

Order No. 139/23

**AWARD OF COSTS TO MANITOBA KEEWATINOWI OKIMAKANAK
FOR INTERVENTION IN THE
MANITOBA HYDRO 2023/24 & 2024/25 GENERAL RATE APPLICATION**

December 13, 2023

BEFORE: Robert Gabor, K.C., Chair
Marilyn Kapitany, B.Sc.(Hon), M.Sc., Vice Chair
George Bass, K.C., ICD. D., Member
Carol Bellringer, FCPA, FCA, Member
Hamath Sy, B.Sc., M.Sc., Member

Table of Contents

1.0 Summary 3

2.0 Procedural History 3

3.0 Application for Costs 4

4.0 Board Findings 5

5.0 IT IS THEREFORE ORDERED THAT: 7

1.0 Summary

By this Order, the Public Utilities Board of Manitoba (“Board”) approves Manitoba Keewatinowi Okimakanak (MKO) for a costs award of \$73,451.43 for intervention in the Manitoba Hydro (Hydro) 2023/24 & 2024/25 General Rate Application.

2.0 Procedural History

The Procedural History leading to these proceedings and MKO’s participation and request for costs are detailed below.

On November 15, 2022, Hydro filed its General Rate Application with the Board seeking rate increases of 3.5% for September 1, 2023 and April 1, 2024. On November 23, 2023, the provincial government announced its commitment to reduce the water rental fee and debt guarantee fee payments by 50% that Hydro pays to the province. Because of this reduction in payments Hydro revised its application to the Board and amended its General Rate Application requesting rate increases of 2.0% for September 1, 2023 and April 1, 2024. In each application Hydro sought to finalize the 3.6% interim rate that was effective January 1, 2022.

The Board approved five interveners for the hearing process, including Assembly of Manitoba Chiefs, the Consumers Coalition, Representatives of the General Service Small and General Service Medium, Manitoba Industrial Power Users Group, and Manitoba Keewatinowi Okimakanak. The Board conducted an extensive four-week hearing process that included two rounds of written information requests, the participation of all five approved interveners, oral evidence, cross-examination, and written submissions from parties.

On August 24, 2023, the Board issues its final decision for the Manitoba Hydro 2023/24 & 2024/25 General Rate Application based on sworn evidence, written submissions, and oral testimony.

3.0 Application for Costs

On October 2, 2023, MKO filed with the Board an Application for an Award of Costs for its intervention in the Hydro 2023/24 & 2024/25 General Rate Application Proceeding in the amount of \$73,451.43.

MKO provided statements of accounts, as summarized in the following table.

	Cost Estimate December 2022	Costs Application October 2023
Legal Costs:		
M. Bucharth	\$95,770.00	\$56,605.00
M. Jerch	\$8,164.00	\$12,041.20
Disbursements	\$1,000.00	-
Tax	\$7,275.38	\$4,805.23
TOTAL COSTS	\$112,209.38	\$73,451.43

The MKO Cost Application was supported by detailed invoices and a written submission describing its participation in the Manitoba Hydro 2023/24 & 2024/25 General Rate Application Proceeding. MKO did not retain any consultants or experts for this proceeding.

MKO's final Cost Application is \$38,757.95 less than the original cost estimate submitted in December 2022 at the beginning of the proceeding. The reduction of costs is due to a reduction in the number of hearing days from anticipated hearing days, and less time spend on the preparation of evidence and written argument than anticipated.

Manitoba Hydro Comments

On October 4, 2023, Manitoba Hydro was provided with the opportunity to provide its comments regarding MKO Cost Application. On October 17, 2023, Manitoba Hydro responded that it did not have any comments on MKO's Cost Application, stating the costs hours appeared reasonable for their contribution to the hearing.

4.0 Board Findings

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.

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 reviewed the Cost Application by MKO and the position of Manitoba Hydro. The Board finds that MKO meets the requirements for a cost award.

The Board finds further, that MKO participated in a reasonable and responsible manner, collaborating with other intervening groups, which assisted the Board in streamlining process and making its determinations in this proceeding.

The Board awards the total amount of \$73,451.43 to MKO for intervention in the Manitoba Hydro 2023/24 & 2024/25 General Rate Application.

The Board directs Manitoba Hydro to pay the amount of the approved costs to MKO within 15 calendar days of the date of this Order.

5.0 IT IS THEREFORE ORDERED THAT:

1. The Application of Manitoba Keewatinowi Okimakanak for an award of costs **BE AND IS HEREBY APPROVED** in the total amount of \$73,451.43.
2. Costs shall be payable by Manitoba Hydro 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

"Robert Gabor, K.C."
Chair

"Rachel McMillin, B.Sc., MPA"
Associate Secretary

Certified a true copy of Order No. 139/23
issued by The Public Utilities Board


Associate Secretary