funding for legal counsel as their legal costs will be paid for by the Government of Newfoundland and Labrador.

[13] While the Applicants have requested to collectively be referred to as “Former Civil Servant of Government NL”, I am not prepared to do this. Other public servants have been granted standing under their names and I see no reason why this

should change for these parties. In fact, to accede to this request may cause confusion for other parties as well as to the public.

[14] Finally, now being granted standing, I remind Mr. Paddon and Mr. Stanley of their obligation to comply with this Commission's Rules of Procedure including the requirement that they provide all documents or things in their possession or control relevant to the Inquiry's mandate to Commission co-counsel within the next 14 days. As a matter of fact, as the Inquiry hearings have already commenced, I would ask that they provide those items even earlier than 14 days if at all possible.



RICHARD D. LEBLANC
COMMISSIONER