

MANITOBA) Order No. 102/00
)
THE PUBLIC UTILITIES BOARD ACT) July 10, 2000

BEFORE: G. D. Forrest, Chairman
J. A. MacDonald, Member

**APPLICATION BY THE CONSUMERS' ASSOCIATION OF
CANADA (MANITOBA) INC. AND MANITOBA SOCIETY OF
SENIORS FOR AN AWARD OF COSTS FOR
PARTICIPATING IN A HEARING CALLED TO CONSIDER
AN APPLICATION BY SWAN VALLEY GAS CORPORATION
FOR APPROVAL OF THE SWAN VALLEY GAS EXPANSION
PROJECT**

A public hearing was held in the Swan River, Manitoba, commencing May 30, 2000 to consider issues arising out of an application by Swan Valley Gas Corporation ("SVG") for approval of franchise agreements, rates feasibility tests and other matters related to the sale and distribution of natural gas in the Swan Valley area.

By letter dated June 13, 2000 Counsel for the Consumers' Association of Canada (Manitoba) Inc. and the Manitoba Society of Seniors (the "Applicants") filed the appropriate hearing and summary sheets. The total claim for costs is \$27,292.93 comprised of professional fees of \$23,768.00 disbursements of \$1,740.48 and

GST of \$1,784.45. On June 27, 2000 the Applicant submitted a Revised Summary Sheet with a total claim for costs of \$27,470.76 comprised of professional fees of \$23,768.00, disbursements of \$1,906.68 and GST of \$1,796.08.

The Applicant submitted that they contributed to the hearing both in terms of the pertinent information requests asked, in the cross-examination conducted and also in terms of the position advanced.

The Applicant was of the opinion that there was no duplication arising out of their participation. 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 possible.

By letter dated June 26, 2000 SVG provided their comments on the application. SVG took the position that "there definitely was some degree of duplication of intervention" and stated that this was evident in the Information Requests of the Intervenor and the line of cross-examination recorded in the transcripts. SVG took the position that CAC/MSOS did not make a significant contribution and did not contribute to a better understanding by the parties. SVG further noted that a number of intervenor requests were not responded to on the basis of relevancy to the proceedings and that the cross examination did not illuminate a better understanding of the issues before the Board.

On the matter of having a substantial interest in the outcome of the proceedings and representing the interest of a substantial number of utility customers SVG submitted that CAC/MSOS did not meet either of these tests. In summary SVG recommended

that the Board deny the requests for costs on behalf of CAC/MSOS.

CAC/MSOS responded to the comments of SVG by way of a letter received June 28, 2000 by the Board. CAC/MSOS did not comment on whether CAC/MSOS provided a significant contribution or a better understanding of the proceedings.

With respect to having a substantial interest in the outcome of the proceedings CAC/MSOS noted "its role on behalf of the consumers of Manitoba". SVG responded to CAC/MSOS' comments by way of letter dated June 28, 2000. SVG took the position that satisfying the criteria to be met in a cost application has nothing to do with the historical intervention of CAC/MSOS. SVG further stated that each time an Application is made the criteria must be satisfied before an award is made. SVG reiterated its position that CAC/MSOS did not satisfy those criteria.

BOARD COMMENTS

The Applicant is well known to the Board as an intervenor. The Board is satisfied that the Applicant has insufficient financial resources to present its case adequately without an award of costs. The Board notes the comments from SVG as to the Intervenor not having a substantial interest in the outcome and not representing a substantial number of utility customers. The Board is of the opinion that the applicant is well versed in the issues at hand and does have a broad and substantiated interest in the matter. The outcome of the proceedings will affect the consumers of the region whose interest in general is of the interest to the Applicant. The Board notes that SVG did not object to the granting of intervenor status at the outset.

However, the Board does not accept the relevancy of some of the intervenor requests and also questioned the extent to which the cross-examination provided a better understanding of the issues before the Board. The Board will therefore reduce the claim by allowing professional fees to D'Arcy & Deacon of \$10,535.50 disbursements of \$1,674.43 and GST of \$853.60 and to Stephen Johnson, professional fees of \$7,427.50 disbursements of \$65.15 and GST of \$524.48. The amounts for Econalysis Consulting and International Rose are approved as submitted.

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 allowed in the amount of \$22,120.74.
2. The costs shall be payable by Swan Valley Gas Corporation within 30 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. 102/00 issued by The Public
Utilities Board

Acting Secretary

