



FST File No. P0796-2018

FINANCIAL SERVICES TRIBUNAL

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P.8, as amended (the "Act");

AND IN THE MATTER OF a Notice of Intended Decision of the Superintendent of Financial Services to approve, under section 70, the Second Addenda to the Wind Up Reports filed in respect of the Nortel Networks Negotiated Pension Plan, Registration Number 0587766 and the Nortel Networks Managerial and Non-Negotiated Pension Plan, Registration Number 0342048 (the "Pension Plans");

AND IN THE MATTER OF a Notice of Intended Decision to Refuse to Make Orders under sections 87(1) and (4) of the PBA relating to the Nortel Networks Negotiated Pension Plan, Registration Number 0587766 and the Nortel Networks Managerial and Non-Negotiated Pension Plan, Registration Number 0342048;

AND IN THE MATTER OF a Hearing in accordance with subsection 89(8) of the Act.

TO:

Members of the Nortel Networks Negotiated Pension Plan, Registration Number 0587766 and the Nortel Networks Managerial and Non-Negotiated Pension Plan, Registration Number 0342048, with Service in Ontario

NOTICE OF HEARING

TAKE NOTICE that the Financial Services Tribunal ("the Tribunal") will hold a hearing in this matter pursuant to subsection 89(8) of the Act. The hearing arises as a result of a Request for Hearing filed by Donald Sproule, Michael Campbell, David Archibald and Susan Kennedy (the "Applicants"), each of whom is a member of the Pension Plans and a Court-appointed Representative of the Former Employees, Retired Employees and Long-term Disability Beneficiaries of Nortel Networks Corporation and several of its related companies ("Nortel"). The Applicants claim that a certain portion of the funds recovered from Nortel's Canadian estate (the "CCAA dividends") that were allocated to Ontario members of the Pension Plans should have provided recovery solely for lost indexation and should not have been included in the assets of the Plans used to calculate Pension Benefits Guarantee Fund refunds. The administrator of the Plans disagreed that there was a portion of the CCAA dividends that could be separated for that purpose. The Superintendent did not agree with the Applicants' position and the Applicants have filed a Request for a Hearing.

THE HEARING WILL BE HELD March 7 and 8, 2019, commencing at 9:30 a.m. each day at the offices of the Tribunal, located on the 14th Floor, Room 20, 5160 Yonge Street, Toronto, Ontario.

The matter will be heard by a panel consisting of John M. Solursh, Chair, Audrey Mak and Mohammad Faisal Siddiqi.

THE PURPOSE OF THE HEARING is to determine the following issues:

- a. Should the Superintendent be directed to make or refrain from making the intended

decision in the Notice of Intended Decision approving the Second Addenda to the Wind Up Reports filed in respect of the Plans (the "Indexation Addenda")?

- b. Should the Superintendent be directed to make or refrain from making the intended decision in the Notice of Intended Decision refusing to issue:
 - i. An Order pursuant to section 87(4) of the PBA requiring Morneau to prepare new Indexation Addenda, using assumptions and methods that calculate member entitlements and Pension Benefits Guarantee Fund ("PBGF") refunds in a manner which does not take into account certain amounts paid into the pension funds for the Plans from the Nortel estate which amounts the Applicants claim are attributable to indexation benefits; and
 - ii. An Order pursuant to section 87(1) of the PBA requiring Morneau to refrain from distributing funds to the PBGF, in accordance with the Indexation Addenda.

IF YOU WISH TO PARTICIPATE in the hearing, you must file with the Registrar of the Tribunal, an Application for Party Status (Form 4) in accordance with Rule 37 of the *Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal* at any time before **November 19, 2018** but thereafter only with the consent of the Tribunal. The Application for Party Status (Form 4), and Tribunal's Rules can be obtained by going to the Tribunal's website at www.fstontario.ca.

If you support the position of the Applicants, you do not need to take any action as your interests will be represented by the Applicants and their legal counsel.

Applications for party status will be dealt with at a **Pre-Hearing Conference to be scheduled if required**. If you wish your application to be considered, you must attend at the pre-hearing conference to address your application. The grant of party status to any applicant for party status is in the discretion of the Tribunal.

Applications must be filed with the Registrar at:

Registrar
Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, Ontario M2N 6L9 Fax: (416) 226-7750

If you would like further information about how this hearing may affect you, you may contact Koskie Minsky LLP, counsel for the Applicants, by phone at 1-866-777-6344 or by email at Nortel@kmlaw.ca.

THE HEARING will be open to the Public unless the Tribunal orders otherwise.

IF YOU DO NOT PARTICIPATE in the hearing in accordance with this Notice, the Tribunal may proceed without your participation, and you will not be entitled to any further notice in this proceeding.

Parties will be required to exchange documents with other parties as set out in the Pre-Hearing Memorandum ("Memorandum") for the Pre-Hearing Conference held on Friday, October 5, 2018. Where documents are to be filed, parties are required to file **four (4) copies** with the Registrar's Office, Financial Services Tribunal pursuant to Rule 8.02 of the *Rules of Practice and Procedure for Proceedings Before the Financial Services Tribunal* on the dates and in the form outlined in the Memorandum.

Please note that, subject to the *Freedom of Information and Protection of Privacy Act*, once a document is filed with the Registrar, it becomes a public document except as the Tribunal may otherwise order.

With respect to material that you file in connection with this matter, you may wish to consider protecting the privacy of individuals by removing social insurance numbers and other personal identifiers. Please refer to *Information For Parties With Privacy Concerns* which is available at www.fstontario.ca or by contacting the Registrar. The Tribunal's decisions are posted publicly on the internet.

You should note that there is a formal procedure available to you under Rule 11 of the *Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal* whereby you may apply, in an appropriate case, for an order of the Tribunal protecting all or parts of any material you file with the Registrar from disclosure.

Si vous désirez recevoir une copie de cette notice en français, veuillez envoyer votre demande au Registreur du Tribunal des Services Financiers, 5160 rue Yonge, 14^{ème} Etage, CP 85, Toronto, Ontario M2N 6L9.