

MANITOBA) **Order No. 128/14**
)
THE PUBLIC UTILITIES BOARD ACT) **November 19, 2014**

Before: Régis Gosselin, B.A., M.B.A., C.G.A., Chair
Dr. Hugh Grant, Ph.D. (Economics)
Richard Bel, B.A., M.A., M.Sc.
Marilyn Kapitany, B.Sc. (Hon), M.Sc.

**ORDER WITH RESPECT TO AWARD OF COSTS:
MANITOBA INDUSTRIAL POWER USERS GROUP**

THE PUBLIC UTILITIES BOARD'S "NEEDS FOR AND ALTERNATIVES TO" (NFAT)
REVIEW OF MANITOBA HYDRO'S PREFERRED DEVELOPMENT PLAN
TO CONSTRUCT THE KEYASK AND CONAWAPA GENERATING STATIONS
AND ASSOCIATED TRANSMISSION FACILITIES

BACKGROUND AND BOARD FINDINGS

Manitoba Industrial Power Users Group (MIPUG) sought an Order from the Public Utilities Board (Board) to recover costs incurred by MIPUG to The Public Utilities Board “NEEDS FOR AND ALTERNATIVE TO” Review of Manitoba Hydro’s (MH) Preferred Development Plan which resulted in the Board issuing a report to the Minister responsible for The Public Utilities Board dated June 20, 2014.

MIPUG’s cost request flows from BO 67/13:

The Panel has determined that PUB Rules 46(c) (re: insufficient financial resources) and Rule 43(d) (re: must represent a substantial number of rate payers) will not be criteria considered in determining MIPUG’s eligibility for an award of costs. The remaining criteria will be considered in respect of MIPUG when cost submissions are due. This decision will not be viewed as a precedent for future GRA cost orders.

In addition to advancing and reviewing, in the NFAT proceedings, the express concerns raised by MIPUG members, the Board will also require MIPUG to identify and advance the general interests of all General Service Customers of Manitoba Hydro.

Subsection 56(1) of *The Public Utilities Board Act* provides:

Cost in discretion of board

56(1) The costs of, and incidental to, any proceeding before the board are in the discretion of the board, and may be fixed in any case at a sum certain or may be taxed.

In exercising its discretion, the Board is guided by Rule 43 of the Board's *Rules of Practice and Procedure*:

Criteria

43. 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 a duplication of intervention;
 - (c) insufficient financial resources to present the case adequately without an award of costs; and
 - (d) a substantial interest in the outcome of the proceeding and represents the interests of a substantial number of the ratepayers.

MIPUG submitted its position on Criteria (a) and (b) in Rule 43, and the Board will not look further than these two criteria.

In Board Order 67/13 and subsequent orders and correspondence, the Board determined the scope of intervention for each intervener, and approved on a preliminary basis, the budget for each intervener. As well, the Board authorized interim payments for costs applied for by interveners during the hearing process, subject to a 30% holdback pending disposition of the matter subsequent to the conclusion of the process.

MIPUG's Comments:

MIPUG's draft budget of \$470,000.00 was approved by the Board. MIPUG subsequently requested an increase of \$25,000.00 for a total of \$495,000.00.

MIPUG's final invoices indicate total costs of \$483,063.38. The addition of GST, which was not included in the draft budget, amounted to \$23,549.04, bringing the total cost claim to \$506,612.42, of which \$312,575.86 has already been paid, leaving an outstanding balance of \$194,036.56.

Manitoba Hydro's Comments:

MH indicated that it has reviewed the information provide and had no objections to the request for costs submitted by MIPUG.

BOARD FINDINGS

The Board finds that MIPUG made a significant contribution to the NFAT proceedings and contributed to a better understanding by all parties. MIPUG participated in the hearing in a responsible manner and cooperated with all parties.

Recognizing that MIPUG has met Criteria 43(a) and (b) of the Board's *Rules of Practice and Procedure* and noting that this decision will not be viewed as a precedent for future GRA cost orders, the Board will approve a cost award of \$506,612.42 as submitted by MIPUG.

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 Board's website at www.pub.gov.mb.ca.

IT IS THEREFORE ORDERED THAT:

1. The application of Manitoba Industrial Power Users Group (MIPUG) for an award of costs BE AND IS HEREBY APPROVED in the amount of \$506,612.42.
2. The amount outstanding of \$194,036.56 be paid to MIPUG within 30 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

“Régis Gosselin, B ès Arts, MBA, CGA”

Chair

“Hollis M. Singh”

Secretary

Certified a true copy of Order No. 128/14
issued by the Public Utilities Board

Secretary