

Public Inquiry into Anti-Alberta Energy Campaigns

Rules for Procedure and Practice

SEPTEMBER 14, 2020

I. General

1. These Rules for Procedure and Practice (the “**Rules**”) apply to the Public Inquiry into Anti-Alberta Energy Campaigns (the “**Commission**” or “**Inquiry**”).
2. Subject to the Public Inquiries Act, the Terms of Reference and these Rules the conduct and procedure to be followed in this Inquiry are under the control and discretion of Commissioner J. Stephens Allan (the “**Commissioner**”).
3. The Commissioner may amend or supplement these Rules or dispense with their compliance as he deems necessary to ensure that the Inquiry is efficient, thorough, fair, timely and consistent with the principles of fundamental justice.
4. In these Rules, the terms “**Person**” and “**Persons**” includes, without limitation, an individual, group, organization, society, government, agency, institution, body corporate or other entity. A Person with a grant of standing as a Participant for Commentary or Participant for Response, as described below, is referred to as a “**Participant**”.
5. The Commissioner will communicate with Participants primarily by email. Notice or service by email shall be considered adequate notice or service. Each Participant must identify the email address they wish to use for this purpose.
6. All Participants and their counsel, if any, are deemed to agree to adhere to these Rules as a result of their submission of an application for standing as a Participant for Commentary or other participation in the Inquiry.
7. The Commissioner may deal with any non-compliance with these Rules as he deems appropriate, including, without limitation, by rescinding standing of a Participant, imposing restrictions on a

Participant or excluding any Person from participation in any aspect (or aspects) of the Inquiry's proceedings.

II. Documents

8. In these Rules, the terms "**Document**" and "**Documents**" are intended to have a broad meaning, and include, without limitation, the following forms: written, printed, electronic, digital reproductions, photographs, graphs, spreadsheets and any data and information recorded or stored by means of any device, and includes Commissioned Reports, defined below.
9. The Commissioner has largely completed a preliminary investigative stage of the Inquiry, which included, without limitation, informal interviews, submissions from the public through the Commission website, research and Commissioned Reports, defined below. The informal interviews, public submissions to the Commission website during the preliminary investigative stage, research and Commissioned Reports do not form part of the public record, unless otherwise determined by the Commissioner.
10. The Commissioner has the discretion to determine those Documents that form the public record of the Inquiry. The Commissioner may redact all or portions of any Documents that form part of the public record where the Commissioner deems redaction necessary or advisable, including, without limitation, to omit privileged, irrelevant or immaterial information. The Commissioner retains discretion as to whether Documents form part of the public record or are redacted; however, the Commissioner shall consider any requests from Participants that the Commissioner not make a Document public or that the Commissioner redact portions thereof before making a Document public.
11. Subject to Rules 12, 13 and 14 the Inquiry shall treat all Documents it receives as confidential, unless and until they are made part of the public record, or until the Commissioner, in his discretion, otherwise determines.
12. The Commissioner may provide non-public information and Documents to Participants to facilitate their participation in the Inquiry. Before the Commissioner provides any such non-public Documents or information to Participants, such Participants and their counsel, if any, must execute a written undertaking that Documents and information provided by the Commissioner will be kept confidential and used only for the purposes of the Inquiry, unless and until the Documents or information are or

become part of the public record. The Commissioner may in writing release a Participant or counsel from complying, in whole or in part, with an undertaking made under this Rule.

13. The Commissioner may, in his discretion, post submissions from, Documents received from or correspondence with Participants (“**Participant Submissions**”) on the Inquiry’s website, and any Participant Submissions so posted are deemed non-confidential from the time of posting.
14. The Commissioner may, in his discretion, provide an opportunity for Participants to comment on the Participant Submissions submitted by one or more other Participants.

III. Standing – Participants for Commentary

15. The Commissioner may grant a Person standing as a “**Participant for Commentary**”, which may involve inviting the Person to provide submissions in response to topics identified by the Commissioner, with a view to informing the findings or recommendations of the Commissioner.
16. The Commissioner may grant standing as a Participant for Commentary to any Person that satisfies the Commissioner that such Person has a substantial and direct interest in the subject matter of the Inquiry.
17. Persons may apply for standing as a Participant for Commentary by way of an application to the Commissioner via email at the address standing@albertainquiry.ca. An application form asking the Person to set out their status, interest in the subject matter of the Inquiry and proposed contributions they could make to the Inquiry will be provided by the Commissioner and be available on the Inquiry’s website. Absent permission from the Commissioner, applications for standing as a Participant for Commentary shall not exceed three pages. The Commissioner may invite Persons to apply for standing as a Participant for Commentary.
18. Standing as a Participant for Commentary may be granted individually or jointly where the interests and perspectives of Persons are alike. The Commissioner may, in his discretion, decline to grant standing as a Participant for Commentary to a Person where, in the Commissioner’s view, an existing Participant for Commentary adequately represents such Person’s interest or perspective.
19. The Commissioner will determine on what terms each Participant for Commentary may participate, and the nature and extent of such participation, including access to Documents or information in the

Commissioner's possession or control. The Commissioner retains the discretion to vary the terms of a Participant for Commentary's participation or rescind standing as a Participant for Commentary.

IV. Standing – Participants for Response

20. Prior to final determinations being made and rendered in the final report, the Commissioner shall identify Persons that he considers may be subject to a finding (or findings) of misconduct or may otherwise be the subject of a potential materially adverse factual finding (or findings) in the final report such that the Persons should receive notice of the potential finding (or findings) and be afforded an opportunity to respond. The Commissioner shall issue such Persons a confidential written notice (a "**Notice**") setting out the potential finding (or findings), and the evidence the Commissioner intends to rely on to support such finding (or findings). The Commissioner may redact portions of any Documents that form part of such evidence, provided that the information redacted is not relevant or material to the potential finding (or findings) against the Person receiving the Notice.
21. Any Person that receives a Notice will be granted standing as a "**Participant for Response**".
22. Any Participant for Response that receives a Notice is entitled to make written submissions to the Inquiry and file evidence by affidavit within such timelines as may be stipulated by the Commissioner. The Commissioner may, in his discretion, set limits on the length of written submissions and require that Participants for Response ensure that any evidence by affidavit is not unduly lengthy.
23. A Participant for Response must obtain leave from the Commissioner if they wish to provide oral submissions or conduct cross-examination of a Person with respect to the evidence of that Person being relied upon by the Commissioner in making a finding (or findings) against the Participant for Response. The Commissioner shall determine, in his discretion, whether the potential finding (or findings) in relation to such Participant for Response, and the nature and substance of the evidence underlying the potential finding, warrant granting the Participant leave to make oral submissions or conduct cross-examination. The procedure to be employed for any oral submissions or cross-examination shall be set out in the Commissioner's decision providing leave for such submissions or cross-examination.
24. Any Person who is a Participant for Response may also be, or have been, a Participant for Commentary.

V. Procedural Applications to the Commissioner

25. A Participant may apply to the Commissioner for an order or direction regarding these Rules or related procedural matters by written application appending any supporting materials (a “**Procedural Application**”). A Procedural Application shall be made by email and contain the name of Participant making the application, the nature of the relief sought by way of order or direction and a brief description of the factual and legal basis for the relief sought. The Commissioner may set limits on the length of a Procedural Application.
26. The Commissioner may, in his discretion, deliver the Procedural Application to other Participants identified by the Commissioner as having an interest in the subject matter of the Procedural Application and provide such Participants with an opportunity to respond to the Procedural Application.
27. The Commissioner may make an order or direction based on the Procedural Application and any responses from other Participants to whom the Procedural Application was delivered or, at his discretion, after receiving further written or oral argument. The procedure to be employed for receiving any further written or oral argument shall be set out by the Commissioner in connection with any requests made by the Commissioner for further written or oral argument regarding a Procedural Application.

VI. Commissioned Reports

28. The Commissioner has, and may in the future, retain Persons to prepare reports on matters of potential relevance to the Inquiry (“**Commissioned Reports**” and each a “**Commissioned Report**”) and remunerate such Persons as determined by the Commissioner.
29. The Commissioned Reports do not represent the views of the Commissioner, but may inform the findings or recommendations of the Commissioner.
30. Any Document that is specifically identified and referenced in a Commissioned Report may be relied on by the Commissioner in his deliberations and such Documents are not required to be marked as exhibits before the Commissioner.

31. The Commissioner may, in his discretion, provide a Participant with a copy of one or more Commissioned Reports or portions thereof, including Documents specifically referenced or identified therein.
32. The Commissioner may consider the Commissioned Reports and any comments of one or more Participants thereon to make findings of fact and recommendations.