



Supplementary Decision on Standing

Introduction

1. On July 5, 2022, the Commission received two late-filed applications for standing: one from the Windsor Police Service (“WPS”) and one from the Union of British Columbia Indian Chiefs (“UBCIC”). This decision explains why I would exercise my discretion to consider these applications, and to grant the Applicants standing. I also grant requests by the Ontario Provincial Police (“OPP”) and the Ottawa Coalition of Residents and Businesses (“the Coalition”) to vary the grants of standing that were previously given to them.

General Considerations

2. These reasons should be read along with my Decision on Standing, dated June 27, 2022.¹ That decision set out the general considerations I believe inform my decisions respecting standing.

3. Rules 9 and 19 of the Commission’s *Rules of Standing and Funding* provide:

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.

...

19. From time to time, the Commissioner may, at his discretion, modify, rescind or grant standing.

4. Read together, these rules give me the discretion to consider applications for standing that are filed after June 15, 2022. However, this discretion should be exercised carefully. As this Commission has previously stated,² it is operating under a very compressed timeline. The

¹ Commissioner Paul S. Rouleau, Public Order Emergency Commission, [Decision on Standing](#) (June 27, 2022).

² See, for example, Public Order Emergency Commission, [Notice to Interested Parties Regarding the Public Order Emergency Commission](#) (June 1, 2022) at 5.



Commission expects that those who wish to participate in its work will move quickly and with diligence. At the same time, I should not be inflexible. The Commission's rules grant me flexibility to consider late-filed applications, and I ought to do so in appropriate circumstances.

5. I do not believe that there is any single criterion that should dictate how I exercise my discretion. Rather, in my view, I ought to consider the overall justice of the situation, informed by the ultimate goals of the Commission. Some of the factors that I believe are relevant to this assessment are:

- a. The length of the delay in applying for standing;
- b. The reason for the delay;
- c. Whether the delay will cause prejudice to the Commission or to any other party; and
- d. An assessment of the significance of the Applicant's interest, the potential contribution of the Applicant, and how its participation may advance the Commission's mandate.

The Windsor Police Service

6. The WPS applies for full standing, other than to produce policy papers, with respect to all aspects of the Commission's mandate. In its application, it qualifies the scope of its request to those matters "relevant to the policing response to the protest activity and blockade of the Ambassador Bridge."

7. The WPS states that it has a substantial and direct interest in the Commission's mandate given its role in responding to protests that occurred at the Ambassador Bridge in Windsor. It states that in the course of responding to the blockade, the WPS gained relevant information about the evolution of the protestors' goals, the role that information and disinformation played in the protest movement, and the impact of the protests on the local community. Further, the



WPS states that it has direct information and insight into the actions contemplated and taken to respond to the protests, including under a variety of provincial and federal statutes. In support of its claims of having relevant information and insight, the WPS provide a preliminary list of documents in its possession relevant to the Commission's mandate.

8. I would exercise my discretion to extend the time for the WPS to apply for standing, and to grant it standing.

9. The delay in the WPS's application was not extensive, and in my view has not caused any significant prejudice to the Commission or any of the parties. In particular, I note that WPS has proactively begun to prepare relevant documents for production to the Commission, which reduces the impact of its late application on the Commission's work. I am also of the view that, given its role in the protests that occurred at the Ambassador bridge, the participation of the WPS would further the mandate of the Commission. This weighs in favor of considering its late application for standing.

10. In my view, the position of the WPS is similar to that of the Ottawa Police Service, who have already been granted standing. The WPS was the police force of jurisdiction in the area of one of the protests that was referred to in the Proclamation Declaring a Public Order Emergency. It appears to have information that is relevant to the Commission's mandate. It is likely that the conduct of the WPS in response to the Ambassador Bridge protests will be the subject of examination by the Commission. I am satisfied that it has a substantial and direct interest, and that it would make a necessary contribution to the Commission's work. I would therefore grant it standing in the manner that it has proposed.



Union of British Columbia Indian Chiefs

11. The UBCIC seeks full standing on all aspects of the Commission's mandate. It also seeks funding.

12. The UBCIC describes itself as a representative organization of First Nations in British Columbia. Its purpose is to promote and support the efforts of First Nations in British Columbia to affirm and defend their Aboriginal Rights and Title. It does so through a combination of providing support to communities, public education and research, direct engagement with government, international engagement, and litigation. Currently 108 of 203 BC First Nations are members in good standing of the UBCIC.

13. The UBCIC states that it has a substantial and direct interest in the Commission's mandate based largely on its role as an umbrella organization representing Indigenous governments. It submits that like the federal, provincial, territorial, and municipal governments, Indigenous governments are responsible for responding to emergency situations for, and on behalf of, the people within their jurisdiction. It submits that Indigenous governments play a critical role in governance in Canada in terms of ensuring that other governments are held accountable for their actions. The UBCIC states it will be important for the Commission to understand Indigenous perspectives about the events leading up to the proclamation of an emergency, as well as the use of the *Emergencies Act* itself. As a representative for Indigenous governments in BC, the UBCIC submits that it would make a necessary contribution to the Commission as no other Indigenous government or group has sought standing in the Inquiry.

14. The UBCIC explains that it was unable to apply for standing by the original deadline established by the Commission. It states that it has an internal deliberative process that it was required to undertake before deciding to seek standing, which delayed its application. It also



indicates that it was not aware that no other representative Indigenous group or organization was seeking standing until the Commission's initial standing decision was released on June 27, 2022.

15. I would exercise my discretion to extend the time for the UBCIC to apply for standing, and to grant it standing.

16. I accept that the UBCIC was required to go through an extensive internal deliberative process before it was able to bring its application for standing, and that the delay in this case is relatively minor. It has not, in my view, caused any significant prejudice to either the Commission or any party.

17. I also accept that it will be important for the Commission to receive the perspective of Indigenous governments on the matters within the Commission's mandate. While the UBCIC cannot speak on behalf of all Indigenous governments, I note that there are currently no parties representing this perspective. As an organization representing a significant number of Indigenous governments, I am satisfied that the UBCIC has the requisite interest and is able to make a necessary contribution to the work of the Commission. I would therefore grant the UBCIC standing in the manner it has requested.

18. I will address the UBCIC's request for funding in a separate decision, which I hope to release in the near future.

Request by the Ontario Provincial Police to Vary their Grant of Standing

19. In my June 27, 2022 Decision on Standing, I granted the OPP standing with respect to all aspects of the Commission's mandate relevant to the policing response to protest activity and blockades in Ottawa and elsewhere. I also granted it full participatory rights other than



examining or cross-examining witnesses or producing policy papers.³ The OPP did not request those rights in their application for standing.

20. On July 11, 2022, the Commission received a request from the OPP to vary its grant of standing to permit it to examine and cross-examine witnesses. The OPP indicates that it did not request this right due to an error in filling out the Commission's application form for standing. It submits that, given the likelihood of differing views related to the policing response to protests, it requires the right to examine and cross-examine witnesses in order to contribute to the Commission's fact-finding process.

21. I am prepared to vary the OPP's grant of standing in the manner it has requested. I accept that it did not request the right to examine or cross-examine witnesses due to a mistake in filling out the Commission's application form. In my view, varying the OPP's grant of standing at this point will not cause significant prejudice to the Commission or to any party. Given the nature of the OPP's interest, in my view it is appropriate that they have the ability to examine or cross-examine witnesses in appropriate circumstances.

22. This does not mean, however, that the OPP will have the right to examine and cross-examine witnesses without restriction. The Commission intends to actively manage the hearing process. This may include setting limits on which witnesses parties may examine, or for how long they may do so. These case management powers will be exercised with respect to all parties with the right to examine and cross-examine witnesses, including the OPP.

23. I grant the OPP's request to amend its grant of standing in the manner it has requested.

³ *Decision on Standing, supra* at paras. 50-51.



Request by the Ottawa Coalition of Residents and Businesses to Vary their Grant of Standing

24. On June 15, 2022, the nine members of the Coalition filed separate applications for standing, along with a covering email from their Counsel indicating that they were seeking a joint grant of standing. Counsel's email noted that the application form for the Downtown Rideau Business Improvement Area ("Rideau BIA") had yet to be signed, but indicated that they would "forward that form as soon as possible." In my Decision on Standing, I granted the Coalition – including the Rideau BIA – a joint grant of standing.

25. On July 12, 2022, Counsel to the Coalition wrote to the Commission, indicating that the Rideau BIA "did not complete an application for standing and therefore is not a formal part of the Ottawa Coalition, and should not be referred to as part of the group in future Commission documentation."

26. I treat this letter as a request to revoke the grant of standing given to the Rideau BIA. The Commission granted the Rideau BIA standing based on the representation that they were a member of the Coalition and that a signed form would be forthcoming. Unless I make an order under Rule 19 of the *Rules of Standing and Funding* to revoke the Rideau BIA's grant of standing, it continues to be a Party at the Inquiry jointly with the other members of the Coalition.

27. In light of the information provided by Counsel for the Coalition, I accept that it would be appropriate to revoke the Rideau's BIA's grant of standing. The grant of standing given to the other members of the Coalition remains unchanged.

The Honourable Paul S. Rouleau
Commissioner

July 14, 2022