



Rules of Standing and Funding

PUBLIC ORDER EMERGENCY COMMISSION

Introduction

On February 14, 2022, the Government of Canada declared a public order emergency under the *Emergencies Act* that was in effect until it was revoked on February 23, 2022.

By Order in Council dated April 25, 2022, the Government of Canada established this Commission of Inquiry to examine and report on the circumstances that led to the federal government's declaration of a public order emergency and the measures taken by the Governor in Council by means of the *Emergency Measures Regulations* and the *Emergency Economic Measures Order* for dealing with the public order emergency that was in effect from February 14 to 23, 2022.

The Commission is operating within a very short timeframe mandated by statute. The Commission's final report must be delivered to the Governor in Council in both official languages by February 6, 2023 and to Parliament by February 20, 2023. (See Notice to Interested Parties Regarding the Public Order Emergency Commission at publicorderemergencycommission.ca/documents).

One of the Commission's first important tasks is to identify individuals and groups who may assist by participating in the Commission's various proceedings. The extent of participation can cover a wide spectrum – from a role involving a particular aspect of the Commission's mandate to participation more broadly across all or most of the Commission's proceedings. The form of participation may be required or it may be by invitation. It can include, for example, testifying under oath, partaking in roundtable discussions or providing expert reports and opinion evidence. Groups of Parties will be expected to contribute in coalitions. Parties are encouraged to consider whether they can participate through such coalitions or groups.

Applicants who are granted standing – that is, an opportunity to participate directly in the Commission's proceedings – may have, at the Commissioner's discretion, certain participatory rights such as advance notice of documents which are proposed to be introduced into evidence, advance provision of will say statements of anticipated witnesses, a seat at counsel table, the right to cross-examine witnesses on matters relevant to the basis upon which standing was granted, or the opportunity to suggest witnesses, among others. Different types of standing and rights of participation may be granted depending on the nature of an Applicant's substantial and direct interest, all in the context of the Commission's timeframe for completing its work.

The Rules outlined below provide a process for Applicants to seek standing. Not everyone who would like to participate in the Commission's mandate will be a suitable candidate for a grant of standing. Standing or participatory rights, are granted to Applicants with “a substantial and direct interest in the subject matter” of the Commission's mandate or to those with unique experience or expertise that will assist the Commission in its work beyond what would be available by calling witnesses. For example, while witnesses have an important role to play in the fact-finding work of the Commission, they do not necessarily have “a substantial and direct interest”. Individuals and groups who have a genuine concern about the subject matter of the Commission or have an

expertise in an area that will be considered by the Commission may not have a substantial and direct interest in the subject matter of the Inquiry. They may possibly play a role in the Inquiry in other ways, such as contributing to the research and policy work of the Commission.

Some factors that may be considered in determining whether an Applicant meets the criteria set out in the Rules and will be granted standing include: 1) the mandate of the Inquiry; 2) the nature of that aspect of the Inquiry for which standing is sought; 3) the type of interest the Applicant has; 4) the connection of the particular Applicant to the Inquiry's mandate; 5) whether the Applicant has a continued interest and involvement in the subject matter of the Inquiry; 6) whether the Applicant may be significantly affected by the Commission's findings and recommendations; 7) whether the Applicant is uniquely situated to offer information that will assist the Commission with its work; 8) the extent to which the Applicant's participation may duplicate the contribution of others; 9) whether the Applicant is willing to share a single grant of standing with other Applicants with whom the Applicant has a common interest; and 10) the need to complete the Commission's work in a timely manner.

It is important to note that it is not necessary to be granted standing in order to be involved in the public activities and information gathering by the Commission. For example, members of the public who wish to observe Commission hearings and public activities may do so without seeking standing. Members of the public will be given an opportunity to express their views, suggest avenues of investigation, provide information, and share their experiences with the Commission in other ways, such as through online submissions. Members of the public may also follow the Commission's website which will contain updated information on the Commission's work, and which may include Rules of Practice and Procedure, decisions and rulings, expert or overview reports, and proceeding schedules. The Commission may announce additional ways in which the public can engage with the work of the Commission and contribute to its mandate. Further details for participating in the Commission's work and on the opportunities and the ways to do so will be published on the Commission's website in the near future.

With respect to funding, the Commissioner may make recommendations to the Clerk of the Privy Council regarding funding for a Party, where, in the view of the Commissioner, the person would not otherwise be able to meaningfully participate in the Commission without such funding. Funding recommendations will correlate with the Commissioner's determination of the appropriate degree of participation for each Applicant for funding.

Under the Order in Council, the Commissioner can only recommend funding for Parties. It is up to the Clerk of the Privy Council to approve all funding in accordance with approved Treasury Board guidelines respecting the remuneration and reimbursement and the assessment of accounts. Funding is disbursed based on these guidelines and may not cover all costs of participation.

Rules

General

1. These Rules on standing and funding apply to the Public Order Emergency Commission (the “Commission” or “Inquiry”), established pursuant to the Government of Canada Order in Council 2022-0392 (the “Terms of Reference”).
2. Subject to the *Inquiries Act*, RSC 1985, c I-11 (the “Act”) and the Terms of Reference, these Rules are issued by The Honourable Paul S. Rouleau (the “Commissioner”), in his discretion to facilitate the efficient disposition of the issues of standing and funding.
3. The Commissioner may amend, vary or depart from any rule or may dispense with compliance with these Rules as deemed necessary to ensure the Inquiry is thorough, fair and timely.
4. These Rules relate to the opportunity for participation in the Commission’s proceedings, including the fact-finding and policy aspects of the mandate.
5. All interested persons and their counsel shall be expected to adhere to the Commission’s Rules of Practice and Procedure, yet to be published, and may raise any issue of non-compliance with the Commissioner.
6. The Commissioner may deal with a breach of these Rules as he deems appropriate.
7. In these Rules,
 - a. “Applicant(s)” refers to individuals, organizations, governments, agencies, institutions, associations or any other entity applying for an opportunity to participate in the Commission’s proceedings;
 - b. “electronic format” refers to pdf format.

Standing

8. Commission Counsel will assist the Commissioner to ensure the orderly conduct of the Inquiry and have standing at the Inquiry. Commission Counsel have the primary responsibility of representing the public interest throughout the Inquiry, including the responsibility of ensuring that all matters that bear upon the public interest are brought to the Commissioner’s attention.
9. Applicants may seek standing at the Inquiry by submitting an application form with any supporting materials, in electronic format, with the Commission on or before June 15, 2022, or at the discretion of the Commission, on any other date.
10. Application forms can be found on the Commission’s website at publicorderemergencycommission.ca/documents.

11. Completed application forms for standing must include the following information:
 - a. The Applicant's name, address, telephone number, and email address;
 - b. The name(s) of the legal representative(s), if any, representing the Applicant, together with the legal representative(s)'s address, telephone number, and email address;
 - c. The substantial and direct nature of the Applicant's interest in the subject matter of the Inquiry, why the Applicant wishes standing, and how the Applicant's participation would provide the necessary contributions to the Inquiry, having specific regard to the Terms of Reference; and
 - d. Whether the Applicant is seeking full standing or standing on one or more specific issues as outlined in the Terms of Reference.
12. The Commissioner will make decisions about participation in the Commission's proceedings based on the completed application forms and supporting documentation. Should oral submissions be required for any Applicant, which will be determined by the Commissioner, the Commissioner will communicate an appropriate time and format.
13. Supporting documentation shall be limited to 10 pages.
14. Standing will be granted in the discretion of the Commissioner, in accordance with section 11 of the Act, the Terms of Reference and the desirability of a transparent, fair and timely proceeding. The Commissioner will consider, among other things, the following criteria:
 - a. whether an Applicant has a substantial and direct interest in the subject matter of the Inquiry;
 - b. whether an Applicant's participation would provide necessary contributions to the conduct of the Inquiry; and
 - c. whether an Applicant's participation would contribute to the openness and fairness of the Inquiry.
15. The Commissioner may determine the manner and scope of the participation of Applicants granted standing, as well as their rights and responsibilities.
16. The Commissioner may direct that a number of applicants share participation with those with whom they have a common interest.
17. Those granted standing will be designated as "Parties" before the Inquiry.
18. The Commissioner may decide, in his discretion, that one or more Applicants for standing will have more limited rights of participation than others. He may also decide that two or

more Applicants for standing will be required to participate as a group and be required to exercise their rights of participation jointly.

19. From time to time, the Commissioner may, at his discretion, modify, rescind or grant standing.
20. Any material or information filed in support of an Applicant's standing application may be available to the public on the Commission's website or cited in a publicly available document, such as a decision on standing.
21. Any updated information with respect to standing may be made available on the Commission's website at publicorderemergencycommission.ca.

Funding

22. Further to and in accordance with the Government of Canada Order in Council 2022-0392 (a)(v)(c), the Commissioner may make recommendations to the Clerk of the Privy Council regarding funding for a Party, where in the Commissioner's view, the Party would not otherwise be able to participate in the Inquiry without such funding.
23. Applicants may seek funding by submitting an application form with any supporting materials, in electronic format, with the Commission on or before June 15, 2022, or at the discretion of the Commission, on any other date. Applicants will be expected to seek funding at the same time as they seek standing, and materials in support of funding may be combined with materials in support of standing. The Commissioner will make decisions about recommendations for funding based on the completed application form and supporting documentation
24. Supporting documentation shall be limited to 10 pages.
25. Application forms can be found on the Commission's website at publicorderemergencycommission.ca/documents.
26. Completed application forms for funding must include the following information:
 - a. The Applicant's name, address, telephone number, and email address;
 - b. The name(s) of the legal representative(s), if any, representing the person, together with the lawyer(s)'s address, telephone number, and email address;
 - c. Evidence that demonstrates that an Applicant does not have adequate financial resources to represent its interest in the Inquiry; and
 - d. How the Applicant intends to make use of the funds and how it will account for the funds.

27. Should oral submissions be required for any Applicant seeking funding, which will be determined by the Commissioner, the Commissioner will communicate an appropriate time and format.
28. Funding will be recommended at the Commissioner's discretion in accordance with the Government of Canada Order in Council 2022-0392 (a)(v)(c). The Commissioner will also consider, among other things, the following factors in making funding recommendations:
 - a. whether the Applicant has demonstrated an inability to be a Party in the Inquiry without funding for representation;
 - b. whether the Applicant has a unique perspective or special experience or expertise that will not be presented to the Inquiry if the Applicant is not granted standing;
 - c. whether the Applicant has an established record of concern for and demonstrated commitment to the interest the Applicant seeks to represent; and
 - d. whether the Applicant has provided a proposal as to the use of the funds and how the funds will be accounted for.
29. Where the Commissioner's funding recommendation is accepted, funding shall be in accordance with Treasury Board guidelines respecting rates of remuneration and reimbursement and the assessment of accounts.
30. Any material or information filed in support of an Applicant's application for funding may be available to the public on the Commission's website or cited in a publicly available document, such as a decision on funding.
31. Any updated information with respect to funding may be made available on the Commission's website at publicorderemergencycommission.ca.