

**M A N I T O B A**  
**THE PUBLIC UTILITIES BOARD ACT**  
**THE MANITOBA HYDRO ACT**  
**THE CROWN CORPORATIONS PUBLIC**  
**REVIEW AND ACCOUNTABILITY ACT**

**Order No. 155/11**

**November 9, 2011**

Before: Graham Lane CA, Chairman  
Robert Mayer, Q.C., Vice-Chair

**MANITOBA HYDRO 2010/11 AND 2011/12**  
**GENERAL RATE APPLICATION COSTS ORDER FOR**  
**RESOURCE CONSERVATION MANITOBA AND TIME TO RESPECT**  
**EARTH'S ECOSYSTEMS INC.**

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## **Background and Board Findings**

Resource Conservation Manitoba (also known as Green Action Centre) and Time to Respect Earth's Ecosystems (RCM/TREE) sought an Order from the Public Utilities Board (Board) to recover costs incurred by RCM/TREE to intervene in Manitoba Hydro's (MH) 2010/11 and 2011/12 General Rate Application (GRA).

RCM/TREE's cost request includes statements of account from Resource Insight Inc., Roger Colton and Gange Goodman & French.

While MH acknowledged that RCM/TREE deserved an award of costs, MH raised concerns regarding the quantum of a cost award, and RCM/TREE subsequently responded to address the quantum concerns raised by MH.

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

### ***Costs 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 co-operated 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, the concerns raised by MH and RCM/TREE's responses with respect to those concerns, and in exercising its discretion, the Board will approve RCM/TREE's Application for costs as submitted with the exception of the costs associated with (a) ten hours of anticipated time with respect to RCM/TREE's legal counsel account, and, (b) five hours of anticipated time with respect to RCM/TREE's witnesses (R. Colton and Resource Insight Inc.).

The award of costs will therefore be approved as follows:

|                       |                    |              |
|-----------------------|--------------------|--------------|
| Gange Goodman French  | \$116,578.34 -     |              |
|                       | <u>\$ 2,120.00</u> | \$114,458.34 |
| Roger Colton          | \$ 47,690.80 -     |              |
|                       | <u>\$ 960.00</u>   | \$ 46,730.80 |
| Resource Insight Inc. | \$213,749.59 -     |              |
|                       | <u>\$ 960.00</u>   | \$212,789.59 |

The Board notes that cost awards are not normally granted on a prospective basis; RCM/TREE may make a subsequent application for costs where further costs associated with its intervention are reasonably incurred.

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 the Board's website at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca).

**IT IS THEREFORE ORDERED THAT:**

1. The application of Resource Conservation Manitoba and Time to Respect Earth's Ecosystems for an award of costs BE AND IS HEREBY APPROVED in the amount of \$373,978.73; and
2. Costs be payable by Manitoba Hydro within 30 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE CA"  
Chairman

"HOLLIS SINGH"  
Secretary

Certified a true copy of Order No.  
155/11 issued by The Public Utilities  
Board

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Secretary