

**Order No. 137/20**

**AWARD OF COSTS TO  
ASSEMBLY OF MANITOBA CHIEFS  
FOR THEIR ENGAGEMENT IN THE FIRST NATIONS ON-RESERVE RATE  
PROCEEDING**

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**November 24, 2020**

**BEFORE:** Robert Gabor, Q.C., Chair  
Marilyn Kapitany, B.Sc., (Hon), M.Sc., Vice Chair  
Hugh Grant, Ph.D., Panel Member  
Shawn McCutcheon, Panel Member  
Larry Ring, Q.C., Panel Member

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## 1.0 Introduction

By this Order, the Public Utilities Board (Board) approves an award of costs of \$4,691.00 to Assembly of Manitoba Chiefs (AMC) for intervener comments pertaining to Manitoba Hydro's revised rate schedule following the Manitoba Court of Appeal's ruling on the Manitoba Hydro First Nations On-Reserve Rate (FNORR), as set out in Board Order 100/20.

## 2.0 Application

On September 2, 2020, Assembly of Manitoba Chiefs (AMC) filed with the Board an Application for an Award of Costs in the amount of \$4,691.00 for their comments pertaining to Manitoba Hydro's revised rate schedule following the Manitoba Court of Appeal's ruling on the Manitoba Hydro FNORR proceeding(s).

The Cost Application was supported by a statement of account, as summarized below:

		<b>Cost Application Total</b>
<b>Legal Costs</b>	<b>(C. Fox)</b>	\$1121.00
	<b>(K. Barnham)</b>	\$3570.00
	<b>Subtotal</b>	\$4691.00
	<b>GST</b>	\$0
	<b>PST</b>	\$0
	<b>TOTAL COSTS</b>	<b>\$4691.00</b>

## 3.0 Manitoba Hydro's Comments

On October 6, 2020, Manitoba Hydro (MH) provided correspondence to PUB, which stated that "Manitoba Hydro has no comments on the Cost Application filed by AMC."

## 4.0 Board Jurisdiction

Pursuant to Section 56 of *The Public Utilities Board Act*, the Board has jurisdiction to award costs of, and incidental to, any proceeding before the Board. For the purpose of this hearing, the Board adopted an Interim Intervener Costs Policy. The purpose of this Policy was to set out the Board's procedures for considering requests for Intervener costs and to provide guidance to Interveners on how to apply for funding of costs for participation in Board Proceedings.

Sections 3.1 and 3.2 of the Interim Intervener Costs Policy describes Intervener eligibility for a cost award and the Board's principles in determining the amount of the cost award:

3.1 *In any proceeding the Board may award costs to be paid to any Intervener who has:*

- (a) *made a significant contribution that is relevant to the proceeding and contributed to a better understanding, by all parties, of the issues before the Board;*
- (b) *participated in the hearing in a responsible manner and cooperated with other Interveners who have common objectives in the outcome of the proceedings in order to avoid a duplication of intervention;*
- (c) *represented interests beyond their sole business interest; and*
- (d) *a substantial interest in the outcome of the proceeding and represents the interests of a substantial number of ratepayers.*

3.2 *In determining whether the Intervener should receive the amount of costs sought in a costs application, the Board may consider whether the Intervener did one or more of the following:*

- (a) *made reasonable efforts to ensure that the intervener's evidence was not unduly repetitive of evidence presented by another intervener;*
- (b) *made reasonable efforts to cooperate with other interveners to reduce the duplication of evidence and questions or to combine the intervener's submission with that of similarly interested interveners; and*
- (c) *needed legal or technical assistance to take part in the proceeding;*

## **5.0 Board Findings**

The Board has reviewed the Cost Application by AMC and the Manitoba Hydro correspondence. The Board finds that MKO request for an award of costs falls within the scope of the Board's Interim Intervener Costs Policy and, further, the legal costs incurred by AMC are reasonable..

## **6.0 IT IS THEREFORE ORDERED THAT:**

1. The Board awards costs in the amount of \$4,691.00 to the Assembly of Manitoba Chiefs, through its lawyer, Fox Fraser LLP; and .
2. Manitoba Hydro pay Fox Fraser LLP the amount ordered herein within 30 days of the date of this Order.

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. The Board's Rules may be viewed on the Board's website at [www.pubmanitoba.ca](http://www.pubmanitoba.ca)

THE PUBLIC UTILITIES BOARD

"Robert Gabor, Q.C."

Chair

"Darren Christle, PhD, CCLP, P.Log., MCIT"

Secretary

Certified a true copy of Order 137/20  
issued by the Public Utilities Board



Secretary