

M A N I T O B A	Order No. 40/09
THE PUBLIC UTILITIES BOARD ACT	
THE MANITOBA HYDRO ACT	
THE CROWN CORPORATIONS PUBLIC REVIEW AND ACCOUNTABILITY ACT	April 20, 2009

Before: Graham Lane, C.A., Chairman
Robert Mayer, Q.C., Vice-Chairman
Susan Proven, P.H.Ec., Member

THE CONSUMERS' ASSOCIATION OF CANADA (MANITOBA) INC./
MANITOBA SOCIETY OF SENIORS/WINNIPEG HARVEST:
AWARD OF COSTS
ARISING OUT OF A GENERAL RATE APPLICATION
BY MANITOBA HYDRO FOR SPECIAL RATES FOR ENERGY
INTENSIVE INDUSTRIES

Introduction

The Public Utilities Board (Board) held a public hearing in December 2008 and January 2009 concerning an application by Manitoba Hydro (Hydro) to establish revised electricity rates for energy intensive industries (EIIR).

The application arose out of Hydro's General Rate Application, which was reviewed in a public hearing in the spring of 2008, subsequent to which the Board ordered a separate process to deal with the issue of energy charges to industries consuming large amounts of electrical energy.

Consumers' Association of Canada (Manitoba) Inc./ Manitoba Society of Seniors/ Winnipeg Harvest (Coalition) were approved as interveners for the EIIR application process and hearing. Following the hearing, the Coalition applied to the Board for an award of costs.

This Order directs Hydro to provide a payment to the Coalition in the amount of \$33,873.35.

Application

The Coalition applied for an award of costs of \$33,873.35, comprised of:

Legal Fees	Fees	\$ 23,274.00	
	Disbursements	\$ 1,278.44	\$ 24,552.44
Consulting Fees			
Econalysis:	Fees	\$ 9,296.25	
	Disbursements	\$ 24.66	\$ 9,320.91
Total			\$ 33,873.35

In support of its application, the Coalition stated:

"The Coalition played a unique role in this hearing as (being) the one party not indelibly tied to any particular proposal. Through their extensive cross-examination and closing argument, they attempted to take a principled approach to testing the strengths and weaknesses of the proposals of Manitoba Hydro, Mr. Chernick and the MIPUG witnesses. They made the point that the preferred analytical approach was a need for and alternatives to assessment rather than unwavering loyalty to any particular recommendation.

Freed from allegiance to any particular proposal, the Coalition believe they played an important role in assisting to define the problem and by identifying and weighing seven important objectives by which the merits of the particular proposals could be weighed. In essence, apart from their specific contribution in terms of developing and testing evidence, they presented a useful analytical tool for identifying priorities and weighing the merits of specific proposals.

Given their uncertainty over the relative merits of the proposals before the Board, the Coalition also identified a further option in the event that the Board decided that further analysis was required. As well, the Coalition played an important role in preparing a thoughtful, albeit cautious, consideration of the issues associated with the allegation that the rate proposed by Manitoba Hydro was unduly discriminatory.

Finally, the Coalition believe they played an important role in this proceeding by addressing larger themes such as fairness to other ratepayers as well as the implications for the Manitoba Advantage and for revenue neutrality of adopting market based rates for a certain subsection of the rate base."

As to the quantum of costs sought, the Coalition indicated that the majority was related to the time spent by the intervener on the application rather than other factors:

"...the Coalition would suggest that it might have been reasonable to expect that the total hours incurred might match and perhaps exceed the total hours one might normally expect for a similar length GRA proceeding which one might estimate to be between 250 and 350 hours. The Coalition notes that the time incurred of approximately 190 hours is materially below the 250 hour level. As a high level check, this suggests that the hours billed by the Coalition were quite reasonable."

Hydro's Comments

Hydro raised no objections to the Coalition's application.

Board Findings

The Coalition has met the Board's criteria for an award of costs, as set out in the Board's *Rules of Practice and Procedure*.

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

1. has to have made a significant contribution that was relevant and contributed to a better understanding by all parties of the issues before the Board;

2. would have participated in a responsible manner, and cooperated with other Interveners with common objectives in order to avoid a duplication of intervention;
3. would have insufficient financial resources to allow for its participation without a cost award; and
4. would have had a substantial interest in the outcome of the proceeding, and have represented the interests of a substantial number of MPI's ratepayers (policyholders).

The Coalition is well known to the Board and its intervention was of value in augmenting the Board's knowledge of the various issues tested through the proceeding.

The Board concludes that the application for costs and the quantum of the request were reasonable, and will therefore award costs to the Coalition as submitted.

IT IS THEREFORE ORDERED THAT:

1. The Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors/Winnipeg Harvest (Coalition) be awarded costs in the amount of \$33,873.35.
2. Costs shall be paid by Manitoba Hydro within 30 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, C.A."

Chairman

"G. A. GAUDREAU, C.M.A."

Secretary

Certified a true copy of
Order No. 40/09 issued by The
Public Utilities Board

Secretary