

**M A N I T O B A**

**THE PUBLIC UTILITIES BOARD ACT**

Order No. 6/10

January 13, 2010

Before: Graham Lane, CA, Chairman  
Susan Proven, P.H.Ec., Member

**AVION SERVICES CORPORATION**  
**AIRPORT SHUTTLE SERVICE**

**ORDER FOR PAYMENT OF COSTS**

**Summary:**

By this Order, the Public Utilities Board (Board) orders that costs in the sum of \$82,999.94 be paid by the Applicant, Avion Services Corporation (Avion), pursuant to Section 56 of *The Public Utilities Board Act*, which provides as follows:

**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.

**Order for payment of costs**

56(2) the Board may order by whom, and to whom, any costs are to be paid, and by whom the costs are to be taxed and allowed.

**Scale of costs**

56(3) The Board may prescribe a scale under which the costs shall be taxed.

**Background:**

Avion applied to the Board in early 2007 for approval to operate an airport shuttle service after the Council of the City of Winnipeg (City) passed a resolution approving an agreement with Avion for the operation of an airport shuttle service within the City, subject to approval of that agreement by the Board pursuant to Section 163(3) of the City of Winnipeg Charter.

The Board thereafter approved a joint application by Unicity Taxi Ltd. and Duffy's Taxi (1996) Ltd. (Unicity/Duffy's) for Intervener status to participate in the hearing process relative to Avion's application.

Unicity/Duffy's filed a preliminary motion with the Board seeking a dismissal of Avion's application and termination of the proceedings for the reason that there was no formal agreement between the City and Avion for the shuttle operation so as to give the Board jurisdiction to hear the matter pursuant to Section 163(3) of the City of Winnipeg Charter. After

a hearing held in January 2009, the Board issued Order 9/09 denying the motion by Unicity/Duffy's.

Unicity/Duffy's then filed a second motion seeking to halt these proceedings, alleging that the City did not have "exclusive authority" over the proposed service intended by Avion so as to enable the City to enter into an agreement with Avion. Unicity/Duffy's took the position that the Board therefore did not have jurisdiction conferred by Section 163(3) to deal with Avion's application. Following a hearing in late April 2009, the Board dismissed the motion by its Order 76/09.

Following a public hearing that commenced in July 2009, and concluded with the filing of closing arguments by Avion and Unicity/Duffy's at the end of August, 2009, the Board conditionally approved Avion's proposed shuttle service by Order 137/09.

By its Order 169/09, the Board subsequently varied Order 137/09 by requiring Avion itself to comply with three conditions for which the Board had originally required compliance by Avion's parent company, the Winnipeg Airport Authority.

### **Board Findings**

The Board came to the conclusion during the course of the hearing process that the shuttle service sought by Avion would have a negative impact upon the taxicab industry, which is important to the public interest.

Further, the Board concluded that the taxicab industry is under economic stress due to a number of factors, not the least of which is a seemingly minimal return on the apparently ever-escalating cost of investment for taxicab owners/operators.

The Board therefore found the strong opposition mounted by the Interveners in this matter to be understandable in the circumstances. Indeed, its conditional approval of the shuttle service operation reflects the Board's consideration of many of the objections and concerns cited by Unicity/Duffy's relative to the future plight of the taxicab industry in terms of its ability to meet the needs of the public for taxicab service.

**Conclusion:**

It is customary for the Board to seek to recover the costs it incurs in reviewing and dealing with the various applications that come before it.

In the case of the airport shuttle service, the Board is of the view that Avion either has or will have the means, with or without the financial support of its parent, the Winnipeg Airport Authority, to bear the cost of these proceedings.

**IT IS THEREFORE ORDERED THAT:**

Costs in the sum of \$82,999.94 be paid by Avion to the Board by April 1, 2010.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, CA"

Chairman

"H. M. SINGH"

Acting Secretary

Certified a true copy of Order No. 6/10  
issued by The Public Utilities Board

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Acting Secretary