

MANITOBA) Order No. 118/01
)
THE PUBLIC UTILITIES BOARD ACT) July 25, 2001

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

**APPLICATION BY MUNICIPAL GAS 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. ("Centra") for approval of Primary Gas Rate Change and Deferred Gas Recovery Rider Effective June 1, 2001. Municipal Gas was granted intervenor status in respect of Centra's Application.

Application for Costs

By letter dated June 7, 2001 Counsel for Municipal Gas (the "Applicant") filed the appropriate hearing and summary sheets

in support of its application for an award of costs. The total claim for costs is \$36,801.67 which includes disbursements of \$4,071.37.

In its Application Municipal submitted that it has satisfied the first two criteria in Board Order No. 163/87, namely "the making of a significant contribution and acting in a responsible manner in the proceeding". Municipal further submitted that it endeavoured to assist the Board in understanding several dimensions of Centra's application including "its potential effect on the competitive retail market for natural gas, the implications of retroactive rule-making and the effect of the proposal on price transparency and market responsive rates."

Municipal submitted that Centra's application in question "differed from the previous ones held under Order No. 55/00" in that there was a proposed change in the disposition of the PGVA which was to be applied retroactively and called by a new name. Municipal submitted that through its intervention it "advocated the application of consistent and fair rules regarding consumer choice in respect to natural gas supply and in this way represented the interests of utility customers in their consumer choice" and as such satisfied the fourth criteria of the Board's cost Guidelines.

With regards to the Board's third criteria, Municipal noted that while it is clear that Municipal Gas has resources to intervene in the proceedings that "the Guidelines are just that, guidelines, and the Board's discretion to award costs remains the broad discretion which is set out in Section 56 of the Act". Municipal also noted that the Guidelines were adopted in 1987 before the introduction of retail choice and that much has changed since. Municipal referred to its evidence on the "necessity for regulatory stability", the fact that two sets of rules were introduced in early 2000 and the current application to change

those rules. Municipal submitted that there is an element of unfairness where the utility applies to change the rules within a year and the impact that frequent regulatory changes would have on other brokers. Municipal submitted that it would be appropriate for the Board to exercise its discretion in this case and award Municipal its reasonable costs of intervening in this application.

Centra's Position

By letter dated June 21, 2001, Centra indicated that it is "of the view that Municipal Gas does not meet the criteria established by the Board for the awarding of costs".

Centra submitted that given the financial resources of Municipal Gas the Board should not change its rules and award cost to the Applicant. Centra submitted that "the awarding of costs is to ensure that parties who would not otherwise be in a position to advance their interests are permitted to do so" and "to protect the ability of these parties to participate" and that Municipal did not fit the profile of such an intervenor. Centra further submitted that it was "not appropriate for ratepayers to bear the costs of Municipal Gas appearing at this hearing in order to advance its commercial interests." Centra also submitted that an award should not be granted "to try to mitigate future costs".

Centra also questioned whether Municipal demonstrated a substantial interest in the outcome and represents the interests of a substantial number of ratepayers.

Centra asked that the Application for costs submitted by Municipal be denied.

Municipal's Response to Centra's Position

By way of letter dated July 4, 2001, Municipal Gas responded to Centra's comments noting that most of the points raised were dealt with in its initial submission. Municipal Gas submitted that it is the agent for a large number of Manitoba natural gas consumers and as such, intervenes in proceedings to protect and advance the interests of those customers. Municipal reiterated its position on "the retroactive nature" of the application which it submitted "could affect system gas customers and their ability to take advantage of the competitive gas supply options allowed to them under past Orders of this Board".

BOARD COMMENTS

The Board notes the concurrence between Centra and Municipal Gas as to the Applicant's satisfaction of the cost awarding criteria of making a significant contribution and acting in a responsible manner.

With regards to financial requirements of the intervenor the Board notes Centra's position that the Board should not change its rules and award cost to the Applicant. The Board accepts Municipal's position that the guidelines are guidelines and does not fetter the Board's discretion to award costs. This is especially significant in the changed retail market in Manitoba.

The Board in previous Orders has allowed partial cost to intervenors on occasions where the subject hearing is of a generic or unusual nature. The Board is of the opinion that the matter of the RSM and the quarterly rate setting methodology is of a generic nature which does have implications for the retail competitive market in Manitoba. The Board does consider it appropriate, in

