

Competition Tribunal



Tribunal de la concurrence

Citation: *Canada (Commissioner of Competition) v Secure Energy Services Inc.*, 2021 Comp Trib 8

File No.: CT-2021-002

Registry Document No.: 59

IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 92 of the *Competition Act*, RSC 1985, c C-34 as amended.

BETWEEN:

The Commissioner of Competition
(applicant)

and

Secure Energy Services Inc.
(respondent)



Date of case management conference: October 6, 2021

Before: D. Gascon J. (Chairperson)

Date of order: October 12, 2021

SCHEDULING ORDER

[1] **FURTHER TO** the application (“**Application**”) filed on June 29, 2021 by the Commissioner of Competition (“**Applicant**”) against Secure Energy Services Inc. (“**Respondent**”), pursuant to section 92 of the *Competition Act*, RSC 1985, c C-34, with respect to the acquisition by the Respondent of Tervita Corporation;

[2] **AND FURTHER TO** the jointly proposed timetable submitted by the parties on September 29, 2021, to the discussions with counsel for both parties at a case management conference held on October 6, 2021, and to the revised proposed timetable jointly submitted by the parties on October 8, 2021;

[3] **AND FURTHER TO** the Tribunal’s *Practice Direction Regarding Timelines and Scheduling for Proceedings before the Tribunal* (“**Timelines Direction**”);

[4] **AND WHEREAS** the Tribunal is satisfied that the following scheduling order is appropriate and respects the principles found in subsection 9(2) of the *Competition Tribunal Act*, RSC 1985, c 19 (2nd supp), which direct the Tribunal to deal with all matters as informally and expeditiously as the circumstances and considerations of fairness permit, as well as the Timelines Direction;

THE TRIBUNAL ORDERS THAT:

[5] The schedule for the discovery and pre-hearing disclosure steps of the Application shall be as follows:

Friday, October 29, 2021	Service of Affidavits of Documents and delivery of documents by both Parties
Monday, November 8, 2021	Deadline for filing any motions arising from Affidavits of Documents and/or productions, including motions challenging claims of privilege
Wednesday, November 17, 2021	Hearing of any motions arising from Affidavits of Documents, productions and/or claims of privilege
Friday, November 19, 2021	Deadline for delivery of mediation briefs
Monday, November 29, 2021	Mediation
Friday, December 3, 2021	Deadline for delivery of any additional productions resulting from any Affidavits of Documents, productions and/or claims of privilege motions
Monday, December 13, 2021 – Friday, December 24, 2021	Examinations for discovery according to a schedule to be settled between counsel

The Tribunal will have a judicial member available on dates to be agreed to with counsel for the parties to rule on objections arising during the examinations for discovery

Friday, January 14, 2022	Deadline for fulfilling answers to discovery undertakings
Friday, January 21, 2022	Deadline for filing any motions arising from examinations for discovery, answers to undertakings or refusals
Friday, January 28, 2022	Hearing of any motions arising from examinations for discovery, answers to undertakings or refusals
Friday, February 11, 2022	Last day for follow-up examinations for discovery
Friday, February 25, 2022	Applicant to serve documents relied upon and witness statements Applicant to serve and file expert report(s), if any Applicant to serve list of documents proposed to be admitted without proof
Friday, March 11, 2022	Deadline for filing any motions relating to challenges to confidentiality designations
Friday, March 18, 2022	Hearing of any motions relating to challenges to confidentiality designations
Friday, March 25, 2022	Respondent to serve documents relied upon and witness statements Respondent to serve and file expert report(s), if any, on all matters including efficiencies
Friday, April 1, 2022	Deadline for delivering any Requests for Admissions
Monday, April 11, 2022	Applicant to serve reply documents relied upon and reply witness statements Applicant to serve and file reply expert report(s), if any, and responding report on efficiencies Deadline to provide the Agreed Books of Documents to the Tribunal, subject to the possibility to provide additional documents further to the filing of the Respondent's reply expert report(s) on matters related to efficiencies

Tuesday, April 26, 2022 Respondent to serve and file reply expert report(s), if any, on matters related to efficiencies

Deadline to provide witness statements to the Tribunal

Friday, April 29, 2022

Deadline for filing any motions related to the evidence (documents relied upon, witness statements and expert reports)

Deadline for responding to any Requests for Admission

Monday, May 2, 2022

Pre-hearing case management conference

Deadline to provide documents to the Tribunal for use at the hearing (e.g., additions to the Agreed Books of Documents, Joint Briefs of Authorities, slide presentations of experts, etc.), including read-ins from examinations for discovery

Deadline for delivering any agreed statement of facts

Friday May 6, 2022

Hearing of any motions related to the evidence (documents relied upon, witness statements and expert reports)

[6] The hearing format for the motions contemplated at paragraph 5 will be by videoconference, at least for the motions scheduled to be heard on November 17, 2021 and for the rulings on objections arising from the examinations on discovery scheduled for December 2021. However, should the Tribunal decide to modify the conduct of its regular operations and to resume holding in-person hearings in 2022, the hearing format for the motions scheduled to be heard in 2022 could be modified to be in-person in the Hearing Room of the Tribunal located at 600-90 Sparks Street, Ottawa, after consultations with the parties.

[7] The evidentiary portion of the hearing of the Application shall commence at 10:00 a.m. on Monday, May 9, 2022 and is currently expected to be held in person in the Hearing Room of the Tribunal located at 600-90 Sparks Street, Ottawa. The schedule shall be as follows:

Monday, May 9, 2022 – First week of hearing (4 days)
Thursday, May 12, 2022

Monday, May 16, 2022 – Second week of hearing (4 days)
Thursday, May 19, 2022

Tuesday, May 24, 2022 – Third week of hearing (4 days)
Friday, May 27, 2022

Monday, May 30, 2022 – Fourth week of hearing (4 days)
Thursday, June 2, 2022

[8] The Tribunal will direct the date of delivery of written arguments and will hear oral arguments from Wednesday, June 15, 2022 to Friday, June 17, 2022 (3 days). The oral argument portion of the hearing is also expected to be held in person in the Hearing Room of the Tribunal located at 600-90 Sparks Street, Ottawa.

DATED at Ottawa, this 12th day of October 2021.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Denis Gascon

COUNSEL OF RECORD:

For the applicant:

The Commissioner of Competition

Jonathan Hood
Paul Klippenstein
Ellé Nekiar

For the respondent:

Secure Energy Services Inc.

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Nicole Henderson
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