

Order No. 132/22

**AWARD OF COSTS TO
INDUSTRIAL GAS USERS
FOR INTERVENTION IN THE
REVIEW OF CENTRA GAS MANITOBA INC. COST OF SERVICE METHODOLOGY**

December 16, 2022

**BEFORE: Marilyn Kapitany, B.Sc.(Hon), M.Sc., Panel Chair
Susan Nemec, FCPA, FCA, Member**

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1.0 Summary

By this Order, the Public Utilities Board of Manitoba (“Board”) approves the Industrial Gas Users (IGU) Application for a cost award of \$118,930.75 for its intervention in the review of Centra Gas Manitoba Inc. (Centra Gas) Cost of Service Methodology.

2.0 Procedural History

The Board directed Centra Gas to file an application for a comprehensive review of its cost of service methodology by May 1, 2020. However, due the COVID-19 pandemic and through Centra’s requests to reschedule this matter, the process was delayed (see Orders 49/20, 130/20, and 51/21), resulting in the Board extending the filing deadline to June 15, 2021.

Centra Gas filed its completed cost of service methodology review application on June 15, 2021. On July 25, 2021, the Board issued its first Procedural Order (81/21) directing a process for the cost of service methodology review and established a deadline for Intervener applications.

On August 5, 2021, IGU filed an Application for Intervener status and on August 20, 2021 filed its budget with the Board. By way of Letter Decision on March 7, 2022, the Board approved Consumers’ Association of Canada (Manitoba), IGU, and Koch Fertilizer Canada, ULC as interveners.

On April 7, 2022, the Board issued a second procedural Order establishing which issues were to be considered in scope and which issues were out of scope, together with a timetable for the cost of service methodology proceeding.

On April 17, 2022, IGU updated its budget amending the time estimate from 735 hours to 555 hours.

On May 19, 2022, IGU filed a motion with the Board requesting access to confidential information contained in the Centra Gas filing materials. On May 31, 2022, after reviewing

the motion, the Board denied IGU's motion to gain access to commercially sensitive information contained within the Centra Gas filing.

On July 22, 2022, the Board issued Order 78/22 which was the third procedural order in this matter and in which the Board determined that there would be no oral hearing but instead requested written submissions from parties on all of the in-scope issues. The Board's Order also invited parties to appear before the Board to provide time-limited closing oral submissions on August 17, 2022.

On August 17, 2022, the Board heard oral submissions from parties and issued its final decision on October 12, 2022 in Order 109/22.

3.0 Application

IGU is an informal association of industrial companies, who are substantial users of natural gas in Manitoba served by Centra via the Special Contract, Mainline, and High-Volume Firm rate categories, as Sales Service and T-Service Customers.

On October 25, 2022, IGU filed its final Cost Application for its participation in the review of the Centra Gas Cost of Service Methodology Proceeding, seeking \$118,930.75 inclusive of tax, fees, and disbursements. IGU provided statements of accounts, as summarized in the following table.

	Budget Total August 2021	Amended Budget April 2022	Costs Application Total September 2022
Legal Costs:			
Legal Counsel	\$81,090.00	\$67,320.00	\$41,952.60
Disbursements	\$1,250.00	\$1,000.00	\$619.96
Taxes	\$9,730.80	\$8,078.40	\$5,034.31
Total Legal Costs	\$92,070.80	\$76,398.40	\$47,606.87
Consultant Costs:			
P. Bowman	\$35,100.00	\$32,500.00	\$39,750.00
Disbursements	\$750.00	\$750.00	\$0.00
Taxes	\$1,755.00	\$1,625.00	\$1,987.50
Total	\$37,605.00	\$34,875.00	\$41,737.50
D. Friesen	\$55,640.00	\$44,940.00	\$28,177.50
Disbursements	\$750.00	\$750.00	\$0.00
Taxes	\$2,782.00	\$2,247.00	\$1,408.88
Total	\$59,172.00	\$47,937.00	\$29,586.38
Total Consultant Costs	\$118,252.00	\$82,812.00	\$71,323.88
TOTAL COSTS	\$210,322.80	\$159,210.40	\$118,930.75

IGU's Cost Application was supported by detailed invoices and a written submission describing IGU's participation in the Board's review of Centra Gas' Cost of Service Methodology proceeding. IGU's final cost intervention request is \$92,392.05 lower than

its original budget submission and \$40,279.65 lower than the amended budget. As per IGU's explanation, the variances in the final costs from the amended budget of April 17, 2022 are due to the Board's direction provided in Orders 36/22, 58/22, and 78/22 that limited the scope of the hearing, restricted the oral evidentiary portion of the proceeding, and provided for time-limited oral submissions.

4.0 Centra Gas Manitoba Inc. Comments

On November 8, 2022, Centra Gas provided its comments regarding IGU's Cost Application. Centra was concerned there was role duplication of work between IGU's legal counsel, consultants and Atrium the independent expert retained by Centra. Further, Centra Gas stated its concern regarding the role of the one of the consultants, that their work history did not reveal any significant experience, education, or qualifications and that much of the services provided were administrative or case management in nature, not usually provided by an expert consultant.

Centra submits that because Mr. Friesen assumed the role of "researcher" and "reviewer" for IGU submissions as opposed to drafter which is how the cost award portrays these activities. In addition, Centra states that Mr. Bowman's work duplicated the work completed by Atrium in this proceeding. Therefore, compensation ought to be at a lower rate for both consultants.

Centra Gas submits that no costs should be awarded for the work related to the IGU's motion to the Board seeking access to confidential information motion, as IGU was not successful in this motion and that the motion unnecessarily lengthened the proceeding.

5.0 Industrial Gas Users Response

On November 16, 2022, IGU responded to the comments provided by Centra Gas regarding the IGU Cost Application. IGU submitted that its intervention in this proceeding in regard to duplication was adequately and comprehensively addressed. IGU further stated that:

Responses to Information Requests, along with Preparation of Expert Evidence and Written Submission, including Oral Presentation by Counsel, reflected close cooperation between Mr. Bowman, Mr. Friesen and IGU Counsel in their specific areas of expertise and knowledge. This cooperative approach led to an efficient use of expertise and resources, reducing the overall costs for its intervention while improving the depth of analysis and submissions provided in support of the Board as it reviewed the Centra Application.

6.0 Board Findings

Pursuant to Section 56 of *The Public Utilities Board Act*, the Board has jurisdiction and discretion to award costs of, and incidentals to, any proceeding before the Board. For this hearing, the Board adopted an “Intervener Costs Policy”. The purpose of this Policy was to set out the Board’s procedures for considering requests for Intervener costs and to provide guidance to Interveners on how to apply for funding of costs for participation in Board Proceedings.

Sections 3.1 and 3.2 of the Intervener Costs Policy describe Intervener eligibility for a cost award and the Board’s principles in determining the amount of the cost award:

3.1 *In any proceeding the Board may award costs to be paid to any Intervener who has:*

- a) *made a significant contribution that is relevant to the proceeding and contributed to a better understanding, by all parties, of the issues before the Board;*
- b) *participated in the hearing in a responsible manner and cooperated with other Interveners who have common objectives in the outcome of the proceedings in order to avoid duplication of intervention;*

- c) *represented interests beyond their sole business interest; and*
- d) *a substantial interest in the outcome of the proceeding and represents the interests of a substantial number of ratepayers.*

3.2 *In determining whether the Intervener should receive the amount of costs sought in a costs application, the Board may consider whether the Intervener did one or more of the following:*

- a) *made reasonable efforts to ensure that the intervener's evidence was not unduly repetitive of evidence presented by another intervener;*
- b) *made reasonable efforts to cooperate with other interveners to reduce the duplication of evidence and questions or to combine the intervener's submissions with that of similarly interested interveners; and*
- c) *needed legal or technical assistance to take part in the proceeding.*

The Board has reviewed the Cost Application by IGU, as well as the comments provided by Centra Gas and reply explanation submitted by IGU on November 16, 2022.

The Board finds that IGU meets the requirements for a cost award.

IGU's intervention in the proceeding added value by providing reasonable evidence, contributing to the Board's understanding on cost allocations, direct assignment of costs, gas in storage costs, unaccounted for gas, and interim rate relief measures on the identified in-scope issues. The Board finds that IGU participated in a responsible manner. The Board finds that IGU participated actively in the proceeding through information requests, submitting evidence, and concluding remarks that assisted the Board in its decisions.

The Board finds, that the IGU statement of accounts provides adequate account of consultant roles and assigned responsibilities. The Board does not agree with Centra Gas' characterization of there being duplication in the IGU expert's roles or that of Atrium's and the Board finds that duplication was not demonstrated.

The Board notes that Centra Gas has also made submissions regarding IGU's increased costs for the access to confidential information motion that was filed. Though the Board did not grant IGU access to the confidential information, the Board finds that IGU was reasonably entitled to make its request and should be paid for its time in advancing its motion. The Board heard both sides of the motion filed by IGU. While it was Centra Gas that convinced the Board of its position, the Board finds that IGU brought a valid concern of their representatives to the Board for decision.

Having considered all of the Industrial Gas Users cost submissions and the comments by Centra Gas, the Board awards the total amount of \$118,930.75 to IGU for intervention in the Board's review of Centra Gas's Cost of Service Methodology Proceeding.

Recognizing the time delays in adjudicating this matter, and also recognizing the approaching business year end, the Board will direct Centra Gas to pay the amount of the approved costs to IGU within 15 calendar days of the date of this Order. The Board appreciates Centra Gas' efforts in this regard.

7.0 IT IS THEREFORE ORDERED THAT:

1. The Application of Industrial Gas Users for an award of costs **BE AND IS HEREBY APPROVED** in the total amount of \$118,930.75.
2. Costs shall be payable by Centra Gas Manitoba Inc. within fifteen (15) days of the date of this Order.


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. The Board's Rules may be viewed on the Board's website at www.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD

Marilyn Kapitany, B.Sc.(Hon), M.Sc.
Panel Chair

"Rachel McMillin, B.Sc."
Associate Secretary

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Associate Secretary