

**MANITOBA** ) **Order No. 51/10**  
 )  
**THE PUBLIC UTILITIES BOARD ACT** ) **May 12, 2010**

BEFORE: Graham Lane, C.A., Chairman  
Monica Girouard, C.G.A., Member

**MAXIMUM FEES FOR CASHING GOVERNMENT CHEQUES**

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## **1.0 EXECUTIVE SUMMARY**

By this Order, and in accordance with *The Consumer Protection Act (Manitoba)*, the Public Utilities Board (Board) completes the first triennial review of the fee formula established by the Board in 2007 for the cashing or negotiating of a government cheque.

The formula, providing for the maximum fee, commission or amount a cheque casher in Manitoba may charge for the cashing or negotiating of a government cheque, is to remain as established by Order 72/07.

Additionally, the Board provides a brief overview of cheque cashing, its findings of Order 72/07, and an update as to government action on Board recommendations contained in Order 72/07.

### *Fees and Terms, Cashing Government Cheques*

Firstly, government cheques include cheques of the Government of Canada, Province of Manitoba and any government agency listed in the provincial regulation.

*Fee Tariff* with certain exceptions, the maximum to be the sum of \$3.00 and (plus) 2% of the face value.

### *Exceptions*

1. For cheques on which a hold is placed and cash not then provided, the maximum charge to be levied shall be the lesser of \$5.00, or, the sum of \$3.00 and 2% of the face value; and
2. For cheques cashed with a concurrent requirement that the person purchase goods or services aggregating 10% or more of the cheque, no fee may be charged.

Cheque cashers currently charging either no fee or fees less than the maximum as set out below are encouraged to continue to do so.

This Order follows the Board's review of its directions of Order 72/07, a review that included notice to the public, interveners and interested parties to Order 72/07, and receipt of comments.

The Board remains of the view that its recommendations, as contained in Order 72/07, remain as important as the setting of the maximum fee, as the recommendations are provided for the purpose of generating conditions amenable to fewer Manitobans availing themselves of fringe or convenience banks to cash government cheques.

## **2.0 BACKGROUND**

*The Consumer Protection Act (Manitoba)*, (Act), directs the Board on its course for the fixing of the maximum amount, or establishing a rate, formula or tariff, for cashing or negotiating a government cheque; the Board is required to make a just and reasonable Order. Section 169(5) of the Act requires that "The board must review its existing orders under this section at least once every three years", and, in this effort, the Board has considerable discretion.

In this first triennial review, the Board considered:

- Its understanding of the business and operating requirements of firms and persons who cash or negotiate government cheques for a fee;
- Its understanding of the financial risks taken by firms and persons who cash or negotiate government cheques for a fee;
- information received through the process, and obtained in the 2007 proceeding that led to Order 72/07, deemed relevant;
- Its understanding of the market, degree of competition, and options to consumers seeking to cash a government cheque;

- Its understanding of the relative value of options available to consumers seeking to cash a government cheque;
- Its understanding of the particular circumstances of both low-income consumers and those consumers lacking either mobility or access to alternative means (banks and credit unions) to cash a government cheque (noting a history of bank branch and credit union consolidations and closings in lower income Winnipeg neighbourhoods);
- Its understanding of the factors explaining an increase in the number of locations of near/fringe bank or convenience financial services firms, and the relative higher costs to consumers of relying on such firms rather than banks or credit unions;
- the impact of the recent global recession on Manitobans, and a, to-date, continuing low-inflation, low mainstream lending rate environment; and
- the public interest.

As with the 2007 public hearing (that led to Order 72/07), there was no applicant to the Board's recent review and, thus, no onus was carried by any party providing a submission to the Board.

### **3.0 SUBMISSIONS**

On March 16, 2010, notice of the Board's review of the maximum fees allowable for the cashing of government cheques was issued to 32 firms, associations and individuals, including the Province of Manitoba (Province). The notice both requested interested parties to make submissions in writing to the Board and advised that the Board would review the submissions and determine if a public hearing was required.

Submissions were received from:

<b>Respondent</b>	<b>Date Received</b>
1. North West Company	April 13, 2010
2. Consumers' Association of Canada (Manitoba) Inc./ Manitoba Society of Seniors	April 15, 2010
3. Province of Manitoba	April 16, 2010
4. Canadian Payday Loan Association	April 16, 2010

In summary, North West Company (NWC) supports the maintenance of the fees and terms established by Order 72/07; Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors (CAC/MSOS) reminded the Board that in the 2007 proceeding it recommended lower maximum rates than were subsequently set (and advised that its then-view continues); and, the Province of Manitoba provided a report on actions taken on Order 72/07's recommendations. And, the Canadian Payday Loan Association (CPLA) opined that the rates established by Order 72/07 should not be reduced.

*North West Company*

NWC advised that it continues to have an interest in the setting of maximum rates for the cashing of government cheques and that it had "... reviewed the Fee Tariff and Terms for the cashing of government cheques as contained in Order No. 72/07 and wish(ed) to advise ... that NWC supports the current fees and terms without alteration or amendment."

*Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors*

CAC/MSOS noted that low and fixed income households often rely on government cheques as their sole source of income and are "inherently" vulnerable. The intervener

also noted that in the case of Government of Canada cheques there is only a minimal risk to the casher “given the (federal) government’s commitment to full indemnification”.

CAC/MSOS suggested that there were competitive forces in the market suggesting that the maximum rates could be lower, and advised that while it preferred that the existing maximum rates be lower it strongly opposed any increase in the maximums. The intervener also indicated that if the Board was inclined to consider increasing the maximums, then a public hearing process should be instituted.

Province of Manitoba

Order 72/07 included nine recommendations for government consideration, and the Province provided a submission commenting on each.

**Order 72/07 Recommendation #1 -**

*Social Assistance recipients should be provided photo identification at no cost.*

The Province advised that in May 2009 the Manitoba Public Insurance Corporation began to offer a new photo identification card (the card is valid for up to five years and provides proof of identity, age and residency). The Province further advised that Employment and Income Assistance “... will provide funds to participants to obtain identification, including the Manitoba Identification Card, if required to open a bank/credit union account or access banking/credit union services”.

**Order 72/07 Recommendation #2 -**

*Social Assistance recipients should receive counseling on the costs of cashing cheques and other financial matters, and be encouraged and assisted in opening a bank or credit union account.*

The Province advised that government has committed approximately \$800,000 to Supporting Employment and Economic Development (SEED) Winnipeg to “... work with low-income Manitobans to provide financial literacy training and to help grow their

savings by supporting individuals to open Individual Development Accounts”, and that the funding will continue in the government’s 2010/11 fiscal year.

The Province further advised that Employment and Income Assistance staff “ ... provide counseling and assistance in opening bank or credit union accounts ... (and) referrals are also made to community programs such as Community Financial Counselling Services and The Community Financial Services Centre to assist participants with banking fundamentals”.

**Order 72/07 Recommendation #3 -**

*Direct deposit of social assistance cheques into bank or credit union accounts should be proactively promoted by the Province (the Board understands that a substantial number of recipients of social allowance currently receive their support by direct deposit).*

The Province reported that 63% of Employment and Income Assistance participants now receive benefits through direct deposit, up from 43% in 2007, and that Family Services and Consumer Affairs continues to explore measures to increase direct deposit, through the following measures:

- providing benefits one day earlier when by direct deposit than by cheque;
- issuing direct deposit promotional material;
- counseling participants on both direct deposit and opening bank/credit union accounts;
- providing funding to participants to obtain identification required to open a bank or credit union account;
- promoting the payment of income assistance by direct deposit with all new income assistance participants; and
- making referrals to community programs (such as Community Financial Counselling Services and Community Financial Services Centre).

The Province indicated ongoing consideration of further initiatives to assist increasing the employment of direct deposit rather than cheque issuance, these including:



- requesting participants with bank accounts to utilize direct deposit;
- providing website and printed material, or instituting a mail out campaign; and
- working with mainstream financial institutions towards develop opportunities to assist the currently “unbanked”.

**Order 72/07 Recommendation #4 -**

*Community Financial Services Centre, a pilot project serving North Winnipeg, should receive government support towards making the service permanent with expanded counseling and referral services.*

The Province reported that it has continued to provide financial support to assist the operations of the agency, which was “ ... initially supported through a \$150,000 Provincial contribution and a \$150,000 federal contribution”. The Province further reported that the “ ... (service) model was still in development” and that the Province had provided an additional \$256,400 to assist in model development “ ... within the context of an evolving financial services environment in (Winnipeg’s) North End”.

**Order 72/07 Recommendation #5 -**

*The Province should engage banks and credit unions into discussion towards the provision and marketing of low-cost accounts for social assistance families.*

The Province reported that eight large banks now offer low-cost bank accounts pursuant to a 2001 Memorandum of Understanding with the Federal Government, and that a number of Manitoba credit unions have established low-cost accounts.

The Province indicated that it is considering approaching financial institutions to explore opportunities to market financial services to low-income Manitobans, including low-cost accounts and financial literacy training.

**Order 72/07 Recommendation #6 -**

*The Province should consider providing banks and credit unions with indemnification of Provincial Government cheques given adequate identification, with respect to cheques of \$1,000.00 or lower.*

The Province advised that British Columbia and Alberta have indemnity agreements in place for cashing provincial government cheques, but that before entering into the agreements the provinces decreased reliance on cheques through increasing direct deposit disbursement to the level of 80%. The Province advised that it is considering the experience of the other provinces, and may not implement provincial indemnification until direct deposits represent 80% of benefit payments.

**Order 72/07 Recommendation #7 -**

*The list of Provincial Government agencies for which their cheques will be subject to the maximum fees set by (the Board) should be expanded to include all provincial and municipal agencies.*

The Province indicated that all provincial agencies issuing large volumes of consumer cheques are designated as government agencies for the purposes of the legislation, and that discussions have been initiated with Manitoba Hydro to determine if there is a need to include it as a government agency.

The Province advised that municipal governments are not to be added to the list at this time, as discussions held with various municipalities have indicated that municipalities issue few cheques to individuals other than staff.

**Order 72/07 Recommendation #8 -**

*The Province should bring about regulation to provide for the licensing of the near bank industry, including payday lenders and cheque cashers, pawn shops and rent-to-own firms.*

The Province reported that payday lenders, including pawn shops, that offer payday loans will be licensed and that non-compliance with either cheque cashing or other similar legislation may result in the suspension or cancellation of their licenses. The Province also noted that regulation of pawn shop rates require amendment of the *Criminal Code*, and that existing cost of credit disclosure provisions apply to rent-to-own agreements, providing for a better informed consumer (enabled to comparison shop).

**Order 72/07 Recommendation #9 -**

*The Consumers' Bureau, which will oversee adherence to the Board's determinations as to maximum fees for the cashing of government cheques, should consider the development of a code of conduct for cashers of government cheques, and the development of pamphlets and other information for general dissemination regarding the cashing of government cheques.*

The Province reported that cheque inserts were included in approximately 50,000 cheques sent to Income Assistance and Manitoba Housing clients, and that the Workers Compensation Board and Manitoba Public Insurance were provided with electronic copies of the insert and have indicated that they will include this information with hard copy cheques provided to their clients.

The Province also noted that a fact sheet on cheque cashing maximum rates is available through the Consumers' Bureau, and that the Consumers' Bureau also issues information on government cheque cashing fees as a regular part of its public education sessions. The Province further advised that as "... as few complaints have been received and random checks of retailers and cheque cashers have not revealed major issues of non-compliance, a Code of Conduct will not be developed at this time".

*Canadian Payday Loan Association*

CPLA opined that "... since (Order 72/09) came into force there has been little change in the ability for Manitobans to access cheque cashing services and low cost accounts from banks and credit unions ... (and that) the service provided by (CPLA) members is still an important service to many Manitobans and, while there is a cost associated with accessing the service, (because of the costs to provide the service), there are still costs for the alternative of maintaining a bank account to deposit the cheque into and in that case the customer is faced with a hold period on those funds that can be up to ten (10) days".

CPLA advised that it supports the Board's recommendations (of Order 72/07) regarding "... provision and marketing of low cost accounts for social assistance families as well as the work of a Community Financial Services Centre in North Winnipeg". CPLA concluded that, nonetheless, the provision of cheque cashing by its members remains a "... necessary and important access to credit for some consumers and a valued convenience for others".

CPLA noted that Order 72/07 provided for savings to individuals cashing government cheques, but that it "... is important ... to make no further reduction in the rates currently in effect". CPLA held that a further reduction in maximum fess would have "... the inevitable affect of further restricting or denying access to this service to those on social assistance without provision of an alternative".

#### **4.0 ISSUES CONSIDERED**

Coming to the decisions set out herein required the Board to consider varied information and circumstances, both as to the demand side of the equation (consumer needs and desires) and as to the supply side (the business requirements of cashers of government cheques).

Participants to the Board's 2007 proceeding drew the Board's attention to a variety of issues, including:

- the need to service low-income consumers who need to cash government cheques;
- supply side changes to the traditional bank and credit union cheque cashing service offerings, and the concurrent introduction and growth of convenience or fringe banks;
- the cost of doing business, and, in particular, analyses of the costs to cash government cheques as part of service offerings made in many different and often quite unique marketplaces (such northern and rural Manitoba communities);

- consideration of the financial risk of cheque cashers in the negotiation of government cheques, and the related legal and regulatory requirements already in existence related to these transactions;
- the provision of a fair rate of return to cheque cashers for services provided, and the impact that the maximum rates set by the Board may have on the market, impacting both consumers and suppliers;
- the economics of the cash economy for "unbanked" or "under-banked" consumers, recipients of government cheques;
- differences in current arrangements and related risk management as related to the cashing of federal government cheques of under \$1,500 (required to be cashed at no fee, given certain criteria are met, by banks and credit unions) as opposed to provincial and municipal cheques;
- the variability of fees (or other consideration) that are charged throughout Manitoba for cashing government cheques in the then-current and unregulated marketplace;
- availability of clear comprehensible consumer information respecting fees or charges for cheque cashing, and related issues such as a code of practices for service providers;
- practicality of implementation and adherence to a new maximum cheque cashing tariff or formula; and
- the importance of not reducing consumer options.

In accordance with the legislation, the Board was required to issue an initial Order (Order 72/07) establishing a maximum tariff, and then to review initial and subsequent Orders at least once every three years. Upon such reviews, the Board must then issue a new Order replacing the then-existing Order. (However, if circumstances respecting government cheque cashing change substantially, such an Order can be reviewed at an earlier time.)

So, this Board Order represents the first subsequent Order to 72/07, it coming approximately three years following the issuance of 72/07.

And, as previously indicated, the Board, in its current review, has taken into account the current economic situation, one recently marked by the somewhat hesitant recovery from a global recession, higher unemployment, lower income growth, low inflation and very low mainstream lending rates.

## **5.0 BOARD FINDINGS**

As previously indicated, responses to the Board's invitation for submissions provided the Board with comments, information and recommendations. Recommendations extended both to the approach to be taken to maximum rates for the casing of government cheques to the process to be followed by the Board to arrive at a new Order.

NWC and the CPLA have indicated satisfaction with the maximum rates established by Order 72/07. CAC/MSOS reiterated its recommendation for lower maximum rates, but asserted a requirement for a public hearing only if the Board was to decide to increase the maximums set in Order 72/07. The Province provided a review of actions it has taken since the issuance of Order 72/07, and provided no indication that there has been a public outcry suggesting the rates set by Order 72/07 had either resulted in excessive charges to the public or a lack of service providers.

In reviewing the question before the Board, that being, in essence, should the maximum rate set by Order 72/07 be changed, the Board considered not only the submissions it received but also the fact that of the 32 firms, associations, groups and individuals that received direct notice of the Board's intention to review the maximum rates set by Order 72/07, only four parties responded, and none of them made a compelling, if any, case for changes the maximums set by Order 72/07.

Furthermore, the Board considered the recent and current economic climate, one marked by the after-math of a global recession, which led to higher unemployment, lower

increases in average wages/income, and was also marked by continued low general price inflation and very low “mainstream” interest rates.

Firstly, the Board, based on the responses to its request for submissions, concludes there is no necessity for a public hearing to be held. The cost of such a process would likely be significant and based on the evidence before the Board, the Board concludes that no public hearing is required.

The Board concludes that the rates set by Order 72/07 should remain in force, with no amendments. With this Order, as was the case with Order 72/07, the Board’s intention is to ensure consumers who are intended to be protected and assisted by the setting of maximum fees for the cashing of government cheques are not inadvertently harmed by the directions of the Board. One of the identified risks in the setting of a maximum fee schedule relates to cheque cashers’ forecast revenue from cashing government cheques.

If the revenue recovered is below the sum of their costs and a reasonable rate of return or profit, some cheque cashers may withdraw from the market. This would reduce the availability of cheque cashers to the public, particularly to the segment of the market that lacks bank or credit union accounts, or who live in areas where only one or a few cheque cashers are present.

In the public hearing that led to Order 72/07, the Board pondered the question: why do individuals, and even some firms, cash cheques other than at a bank or credit union (where the cost of cashing a cheque may be as low as zero)? The Board continues to accept the evidence of all parties to the 2007 proceeding that the reasons include:

- a) convenience – location of cheque casher, and days and hours of service;
- b) inability to cash cheques at a bank or credit union, due to either the lack of an account at any mainline financial institution or lack of adequate identification;  
and
- c) the practice of mainline financial institutions to place holds on cheques (the decision to place a hold apparently based on the size of the cheque, the payor, the

person presenting the cheque for cashing, and the person's history with the financial institution, etc.).

Canada's banks have closed and consolidated branches for reasons of profit maximization, and not everyone has a vehicle or the financial means to travel regularly to the nearest bank. Credit unions have merged and consolidated for reasons of cost efficiency and member benefit. Again, this has reduced the availability of mainline financial institutions to the residents of North Winnipeg, rural and northern Manitoba.

There remain individuals that have no option but to cash their cheques for a fee at a fringe bank, pawn shop, rent-to-own facility, retail store, or, even a stranger, and there are several reasons for the lack of options for such individuals:

- a) there being no bank or credit union in their community or neighbourhood; or
- b) the risk or reality that a bank or credit union would place a hold on their cheque, while they need the money "now"; or
- c) a lack of the necessary identification to open a bank or credit union account, with the cost of obtaining that identification being difficult for them to meet.

The Board acknowledges the significance of the risk that it has identified, and thus, again, sets a maximum fee it deems sufficient to allow *efficient* cheque cashers within the fringe bank industry to remain in the market. The Board will review the rates, again, in 2013, assuming no major change occurs in the cheque cashing or general economic landscape that requires an earlier review.

Finally, the Board commends the government for its attention to the Board's recommendations made through Order 72/07 and is pleased with the actions taken to-date. The Board encourages government to continue to consider the problems faced by lower income households and individuals, particularly those that have not secured an account with a mainstream bank or a credit union.



Cashing cheques at a fringe bank may be convenient and useful for some Manitobans, but for lower-income persons, it may well be a high-cost approach that may also lead to the receipt of other similarly high-cost services from companies such as payday lenders. The Board understands that dealing with a fringe bank involves neither external credit checks nor the development or enhancement of a credit record; this may seem an advantage to some, but augurs of potential difficulties for many others.

It was such circumstances and concerns that may have motivated government to provide the Board the mandate to set fees and terms for the cashing of government cheques. The clear intention of government was to avoid exploitation. That said, defining "exploitation" is itself difficult, though the Board has no difficulty in associating the term "exploitation" with charges beyond the maximum levels established in Order 72/07, continued with the directions of this Order.

The fees and terms established by this Order, as was the case with Order 72/07, make it clear to all cheque cashers and persons cashing government cheques that exploitation is unlawful. Upon conviction, the guilty party will face serious penalties. This is just and reasonable.

The schedule of maximum fees and conditions for the cashing of government cheques follows:

*Fees and Terms, Cashing Government Cheques*

Government cheques include cheques of the Government of Canada, Province of Manitoba and any government agency listed in the regulation.

*Fee Tariff* with certain exceptions, the maximum to be the sum of \$3.00 and (plus) 2% of the face value.

Exceptions

1. For cheques on which a hold is placed and cash not then provided, the maximum charge to be levied shall be the lesser of \$5.00, or, the sum of \$3.00 and 2% of the face value; and
2. For cheques cashed with a concurrent requirement that the person purchase goods or services aggregating 10% or more of the cheque, no fee may be charged.

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 (Rules). The Board's Rules may be viewed on the Board's website at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca).

**6.0 IT IS THEREFORE ORDERED THAT:**

The following schedule of fees and conditions, as initially established in Board Order 72/07, shall continue to be effective for the cashing of government cheques in Manitoba:

**Fees and Terms, Cashing Government Cheques**

Government cheques include cheques of the Government of Canada, Province of Manitoba and any government agency listed by regulation.

**Fee Tariff** with certain exceptions, the maximum to be the sum of \$3.00 and (plus) 2% of the face value of the cheque.

**Exceptions**

1. For cheques on which a hold is placed and cash not then provided, the maximum charge to be levied shall be the lesser of \$5.00, or, the sum of \$3.00 and 2% of the face value; and
2. For cheques cashed with a concurrent requirement that the person purchase goods or services aggregating 10% or more of the cheque, no fee may be charged.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, C.A."  
Chairman

"HOLLIS SINGH"  
Acting Secretary

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issued by The Public Utilities Board

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Acting Secretary