

M A N I T O B A	Order No. 94/09
THE PUBLIC UTILITIES BOARD ACT	
THE MANITOBA HYDRO ACT	
THE CROWN CORPORATIONS PUBLIC REVIEW AND ACCOUNTABILITY ACT	June 9, 2009

Before: Graham Lane, C.A., Chairman
 Robert Mayer, QC, Vice-Chairman
 Susan Proven, P.H.Ec., Member

RESOURCE CONSERVATION MANITOBA AND
TIME TO RESPECT EARTH'S ECOSYSTEMS
AWARD OF COSTS
ARISING OUT OF A GENERAL RATE APPLICATION
BY MANITOBA HYDRO FOR SPECIAL RATES FOR
ENERGY INTENSIVE INDUSTRIES

Introduction

The Public Utilities Board (Board) held a public hearing in December 2008 and January 2009 for an application by Manitoba Hydro (Hydro) to establish revised electricity rates for energy intensive industries (EIIR).

The application arose out of Hydro's General Rate Application, that reviewed in a public hearing in the spring of 2008, subsequently to which the Board ordered a separate process to deal with the issue of rates for energy intensive industries.

Resource Conservation Manitoba/Time to Respect Earth's Ecosystems (RCM/TREE) was an intervener to the EIIR hearing. Following the hearing, RCM/TREE applied to the Board for an award of costs.

This Order directs Hydro to provide a payment to RCM/TREE of \$62,892.94.

Application

RCM/TREE applied for an award of costs of \$62,892.94, comprised of:

Legal Fees	Fees	\$ 35,151.32	
	Disbursements	<u>326.69</u>	\$ 35,478.01
Consulting Fees	Resource Insights Inc:		
	Fees	25,075.00	
	Disbursements	<u>2,339.93</u>	27,414.93
Total			<u>\$ 62,892.94</u>

In support of its request, RCM/TREE stated that by its participation in the hearing it assisted the Board in identifying and narrowing issues for consideration. RCM/TREE noted that its witness, Mr. Chernick, provided an analysis of energy usage and system capacity that challenged assumptions placed before the Board by other parties to the proceeding.

RCM/TREE claimed a unique perspective, holding that it was the only intervener that reviewed Hydro's operation from the perspective of environmental and sustainability considerations.

Addressing the Board's criteria for determining whether a cost award will be provided an intervener, RCM/TREE opined that it had met the criterion requiring responsible participation by its focus on the important issues which would not likely have been canvassed by the other participants.

As to meeting the Board's financial criterion, the intervener noted "RCM and TREE are non-profit organizations that would not possibly take part in the hearing process if they had to rely upon their own resources."

In relation to the criterion requiring an intervener to have a substantial interest in the proceeding, RCM/TREE noted:

"It is the position of RCM and Tree that they represent the interests of a substantial number of rate-payers of Manitoba Hydro. The issues raised by RCM/Tree are significant and constitute matters of concern in the public interest."

Hydro's Comments

Manitoba Hydro advised of "no objections or comments with respect to RCM/TREE's Bill of Costs".

Board Findings

Pursuant to Section 56 of *The Public Utilities Board Act*, the Board has jurisdiction to award costs, and the Board's Rules of Practice and Procedure (Rules) stipulate four criteria for determining whether costs should be awarded, those being that the applicant:

1. has to have made a significant contribution that was relevant and contributed to a better understanding by all parties of the issues before the Board;
2. would have participated in a responsible manner, and cooperated with other Interveners with common objectives in order to avoid a duplication of intervention;
3. would have insufficient financial resources to allow for its participation without a cost award; and
4. would have had a substantial interest in the outcome of the proceeding, and have represented the interests of a substantial number of MPI's ratepayers (policyholders).

The Board is satisfied that RCM/TREE has met the criteria for an award of costs. RCM/TREE is well-known to the Board, and its intervention representing environmental interests was of value in

broadening the Board's knowledge and understanding of the issues brought forward at the hearing.

Accordingly, the Board will award RCM/TREE costs as requested.

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 (Rules). The Board's Rules may be viewed on the Board's website at www.pub.gov.mb.ca.

IT IS THEREFORE ORDERED THAT:

1. Resource Conservation Manitoba and Time to Respect Earth's Ecosystems be awarded costs in the amount of \$62,892.94.
2. Costs shall be paid by Manitoba Hydro within 30 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, C.A."

Chairman

"G. A. GAUDREAU, C.M.A."

Secretary

Certified a true copy of
Order No. 94/09 issued by The
Public Utilities Board

Secretary