

MANITOBA) Order No. 170/05
)
THE PUBLIC UTILITIES BOARD ACT) December 21, 2005

BEFORE: Graham F. J. Lane, C.A., Chairman
Dr. Leonard Evans, Member
Eric Jorgensen, Member

**APPLICATION BY THE MANITOBA USED CAR DEALERS
ASSOCIATION FOR AN AWARD OF COSTS FOR INTERVENING
IN THE APPLICATION OF MANITOBA PUBLIC INSURANCE
CORPORATION FOR APPROVAL OF ITS 2006 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, to be effective March 1, 2006. The hearing was held at the Board's offices in Winnipeg, concluding on October 17, 2005.

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 Intervener. The Notice of Public Hearing relative to MPI's application advised as to the Board's guidelines for awarding costs.

Manitoba Used Car Dealers Association (MUCDA) intervened at the hearing, having been granted Intervener status by the Board at a Pre Hearing Conference. At the time, MUCDA indicated the nature of its intervention and submitted a draft budget.

Pursuant to the Board's Draft Rules, MUCDA, by a letter dated November 2, 2005, applied to the Board for an award of costs for consultant fees in the amount of \$2,728.50, (GST included).

MUCDA's Application

MUCDA submitted that it had met the Board's criteria for eligibility for an award of costs, in that:

- a) it had a substantial interest in the outcome of the proceeding;
- b) it was in financial need, being "not an 'inherently' profit-oriented Association"; MUCDA suggested that its request was not dissimilar to that made by and awarded to the Manitoba Industrial Powers Users Group (MIPUG) in Board Order 205/02;
- c) it had represented the interests of all automobile dealers in the province, whether members of the Association, or not;
- d) it had provided responsible participation, and had co-operated with the other parties to the hearing towards achieving a cost effective hearing; and
- e) by its participation, it contributed to a better understanding of the issues before the Board.

MUCDA is only seeking reimbursement of fees paid to the consultant to present evidence at the hearing.

MPI's Perspective

MPI was provided a copy of MUCDA's application for costs, and made no comment.

Board Findings

Although MUCDA met several of the Board's criteria, in particular the criteria for having a substantial interest, participating responsibly, co-operating with others, and contributing to a better understanding of the issues at the hearing, the members of MUCDA are auto dealers who have the commercial ability to bear their own costs of intervention. The Board is not satisfied MUCDA meets the criteria of financial need.

The Board notes that the award made to MIPUG in Order 205/02 clearly stated that it was not precedent setting, and that it was based on "the unusual scope of the hearing". In the opinion of the Board, MPI hearings for 2006 Rates and Fees did not meet the "unusual scope" criterion.

That being said, the Board has appreciated the participation and intervention of MUCDA.

IT IS THEREFORE ORDERED THAT:

1. The Application of the Manitoba Used Car Dealers Association for an award of costs in making its intervention at the Manitoba Public Insurance Corporation's 2006 Insurance Rates Hearing BE AND IS HEREBY DENIED.

THE PUBLIC UTILITIES BOARD

"GRAHAM F. J LANE, C.A."
Chairman

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

Certified a true copy of
Order No. 170/05 issued
by The Public Utilities
Board

Secretary