
Procedural Order 1 – February 11, 2022

Pursuant to Order in Council 1859/2021, the Government of Ontario established this Commission to conduct an inquiry into the commercial and technical circumstances that led to the breakdowns and derailments of the City of Ottawa Stage 1 Light Rail Transit Project, and to make recommendations to assist in preventing such issues from happening in the future.

The Order in Council sets the deadline for the Commission to produce its final report at August 31, 2022, which date may be extended, if the Minister of Transportation agrees in writing, to no later than November 30, 2022.

In light of this deadline, and in order to accomplish its mandate, the Commission requires documents to be produced to it in a timely way. Accordingly, the Commission has already served a significant number of summonses directing recipients to produce all relevant documents touching on issues identified in the Order in Council that are in a recipient's possession, power, or control. Recipients have also been provided with a copy of the Commission's document exchange protocol designed to facilitate production. Further, the Commission has advised the recipients of summonses that they should produce their documents in tranches to accelerate production. Finally, summons recipients may consult with Commission Counsel to target document collection in order to complete timely document production.

The Commission has adopted a broad definition of the term "documents" as including any memorandum, note, data, analysis, report, minutes, briefing material, submission, correspondence, record, photograph, sound recording, videotape, film, chart, graph, map, plan, survey, book of account, or any other note or communication in writing, and data and information in electronic form, including material in off-site storage or which has been archived, including on microfiche, and specifically includes electronic communications including both internal e-mails and e-mails sent to or received from external sources, for the period commencing June 1, 2007, and continuing through the present and concluding at the conclusion of the public hearings of this Commission.

Rule 9 of the Commission's Rules of Procedure requires the recipient of a summons issued by the Commission to produce documents "at the earliest opportunity", and the Commission expects that recipients will diligently comply with this requirement. The Commissioner is empowered by the rules to, among other things, revoke the standing of, or impose restrictions on, a participant where there has been non-compliance with the Commission's rules.

Pursuant to the Order in Council, and by virtue of s. 13 of the *Public Inquiries Act, 2009*, S.O. 2009, c. 33, Sched. 6, this Commission "may apply, or authorize a person to apply, to a justice of the peace for a warrant to enter a place and conduct a search of the place, if there are reasonable grounds for believing that there are in any building,

receptacle or place, including a dwelling house, any documents or things relevant to the subject matter of the public inquiry.”

IT IS THEREFORE ORDERED THAT, pursuant to rule 2 of the Commission’s Rules of Procedure, the following timetable and directives shall apply to the production of documents by all recipients of a summons issued by the Commission:

- (1) All persons and entities receiving a summons must have made substantial production of relevant documents in their possession, power, or control by February 28, 2022.
- (2) Where a recipient of a summons has not produced all of the documents in their possession, power, or control by February 28, 2022, they must produce documents on a continuing basis as they become available. Further, they must notify the Commission in writing regarding their plan for production every two weeks until full production has been made.
- (3) All documents in the possession, power, or control of the recipient of a summons must be produced to the Commission by no later than April 29, 2022.
- (4) When a recipient of a summons has produced all relevant documents in their possession, power, or control, that person or entity shall, before taking part in the Commission, certify that their document production obligations have been complied with, pursuant to rule 9 of the Rules of Procedure.
- (5) In making the orders above, the Commission reserves the right to make further or additional demands during the inquiry process regarding the production of documents, including making demands for specific documents or specific categories of documents as necessary.
- (6) The Commission further reserves the right to take such further steps at any time as it deems fit to ensure the timely production of documents and compliance with this order, including but not limited to applying for and executing search warrants, and refusing standing or revoking standing for a participant or imposing restrictions on a participant’s standing.

C. William Hourigan, Commissioner