

MANITOBA) Order No. 117/01
)
THE PUBLIC UTILITIES BOARD ACT) July 25, 2001

BEFORE: G. D. Forrest, Chairman
M. Santos, Member
M. Girouard, Member

**APPLICATION BY THE CONSUMERS' ASSOCIATION OF
CANADA (MANITOBA) INC. AND MANITOBA SOCIETY OF
SENIORS FOR AN AWARD OF COSTS FOR PARTICIPATING
IN THE CONSIDERATION OF AN APPLICATION BY CENTRA
GAS MANITOBA INC. FOR APPROVAL OF PRIMARY GAS
RATE CHANGE AND DEFERRED GAS RECOVERY RIDER
EFFECTIVE JUNE 1, 2001**

Background

A public hearing was held in the City of Winnipeg, commencing May 14, 2001 to consider issues arising out of an application by Centra Gas Manitoba Inc.'s ("Centra") for approval of Primary Gas Rate Change and Deferred Gas Recovery Rider Effective June 1, 2001. The Consumers' Association of Canada (Manitoba) Inc. and Manitoba Society of Seniors were granted intervenor status to present a joint intervention.

Application by CAC/MSOS

By letter dated June 6, 2001 Counsel for the Consumers' Association of Canada (Manitoba) Inc. and the Manitoba Society of Seniors (the "Applicant") filed the appropriate hearing and summary sheets. The total claim for costs is \$101,360.57 comprised of professional fees of \$84,816.50, disbursements of \$8,574.59 and GST of \$7,969.48.

The Applicant submitted that the Application of Centra "represents a further substantial application by virtue of its implications to the consumers" and that the hearing "required substantial analysis" as well as "an analysis and review of the present RSM". The Applicant submitted that the Board was able to benefit from both Mr. Todd's and Mr. Forget's evidence and that "contribution is measured by a contribution to the Board's understanding of the issues not Centra's understanding".

The Applicant further submitted that there was no duplication arising out of their participation, that they "responsibly agreed with Centra where they thought it appropriate and agreed with Municipal Gas where again they thought it appropriate". It was further noted that the approaches by the Applicant "to the issues raised were different than Centra's views and were endorsed by Municipal Gas".

The Applicant also noted its lack of financial resources and substantial interest in the process and the outcome of the proceedings.

The Applicant requested that an Order as to costs be rendered as soon as is reasonably possible.

Centra's Position

By letter dated June 21, 2001, Centra noted that as "in our earlier correspondence it appears that CAC/MSOS has adopted an approach of providing evidence from multiple experts on the same or similar topics" and expressed concern "that this approach results in significant duplication of efforts and increased costs". Centra did not take issue with the costs submitted on behalf of Mr. Todd but objected to the awarding of costs as requested on behalf of Mr. Forget. Centra is of the view that Mr. Forget was not qualified to give evidence on the subject matter of Centra's Application. Centra also noted that Mr. Forget was unable to offer any evidence on the PGVA balance or the Rate Setting Methodology of Gaz Met. Centra also noted that Mr. Forget had not provided a breakdown of the allocation of time spent on this matter and that the "amount of time appears excessive". Centra also submitted that "there was substantial duplication between the evidence of Mr. Todd and Mr. Forget on the issue of the Rate Setting Methodology". Centra further submitted that there was no corresponding benefit either to the Board or Centra customers" and that the time spent by Mr. Todd alone would have been a reasonable amount of time to review such a matter. Centra submitted that the costs submitted on behalf of Mr. Forget be disallowed. Centra also recommended that 25% of the cost of legal counsel be disallowed for a total disallowance of \$41,308.23 which it submitted would be reasonable given the scope and duration of the hearing.

Applicant's Response

The Applicant, by way of letter dated June 26, 2001, submitted that Centra put in a spartan application and that it was

left to the intervenors to complete the record, that Centra should have collaborated with the stakeholders and that the matter of duplication was misunderstood by the utility.

The Applicant further submitted that Mr. Forget was qualified as an expert by the Board. The Applicant acknowledged the error in the witnesses' evidence but submitted that those errors did not detract from the evidence. The Applicant noted that Mr. Forget's costs were higher "because he delved more into the analytical numbers exercise dealing with appropriate allocations". The Applicant also submitted that the scope of the hearing was more extensive than expected by all.

BOARD COMMENTS

The Board again is concerned about the tone and tenor of the correspondence regarding this Application for costs as was previously noted in the Board's Order addressing CAC/MSOS' Application for costs in Centra's Supplementary Gas Rates Hearing.

With respect to this Application, CAC/MSOS has demonstrated: financial need; that they do represent a substantial interest in the proceeding; its interest in a responsible manner and CAC/MSOS respected the public hearing process and co-operated with others.

The Board is satisfied that CAC/MSOS focused its attention and resources on those critical areas identified in this hearing.

The Board however notes the time that the Applicant required be spent on this matter by its expert witness Mr. Forget

appears excessive when viewed with the time the Applicant required its other expert witness to spend on the issues in this proceeding.

The Board is of the opinion that given Mr. Forget's experience and expertise and the scope of the matter before the Board that the Board will allow a total amount of \$20,000.00 as approved costs for Mr. Forget. The Applicant is awarded total costs in the amount of \$93,083.16.

IT IS THEREFORE ORDERED THAT:

1. The Consumers' Association of Canada (Manitoba) Inc. and Manitoba Society of Seniors' application for an award of costs BE AND ARE HEREBY allowed in the amount of \$93,083.16.

2. The costs shall be payable by Centra Gas Manitoba Inc. within 15 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"G. D. FORREST"
Chairman

"H. M. SINGH"
Acting Secretary

Certified a true copy of Order No. 117/01 issued by The Public Utilities Board

Acting Secretary