

**Order No. 47/22**

**AWARD OF COSTS TO  
CONSUMERS ASSOCIATION OF CANADA (MANITOBA) INC.  
FOR INTERVENTION IN THE  
CENTRA GAS MANITOBA INC.: 2021 RATE RE-BUNDLING APPLICATION**

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**April 27, 2022**

**BEFORE: Larry Ring, Q.C., Panel Chair  
Marilyn Kapitany, B.Sc.(Hon), M.Sc., Member  
Susan Nemec, FCPA, FCA, Member  
Michael Watson, Member**

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## 1.0 Summary

By this Order, the Public Utilities Board of Manitoba (“Board”) approves Consumers’ Association of Canada (Manitoba) Inc.’s (CAC) Application for a costs award of \$46,602.54 for its intervention in the Centra Gas Manitoba Inc. (Centra Gas) 2021 Rate Re-bundling Application.

## 2.0 Application

On November 22, 2021, CAC filed with the Board an Application for an Award of Costs for its intervention at the Centra Gas 2021 Rate Re-bundling Proceeding.

Pursuant to Section 56 of *The Public Utilities Board Act*, the Board has jurisdiction 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. This Policy was applied and was followed for the Centra Gas 2021 Rate Re-bundling Application.

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.*

On June 25, 2021, The Board issued Procedural Order 69/21 directing a process for the Rate Re-bundling Application and established a deadline for Intervener applications. The Board also provided Centra with an opportunity to file written comments with the Board in respect of the Intervener applications.

On July 2, 2021, CAC filed an Application for Intervener status with the Board. On July 7, 2021, Centra filed written comments regarding CAC's Application to Intervene. The Board provided CAC with the opportunity to respond to Centra's comments, and provided its response on July, 9, 2021 to the Board.

The Board approved Intervener status for CAC in Procedural Order No. 77/21 dated July 15, 2021. In the same Order, the Board requested all approved interveners file a budget proposal within 10 days of the Order.

On July 26, 2021, CAC filed its projected budget with the Board. Board staff acknowledged the budget proposal. The Board provided Centra with an opportunity to provide comments on the projected budget and provided written comments on August 12, 2021.

On November 22, 2021, CAC filed its final Cost Application for its participation in the Centra Gas 2021 Rate Re-bundling Application, for \$48,682.54 inclusive of tax, fees, and disbursements. CAC provided statements of accounts, as summarized in the following table.

	<b>Budget Total</b>	<b>Costs Application Total</b>
<b>Legal Costs:</b>		
Legal Counsel	\$30,600.00	\$4,222.80
Disbursements	\$0.00	\$0.00
Taxes	\$1,530.00	\$506.74
Total Legal Costs	\$32,130.00	\$4,729.54
<b>Consultant Costs:</b>		
D. Rainkie	\$24,960.00	\$18,850.00
K. Derksen	\$34,840.00	\$23,010.00
Disbursements	\$200.00	0.00
Taxes	\$3,000.00	\$2,093.00
Total Consultant Costs	\$63,000.00	\$43,953.00
<b>TOTAL COSTS</b>	<b>\$95,130.00</b>	<b>\$48,682.54</b>

CAC's Cost Application was supported by detailed invoices and a written submission describing CAC's participation in the Board's review of Centra Gas' 2021 Rate Re-bundling Application. CAC's cost intervention request is \$46,447 lower or a reduction of 49% from the original budget.

### **3.0 Centra Gas Manitoba Inc. Comments**

On December 7, 2021, Centra Gas provided its comments regarding CAC's Cost Application. Centra Gas noted the reduction from the budget was largely due to a reduction in legal fees. However, Centra noted that the consultant fees increased and exceeded the budget without explanation. Further, Centra notes that a large portion of the evidence presented by CAC Consultants was a summary of the filed Application materials without further analysis. Lastly, Centra stated that it remains concerned

regarding the potential duplication of work and division of labour on the issues from these consultants.

#### 4.0 Board Findings

The Board has reviewed the Cost Application by CAC, as well as the comments provided by Centra Gas and rebuttal explanation submitted by legal counsel on December 14, 2021. The Board also reviewed the additional information CAC provided, at the Board's request, on February 10, 2022.

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

CAC's intervention in the proceeding added value by providing the historical background and reasonable evidence. The Board appreciates the detail the consultants provided via the evaluation of the application through three separate filters of policy, stakeholder analysis, and implementation issues, which the Board will consider using going forward. However, the Board notes that even through this was a unique way to view the Application, there was no further development of evidence. The Board finds that Section 4 of the written evidence and the written closing submission of CAC were essentially repetitive and an inefficient use of time.

As indicated in sub-section 56(1) of *The Public Utilities Board Act* the costs of, and incidental to, any proceeding before the Board are at the discretion of the Board.

The Board wrote in Order 77/21 that the filing of Intervener cost estimates does not guarantee or disqualify an Intervener from eligibility for a cost award and any comments provided by Board staff on Intervener cost estimates are not binding on the Intervener or the Board. All cost awards, whether an Advance of Funds or a final cost award, are at the sole discretion of the Board.

In reviewing the allocation of issues for CAC's two Consultants, there is not a distinct breakdown of work between the two. The Board finds the level of detail provided by the joint submission by the Consultants does not allow the Board to determine where

focussed individual efforts were appropriate. Further details in future interventions will assist the Board.

Having considered all of the Consumers Association of Canada (Manitoba) Inc.'s cost submissions and the comments by Centra, in accordance with the criteria set out in Section 3.3(h) of the Intervener Costs Policy, the Board, in its discretion, awards CAC's two Consultants \$39,780.00 rather than the requested \$41,860.00 reflecting a reduction of 8 hours (4 hours each) for what is seen as duplication of efforts by the Consultants.

Further, the Board approves the tax amounts, and disbursements as filed. The Board awards the total amount of \$46,602.54 to CAC for intervention in the Board's review of Centra Gas's 2021 Rate Re-bundling Application.

**5.0 IT IS THEREFORE ORDERED THAT:**

1. The Application of Consumers' Association Canada (Manitoba) for an award of costs **BE AND IS HEREBY APPROVED** in the total amount of \$46,602.54
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](http://www.pubmanitoba.ca).

THE PUBLIC UTILITIES BOARD

"Larry Ring, Q.C."  
Panel Chair

"Rachel McMillin, B.Sc."  
Associate Secretary

Certified a true copy of Order No. 47/22  
issued by The Public Utilities Board

  
Associate Secretary