

MANITOBA ) Order No. 40/10  
 )  
THE PUBLIC UTILITIES BOARD ACT ) April 27, 2010

BEFORE: Graham Lane, C.A., Chairman  
Len Evans, LL.D., Member  
Eric Jorgensen, Member

CONSUMERS' ASSOCIATION OF CANADA (MANITOBA) INC./  
MANITOBA SOCIETY OF SENIORS:  
COST AWARD -- MANITOBA PUBLIC INSURANCE CORPORATION  
2010-11 RATES AND FEES

## Introduction

By this Order, the Public Utilities Board (Board) provides a cost award of \$111,449.25 to the Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors (CAC/MSOS) with respect to CAC/MSOS's intervention in the Board's public hearing of Manitoba Public Insurance's (MPI) application for 2010/11 driver and motor vehicle insurance rates.

The Board's hearing was held at the Board's offices in Winnipeg in October and November 2009.

Pursuant to Section 56 of *The Public Utilities Board Act*, the Board has jurisdiction to award costs, and the Board's Rules of Practice and Procedure (Rules) stipulate four criteria for determining whether costs should be awarded. Successful applicants are assessed on four grounds:

1. whether the applicant made a significant and relevant contribution which contributed to a better understanding by all parties of the issues before the Board;
2. whether the applicant participated in a responsible manner, and cooperated with other Interveners with common objectives in order to avoid a duplication of intervention;
3. whether the applicant has sufficient financial resources to allow for its participation without a cost award; and
4. whether the applicant had a substantial interest in the outcome of the proceeding, and represented the interests of a substantial number of MPI's policyholders.

In addition to the above criteria, the Board may consider other matters or factors in considering an award, and these may include the quantum of the claim, the support provided by the applicant for its expenditures, the hourly and/or per diem professional fee levels that may have been involved, and/or the number of service hours reflected in the application for a cost award.

**Application**

CAC/MSOS applied for:

Legal Costs:

Fees	\$34,326.00
Disbursements	612.00

Consulting Costs:

Decom Consulting

Fees	19,000.00
Disbursements	3,000.00

Econalysis Consulting Services

Fees	24,631.25
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Peter Dyck (consultant)

Fees	<u>29,880.00</u>
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Total Claim	<u>\$111,449.25</u>
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The application was submitted on March 23, 2010, four months after the hearing concluded and past the 30-day limit set out in the Board's Rules. However, CAC/MSOS cited reasons for its late submission, those primarily being a shortage of internal resources, and noted that both MPI and the Board had been kept apprised of the applicant's situation.

**CAC/ MSOS**

With respect to their application, CAC/MSOS opined it had made significant contributions, particularly in the following areas:

- the Rate Stabilization Reserve (RSR) range;
- the RSR mechanism;
- MPI's forecasting methodology;
- the issue of road safety;
- commentary and questioning with respect to MPI cost control;
- MPI's cost allocation methodology;
- the jurisdiction of the Public Utilities Board; and
- the establishment of rates.

CAC/MSOS cited some of the Board's references to the positions taken and recommendations proffered by CAC/MSOS during the hearing, and, also, referenced their participation (and contribution) in, subsequently, addressing a review and vary request filed by MPI.

In short, CAC/MSOS asserted that their participation was effective and its effectiveness was greatly enhanced by the contributions of their consultants (noting the addition of Mr. Peter Dyck, a former senior official with MPI, to their consulting roster).

CAC/MSOS observed that it had met, with the exception of filing its cost award application, all filing deadlines, and that during the hearing process it had worked cooperatively with the other parties (and, in particular, the Canadian Automobile Association and the Manitoba Bar Association).

CAC/MSOS suggested that while their cost application exceeded the intervener's original cost estimate (that being \$107,380), the final cost and application for cost recovery was reasonable given that the duration of the hearing significantly exceeded the original expectation of the participating parties.

**MPI's perspective**

MPI made no comment as to the request for costs of CAC/MSOS.

**Board Findings**

CAC/MSOS met the Board's criteria for a cost award to be made.

CAC/MSOS has a substantial interest in application by MPI before the Board, provided responsible and co-operative participation throughout the proceeding, and made a substantial contribution to the Board arriving at a better understanding of the matters before it. Without the prospect of a cost award, the Board is of the view CAC/MSOS could not have participated meaningfully in the hearing. As well, CAC/MSOS represents the interests of the majority of MPI's policyholders.

Accordingly, the Board accepts CAC/MSOS' application, and its use of legal and expert consulting services.

While the Board is concerned with CAC/MSOS' tardiness in submitting the application, the Board understands the staffing challenges of the Public Interest Law Centre, given the agency's broad mandate and public interest centric mandate, and accepts that such tardiness may be unavoidable on occasion.

In conclusion, the Board will accept CAC/MSOS' submission, with the understanding that, in future, CAC/MSOS will attempt to

submit cost applications within the prescribed 30-day deadline.

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).

**IT IS THEREFORE ORDERED THAT:**

1. Consumers' Association of Canada (Manitoba) Inc./  
Manitoba Society of Seniors be awarded costs in the amount of \$111,449.25; and
2. Costs shall be payable by the Manitoba Public Insurance within 30 days of the date of this Order.

THE PUBLIC UTILITIES BOARD  
"GRAHAM LANE, C.A."  
Chairman

"H. SINGH"  
Acting Secretary

Certified a true copy of Order No.  
40/10 issued by The Public  
Utilities Board

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Acting Secretary