Ontario

Capital Markets Tribunal | Tribunal des marchés financiers | 22nd Floor, 20 Queen Street West, Toronto ON M5H 3S8 | 22e étage, 20, rue Queen ouest, Toronto ON M5H 3S8

Citation: *Ontario Securities Commission v St-Jean*, 2026 ONCMT 33
Date: 2026-10-07
File No. 2025-15

BETWEEN:

ONTARIO SECURITIES COMMISSION

(Applicant)

- and -

DANIEL ST-JEAN, 7120761 CANADA INC., 8795436 CANADA INC., and AETOS GREEN ENERGY DSJ INC.

(Respondents)

REASONS FOR DECISION

(Rule 9 of the *Capital Markets Tribunal Rules of Procedure*)

Adjudicators:	M. Cecilia Williams (chair of the panel) Geoffrey D. Creighton Alan Stewart	
Hearing:	By videoconference, September 18, 2026	
Appearances:	Daniel Szirmak	For Daniel St-Jean, 7120761 Canada Inc., 8795436 Canada Inc., and AETOS Green Energy DSJ Inc.
	Aaron Dantowitz Faiza Tariq	For the Ontario Securities Commission

REASONS FOR DECISION

1. OVERVIEW

[1] The merits hearing in this enforcement proceeding is scheduled to take place over eight days in October 2026 at the Capital Markets Tribunal offices in Toronto.

[2] In early September, Daniel St-Jean, who is expected to be representing himself as well as the corporate respondents at the merits hearing, asked that he be permitted to participate virtually, citing medical and financial reasons for the request.

[3] The Commission opposed the request, and submitted that at a minimum, St-Jean should be required to attend the hearing in person on days that he will be giving evidence.

[4] We heard the request at the final case management hearing and ordered[1] that St-Jean was not required to be physically present in the hearing room during the merits hearing and could participate by videoconference. These are our reasons for that decision.

2. ANALYSIS

[5] Subrule 9(3) of the Tribunal's *Rules of Procedure* provides that, unless the Tribunal orders otherwise, a witness giving oral testimony and any person examining or cross-examining that witness must be physically present in the hearing room.

[6] The words "unless the Tribunal orders otherwise," read together with subrule 9(2),[2] confirm that the Tribunal has discretion to determine the appropriate mode of hearing, in whole or in part.

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[1] (2026), 49 OSCB 8108; https://www.capitalmarketstribunal.ca/sites/default/files/2026-09/rad_20260918_st-jean.pdf

[2] Subrule 9(2) of the Tribunal's *Rules of Procedure* states "The Tribunal may determine the mode of an oral hearing or oral part of a hearing, including with respect to participants' physical presence in the hearing room."

[7] In exercising that discretion, the Tribunal must consider the factors set out in subrule 9(4), including:

a. the objective set out in rule 1 of the *Rules*, of conducting proceedings justly, expeditiously and cost-effectively;

b. the type of hearing (*e.g.,* case management, merits);

c. the matters in dispute, and the issues to be addressed at the hearing;

d. any delay that might be caused by proceeding electronically or in a hearing room;

e. accessibility of the hearing to participants and the public;

f. the efficacy of examination and cross-examination of witnesses;

g. cost to the participants;

h. facilitation of participation by vulnerable or disadvantaged individuals; and

i. health and safety considerations, and measures that may be taken to mitigate related risks.

[8] St-Jean first made his request in a series of emails to the Registrar. He relied on the following circumstances:

a. he is 76 years old;

b. he lives 120 kms from the Tribunal's offices and was advised by his cardiologist to avoid the stress associated with driving on busy highways;

c. if he were to take public transportation, he could not afford the associated costs (*i.e.,* of hotels, meals and trains); and

d. attending the hearing by videoconference is "just as good" as attending in person.

[9] At the September 18 case management hearing, St-Jean advised that he was willing and able to attend in person for one day, provided that his evidence could be completed that day.

[10] The Commission submitted that, if St-Jean provided evidence that he was unable to drive, it would not oppose his virtual participation on days when he was not

testifying. It maintained, however, that he should attend in person while giving evidence because his evidence was expected to be central to the proceeding. In the Commission's submission, this approach would reduce St-Jean's transportation and accommodation costs while preserving the benefits of in-person examination and cross-examination.

[11] After considering the parties' submissions and the factors in subrule 9(4), we concluded that St-Jean should be permitted to participate in the merits hearing by videoconference, including while giving evidence.

[12] We recognize that several factors favour in-person attendance. This is a merits hearing, St-Jean's evidence is expected to be central to the proceeding, and examining and cross-examining a witness in person may offer advantages. We accept that the Commission may need to test St-Jean's evidence and that the panel may be required to assess his credibility. However, the Tribunal has received testimony from parties and non-parties by videoconference in the past, and that format permits witnesses to be examined and cross-examined effectively. We are satisfied that any practical issues arising from St-Jean's virtual participation can be effectively addressed at the hearing.

[13] In the circumstances of this case, the factors favouring St-Jean's in-person attendance were outweighed by St-Jean's concerns about his health and safety and the cost of in-person attendance, and our assessment that his virtual participation in the hearing would not negatively impact the fairness and effectiveness of the hearing.

[14] We did not consider additional evidence about St-Jean's ability to drive necessary to determine his request. We accepted his explanation of the health and safety concerns associated with him driving to the hearing and considered those concerns together with the other relevant factors.

[15] We also considered St-Jean's willingness to attend in person for one day. That was not a practical basis on which to require in-person testimony. The length of his evidence cannot be determined in advance, and imposing a one-day limit could unfairly constrain the parties' examination and cross-examination or disrupt the orderly conduct of the hearing.

3. CONCLUSION

[16] For these reasons, we concluded that St-Jean was not required to be physically present in the hearing room for the merits hearing and could participate by videoconference. We explained that this ruling does not preclude St-Jean from attending any part of the hearing in person if he chooses to do so.

Dated at Toronto this 7th day of October, 2026

"M. Cecilia Williams"

M. Cecilia Williams

"Geoffrey D. Creighton"

Geoffrey D. Creighton

"Alan Stewart"

Alan Stewart