

MANITOBA) **Order No. 127/14**
)
THE PUBLIC UTILITIES BOARD ACT) **November 19, 2014**

Before: Régis Gosselin, B.A., M.B.A., C.G.A., Chair
Dr. Hugh Grant, Ph.D. (Economics)
Richard Bel, B.A., M.A. , M.Sc.
Marilyn Kapitany, B.Sc. (Hon), M.Sc.

**ORDER WITH RESPECT TO AWARD OF COSTS:
GREEN ACTION CENTRE (“GAC”)**

THE PUBLIC UTILITIES BOARD’S “NEEDS FOR AND ALTERNATIVES TO” (NFAT)
REVIEW OF MANITOBA HYDRO’S PREFERRED DEVELOPMENT PLAN
TO CONSTRUCT THE KEYASK AND CONAWAPA GENERATING STATIONS
AND ASSOCIATED TRANSMISSION FACILITIES

BACKGROUND AND BOARD FINDINGS

Green Action Centre (“GAC”) sought an Order from the Public Utilities Board (Board) to recover costs incurred by GAC to intervene in The Public Utilities Board “NEEDS FOR AND ALTERNATIVE TO” Review of Manitoba Hydro’s (MH) Preferred Development Plan which resulted in the Board issuing a report to the Minister responsible for The Public Utilities Board dated June 20, 2014.

GAC’s cost request flows from consultants engaged by this intervener, and Gange Goodman & French, legal counsel for this intervener.

Subsection 56(1) of *The Public Utilities Board Act* provides:

Cost in discretion of board

56(1) The costs of, and incidental to, any proceeding before the board are in the discretion of the board, and may be fixed in any case at a sum certain or may be taxed.

In exercising its discretion, the Board is guided by Rule 43 of the Board’s *Rules of Practice and Procedure*:

Criteria

43. In any proceeding the Board may award costs to be paid to any intervener who has:
 - (a) made a significant contribution that is relevant to the proceeding and contributed to a better understanding, by all parties, of the issues before the board;
 - (b) participated in the hearing in a responsible manner and cooperated with other Interveners who have common objectives in the outcome of the proceedings in order to avoid a duplication of intervention;

- (c) insufficient financial resources to present the case adequately without an award of costs; and
- (d) a substantial interest in the outcome of the proceeding and represents the interests of a substantial number of the ratepayers.

Having reviewed each of the criteria in Rule 43, comments made by MH, and in exercising its discretion, the Board will approve GAC's Application for costs as submitted.

In Board Order 67/13 and subsequent orders and correspondence, the Board determined the scope of intervention for each intervener, and approved on a preliminary basis, the budget for each intervener. As well, the Board authorized interim payments for costs applied for by interveners during the hearing process, subject to a 30% holdback pending disposition of the matter subsequent to the conclusion of the process.

GAC's Comments:

GAC's submitted that it had met the criteria for an award noting that it participated in a responsible manner, making a significant contribution representing the interest of a substantial number of ratepayers and as a non-profit organization, had no resources to take part in the process.

The total request for GAC is \$229,921.84, of which \$158,544.84 has already been paid, leaving an outstanding balance of \$71,377.00. The approved budget was \$235,348.00. Dr. Miller's contribution which significantly lowered the fees was noted by GAC.

Manitoba Hydro's Comments:

MH did not take issue that GAC is deserving of an award of costs noting that it was unable to comment on GAC's claim to represent a substantial number of ratepayers given the non disclosure of a membership list.

MH noted that the total approved budget was \$235,348.00 and that when the final account is taken into consideration, GAC's total costs were \$229,921.84, which is \$5,426.16 less than the preliminary approved budget. Manitoba Hydro had no comments with respect to the payment of 30% holdback.

BOARD FINDINGS

The Board has reviewed the cost application of GAC and the comments provided by MH. The Board finds that GAC meets all of the requirements for a cost award. The Board is of the view that GAC made a significant contribution and participated in the hearing in a responsible manner and co-operated with other interveners to avoid duplication in intervention.

The Board also understands that GAC has insufficient financial resources to present its case adequately without an award of costs and that GAC has a substantial interest in the outcome of Manitoba Hydro's rate application.

Given all the foregoing, the Board finds that the costs incurred by GAC are reasonable and is prepared to accept them as presented.

The award of costs will therefore be approved for GAC in the amount of \$229,921.84, with the amount outstanding payable to GAC of \$71,377.00.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's *Rules of Practice and Procedure*. The Board's Rules may be viewed on Board's website at www.pub.gov.mb.ca.

IT IS THEREFORE ORDERED THAT:

1. The application of Green Action Centre (GAC) for an award of costs BE AND IS HEREBY APPROVED in the amount of \$229,921.84.
2. The amount outstanding of \$71,377.00 be paid to GAC within 30 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

“Régis Gosselin, B ès Arts, MBA, CGA”

Chair

“Hollis M. Singh”

Secretary

Certified a true copy of Order No. 127/14
issued by the Public Utilities Board

Secretary