

M A N I T O B A) Order No. 60/08
)
THE PUBLIC UTILITIES BOARD ACT) May 20, 2008

BEFORE: Graham Lane, C.A., Chairman
 Monica Girouard, CGA, Member
 Susan Proven, P.H.Ec., Member

CASH-X INC.
APPLICATION FOR AN AWARD OF COSTS
PAYDAY LOAN HEARING

Summary

Cash-X Inc. (Cash-X) participated as an intervener in the Board's 2007-08 hearing towards the establishment of maximum rates for payday loans for Manitoba. Subsequent to the hearing, Cash-X applied to the Public Utilities Board (Board) for an award of costs.

By this Order, the Board denies Cash-X's application; the intervener does not meet one of the Board's criteria for receiving an award, that of demonstrated financial need.

Introduction

The Board conducted a public proceeding towards setting the maximum cost of credit for payday loans, leading to Board Order 39/08. Pursuant to Section 164(10) of *The Consumer Protection Act* (CPA), the Board may award costs incidental to the proceeding.

In the public notice of the hearing, the Board advised that the proceeding would be conducted in accordance with the Board's Rules of Practice and Procedure (Rules). The Rules provide four main criteria to assist the Board in its determination of whether costs are to be awarded to an Intervener seeking a cost award. An intervener must have:

1. made a significant contribution relevant to the proceeding, and contributed to a better understanding by all parties of the issues before the Board;
2. participated in the hearing in a responsible manner and cooperated with other Interveners with common objectives to avoid duplication of intervention;

3. had insufficient financial resources to present the case adequately without an award of costs; and
4. had a substantial interest in the outcome of the proceeding, and represented the interests of a substantial number of customers.

Having been granted Intervener status by the Board, Cash-X participated in the proceeding. In its application for intervention, Cash-X advised of an intention to apply for costs. Following the hearing, Cash-X applied for an award totalling \$1,682.61.

Board Findings

In granting intervener status to Cash-X and other parties ahead of the payday loan hearing, the Board advised of its Rules and criteria for making cost awards. In procedural Order 91/07, the Board stated:

"With respect to the potential for awards of costs, the Board does not make pre-determinations of eligibility or of award quantum ahead of a proceeding. The Board will wait until after the proceeding and the filing of specific applications for cost awards before making a determination on these matters. The Board has full discretion in this matter."

And,

"the Board is obliged to advise interveners considering applying for costs to carefully review sections 43 and 44 of the Board's Rules of Practice and Procedure. The Board has rarely provided a cost award to an intervener with a commercial interest in the outcome of a proceeding, and, as well, has generally awarded costs to interveners lacking the financial means to participate when the Board has found that the organization's participation was responsible,

cooperative and of value to the Board's proceeding and the public interest."

While the Board acknowledges Cash-X participation, and accepts that its participation in the proceeding was helpful to the Board and its process, imparting information of value, the Board concludes that Cash-X's intervention was based on its own commercial interest. Cash-X is in business to make a profit and, accordingly, was and is capable of supporting the costs of its participation in the proceeding.

Accordingly, the Board will deny Cash-X's application for costs, though thank the firm for its participation.

IT IS THEREFORE ORDERED THAT:

Cash-X Inc.'s application for an award of costs with respect to the Public Utilities Board's recent payday loan proceeding BE AND IS HEREBY DENIED.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, C.A."
Chairman

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

Certified a true copy of Order
No.60/08 issued by The Public
Utilities Board

Secretary