

MANITOBA) Order No. 18/04
)
THE PUBLIC UTILITIES BOARD ACT) February 5, 2004

BEFORE: G. D. Forrest, Chairman
E. Jorgensen, Member
D. Côté, Member

**APPLICATION BY THE COALITION OF
MANITOBA MOTORCYCLE GROUPS FOR AN
AWARD OF COSTS FOR INTERVENING IN THE
APPLICATION OF MANITOBA PUBLIC INSURANCE
CORPORATION FOR APPROVAL OF ITS 2004
INSURANCE RATES**

The Public Utilities Board (the "Board") held a public hearing of the application by Manitoba Public Insurance ("MPI") for approval of its proposed driver and motor vehicle insurance rates effective March 1, 2004. The hearing was held at the Board's offices, in Winnipeg and concluded on October 31, 2003.

Pursuant to Section 56 of The Public Utilities Board Act, the Board has jurisdiction to award costs of, and incidental to, any proceeding. The Board's Draft Rules of Practice and Procedure ("Draft Rules") stipulate four main criteria for determining

whether costs should be awarded to an intervenor. The Notice of Public Hearing relative to MPI's application advises the reader of the Board's guidelines for awarding costs.

Pursuant to the Board's Draft Rules, the Coalition of Manitoba Motorcycle Groups Inc. ("CMMG") applied to the Board, in a letter dated November 25, 2003, for an award of costs in the amount of \$40,444.74 (as per invoices) comprising:

Professional legal fees plus GST	\$18,987.15
Disbursements	1,802.21
Satyatas Consulting (Satyatas) plus GST	14,204.25
IAO Actuarial Consulting Services Inc. (IAO) plus GST	5,029.00
Transcripts & binding (\$361.13 + \$61.00)	422.13
Total Claim	<u>\$40,444.74</u>

CMMG, in support of its application, noted that in addition to the lengthier nature of the appearance, this year's hearing was much more time intensive due to the following factors, including:

- a) extensive involvement of the CMMG resource person Dr. Hickson resulting in new areas of examination on a very detailed basis;
- b) instructions to obtain better and more complete answers to the second round information requests, and consequent need for a Motion to Compel answers;
- c) review of application and obtaining cross-examination support from I.A.O. Actuarial Consultants.

In a letter dated December 5, 2003, MPI noted that CMMG's Application for costs represented an increase of 300% over other applications submitted by CMMG in recent years and further, that approximately one half of the Application amount relates to fees charged by two consultants.

MPI stated that the expanded cross-examination of CMMG proved totally irrelevant to the application before the Board and led absolutely nowhere. With respect to the Motion, MPI noted that in all but one instance, the Board supported the Corporation's position to not respond to certain information requests and the time to hear this motion should not be accepted as justification for the inflated Application for costs. MPI noted that, due to the lateness of the filing, the Board accepted the IAO report as information only and because of its limited use, no justification has been established that would warrant the Board accepting the IAO invoice for payment.

MPI recommended that the amount for Counsel for CMMG be rolled back to the \$10,000 - \$12,000 range as reflected in previous cost awards and that the Satyatas amount either be denied or reduced significantly. MPI also recommended that the amount of IAO be deferred until the report is accepted by the Board as evidence in a subsequent GRA hearing.

In a letter dated December 10, 2003, to the Board, CMMG responded to MPI's comments. CMMG noted several areas of CMMG's cross-examination supported by Satyatas' assistance were areas set out in detail in the Board's rate order and in their opinion, proved every effective. Noting that MPI was seeking a 30% increase

in rates affecting his client and noting that MPI introduced a new type of insurance adjustment (rate line adjustments) in the MPI 2004 GRA resulted in a very large effort being required by CMMG with the support of IAO.

With respect to the specific comments of MPI on the individual accounts, CMMG stated as follows:

- "i) the writer's account is eminently justifiable and results from the detail of the cross-examination, its technical basis and need to meet and communicate with two resource experts, and is demonstrated by the fact that two half days of cross-examination were required, which is roughly double the previous years length of cross-examination;
- ii) That the Dr. Hickson/Satyatas account is only a fraction of the cost of similar resource persons hired by CAC/MSOS in the past and should not be reduced significantly due to the contribution to the areas of examination summarized in pages 40-41 of Board Order 173/03.
- iii) that the small amount charged (at least relative to the value of actuarial services) by I.A.O. for cross-examination support should not be reduced significantly."

On December 16, 2003, the Board sought more details on the account of IAO and CMMG supplied such information on December 22, 2003. A diary was prepared by IAO as requested by the Board and supplied to CMMG (on December 19, 2003). The diary indicated that IAO spent 14.5 hours providing cross-examination support for a total cost of \$5,075.00 and that 20.0 hours was spent preparing the written report for a total cost of \$7,000.00. Total time spent had a cost of \$12,075.00. However, the account was capped at \$4,700.00 plus disbursements of \$329.00 for a total of \$5,029.00.

Board Finding:

The Board is satisfied that CMMG does qualify for an award of costs and made a contribution to a better understanding of matters before the Board. While the Board accepted the need for CMMG to use IAO services to review MPI's new rating concept, the Board finds that services provided by IAO were not timely and as a result created additional effort by Counsel which in the opinion of the Board should be borne by IAO. Accordingly, the Board will reduce IAO's portion of the cost award by \$1,000.00. The Board also finds the time spent by Satyatas to be extensive considering the areas covered and accordingly, will also reduce the fees of Satyatas to \$10,000.00 plus G.S.T.

The following are the costs allowed by the Board.

1. Legal Fees	\$18,987.15
2. Disbursements	1,802.21
3. Satyatas Consulting	10,700.00
4. IAO	4,029.00
5. Other	<u>422.13</u>
Total	\$35,940.49

IT IS THEREFORE ORDERED THAT:

1. The Coalition of Manitoba Motorcycle Groups Inc. be awarded costs of \$35,940.49 in making its intervention at the Manitoba Public Insurance Corporation's 2004 Insurance Rates Hearing.

2. Costs shall be payable by the Manitoba Public Insurance Corporation within 30 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"G. D. FORREST"
Chairman

"H. M. SINGH"
Acting Secretary

Certified a true copy of Order
No. 18/04 issued by The Public
Utilities Board

Acting Secretary