

MANITOBA) Order No. 41/04
)
THE PUBLIC UTILITIES BOARD ACT) March 19, 2004

BEFORE: Mario J. Santos, Acting Chairman
M. Girouard, Member

**APPLICATION BY THE CONSUMERS' ASSOCIATION OF
CANADA (MANITOBA) INC. AND MANITOBA SOCIETY OF
SENIORS FOR AN AWARD OF COSTS FOR PARTICIPATING
IN AN APPLICATION FOR THE APPROVAL OF THE SALE
OF THE ASSETS OF THE GLADSTONE, AUSTIN NATURAL
GAS CO-OP LTD. TO CENTRA GAS MANITOBA INC.**

Background

A hearing was held in the City of Winnipeg, to consider issues arising out of an application by Centra Gas Manitoba Inc. ("Centra") for approval of the sale of the assets of the Gladstone, Austin Natural Gas Co-op Ltd. to Centra Gas Manitoba Inc. The Consumers' Association of Canada (Manitoba) Inc. and Manitoba Society of Seniors (the "Applicant" or "CAC/MSOS") were granted intervenor status to present a joint intervention.

Application by CAC/MSOS

By letter dated February 18, 2004 CAC/MSOS, through its Counsel filed with the Board, the appropriate hearing and summary sheets detailing the claim for costs. The total claim for costs is \$12,220.82 comprised of professional fees (legal, accounting and consultant) of \$11,272.50, disbursements of \$148.82 and GST of \$799.50.

CAC/MSOS, in commenting about the nature of its intervention, noted that it reviewed and responded to the Centra's Application on behalf of all residential consumers of natural gas in a responsible fashion and at minimal costs. CAC/MSOS noted that the quantum of the claim for costs was for an amount well below the budget submitted in response to Centra's caution regarding intervention expenses. CAC/MSOS also noted that costs were mitigated by the use of junior Counsel, by limiting the involvement of its consultant and by ensuring no duplication between consultant and lawyer. CAC/MSOS also noted that the consultant was retained to provide assistance in terms of their view of the overall application by Centra, the identification of issues and the preparation of Information Requests, the review of responses and the preparation of final argument.

CAC/MSOS restated its lack of financial resources and reconfirmed its substantial interest in the filing and the outcome of the proceedings. CAC/MSOS requested that the Order request Centra to pay costs awarded within fifteen (15) days of the date of the Order.

Centra, in a letter dated February 20, 2004, indicated that it had no objection as to the quantum of costs sought.

Board Comments

The Board has reviewed the submission of the Applicant and the comments provided by Centra Gas and is particularly mindful of its comments made in Order No. 185/03 wherein the Board granted intervenor status to parties and with respect to cost awards stated as follows:

"The Board is cognizant that issues of acquisition are of some significance to the rate payers. However, the intervenors need to be mindful of the size of the Gladstone, Austin Natural Gas Co-op Ltd. and the fact that this matter is being considered by the Board on a paper public hearing process.

The Board notes the comments of Centra and GANG on the matter of the budget submitted by CAC/MSOS. Without restricting the applicant CAC/MSOS in any specific manner the Board would caution as to the expenses to be incurred by this intervenor in this matter. As per the Board's Rules of Practice and Procedure, the ultimate award of costs will be determined by the Board following the hearing process upon application by CAC/MSOS."

The Board noted the efforts of CAC/MSOS to manage its intervention and be responsive to the Board's earlier stated concerns about the magnitude of the costs.

The Board appreciates that applications of the type filed by Centra require some study in order to assist the Board with a better understanding of the issues. However, in the Board's opinion, the magnitude of the costs in this application is

excessive, both in relation to the time spent by legal counsel and the consultant. The Board believes that the issues were well canvassed in the information request process which ought to have allowed for less preparation time. Furthermore, as noted by the Board in Order 20/04, some of the assumptions made by CAC/MSOS to Centra's Estimate of Value were questionable.

Accordingly, the Board will reduce the Application for Costs and allow an Award of Costs as follows:

Legal Counsel	\$4,987.62
Consultant	<u>\$3,852.00</u>
Total	\$8,839.62

In coming to this decision, the Board considered that some reduction had already been made.

IT IS THEREFORE ORDERED THAT:

1. The Consumers' Association of Canada (Manitoba) Inc. and Manitoba Society of Seniors' application for an award of costs BE AND IS HEREBY APPROVED in the amount of \$8,839.62.

2. These costs shall be paid by Centra Gas Manitoba Inc. within 15 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"MARIO J. SANTOS"

Acting Chairman

"H. M. SINGH"

Acting Secretary

Certified a true copy of Order
No. 41/04 issued by The Public
Utilities Board

Acting Secretary