

MANITOBA) Order No. 112/06
)
THE PUBLIC UTILITIES BOARD ACT) July 20, 2006

BEFORE: Graham F. J. Lane, B.A., C.A., Chairman
Robert Mayer, Q.C., Vice-Chairman
Kathi Avery Kinew, M.S.W., Ph.D.
Leonard Evans, B.A., M.A., LL.D. (Hon.)

APPLICATION BY CONSUMERS' ASSOCIATION OF CANADA
(MANITOBA) INC./MANITOBA SOCIETY OF SENIORS FOR
AN AWARD OF COSTS RELATED TO A SPECIAL HEARING ON
MANITOBA HYDRO'S COST OF SERVICE METHODOLOGY

Introduction

By this Order, the Public Utilities Board (Board) approves an application for an award of costs of \$99,064.39 by Consumers' Association of Canada (Manitoba) Inc. and Manitoba Society of Seniors (CAC/MSOS). The award is with respect to CAC/MSOS' participation in a special public hearing regarding the methodology used by Manitoba Hydro (MH) in developing its Cost of Service Studies (COSS).

Application

The Board held a special public hearing regarding MH's COSS, which is a mechanism employed in the rate setting process. The hearing was held from May 4 through June 2, 2006.

Pursuant to Section 56 of *The Public Utilities Board Act*, the Board has jurisdiction to award costs. The Board's Rules of Practice and Procedure (Rules) stipulate four criteria for the determination of whether costs should be awarded, those being whether an Intervener:

1. made a significant contribution relevant to the proceeding, and contributed to a better understanding by all parties of the issues before the Board;
2. participated in the hearing in a responsible manner and cooperated with other Interveners with common objectives to avoid duplication of intervention;
3. had insufficient financial resources to present the case adequately without an award of costs; and
4. had a substantial interest in the outcome of the proceeding, and represented the interests of a substantial number of MH's customers.

CAC/MSOS applied to the Board for an award of costs comprising:

Legal

Fees	33,614.10
Disbursements	2,045.68
Bill Harper Consulting	
Professional fees-	61,075.00
Disbursements	2,329.61
Total Claim	<u>\$99,064.39</u>

In its application, CAC/MSOS opined it had met the Board's criteria. CAC/MSOS suggested that its witness, Mr. Harper, had made a significant contribution to the proceedings in addressing the four COSS models put forward by MH, as well as through his examination of other alternatives put forward by other interveners.

CAC/MSOS further represented that it had made a significant contribution through its interrogatories, cross examination and closing arguments, which addressed the following issues:

- a) principles to be applied in design;
- b) existence of a fundamental change in MH's circumstances justifying a change in COSS methodology;
- c) need for altering the COSS methodology;
- d) commentary on MH's recommendation for an altered methodology; and
- e) providing a definition of costs for COSS purposes.

CAC/MSOS attributed its cost submission being in excess of its initial budget estimate \$99,000 actual (as opposed to the budget of \$67,000) to the "unanticipated complexity and scope" of the hearing. CAC/MSOS suggested that it was required to consider COSS models beyond the four originally proposed by MH in its

application, and noted specifically the implications of the alternatives proposed by the Manitoba Industrial Power Users Group and Resource Conservation Manitoba/Time to Respect Earth's Ecosystems. As well, CAC/MSOS referenced the "unexpected" number of interrogatories posed by the Board and other interveners.

MH did not object to an award of costs for CAC/MSOS.

Board Findings

The Board is satisfied that CAC/MSOS met its criteria for an award of costs. CAC/MSOS made a substantial contribution to the hearing and contributed to a better understanding of the issues before the Board.

The Board notes the complexity of the alternate COSS proposals, as well as the fact that the hearing was of a unique nature, making it difficult to initially predict the time requirements of the process.

Accordingly, the Board accepts CAC/MSOS' explanation of their budget overrun and will award costs as requested.

IT IS THEREFORE ORDERED THAT:

1. Consumers' Association of Canada (Manitoba) Inc. and Manitoba Society of Seniors be awarded costs in the amount of \$99,064.39.
2. Costs shall be payable by Manitoba Hydro within 30 days of the date of this Order.

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THE PUBLIC UTILITIES BOARD

"GRAHAM F. J. LANE, CA"
Chairman

"H. M. SINGH"
Acting Secretary

Certified a true copy of
Order No. 112/06 issued by
The Public Utilities Board

Acting Secretary