

Order No. 57/20

**AWARD OF COSTS TO THE
CONSUMER COALITION
FOR ITS INTERVENTION IN THE
EFFICIENCY MANITOBA 2020 THREE-YEAR EFFICIENCY PLAN REVIEW**

April 20, 2020

BEFORE: Robert Gabor, Q.C., Chair
Marilyn Kapitany, B.Sc., (Hon), M.Sc., Vice Chair
Hugh Grant, Ph.D., Panel Member
Irene A. Hamilton, Q.C., Panel Chair

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1.0 Introduction

By this Order, the Public Utilities Board (Board) approves an award of costs of \$172,507.77 to the Consumers Coalition (CC) for its intervention in Efficiency Manitoba's three-year Efficiency Plan Submission.

2.0 Application

In March 2020, the Consumers Coalition (CC) filed with the Board an Application for an Award of Costs for its intervention at the Efficiency Manitoba's three-year Efficiency Plan Submission.

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 "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 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;*

The Board awarded CC Intervener status on November 05, 2019 in Board Order 162/19. Included in the Board's Order was an issues list deemed by the Board as applicable to CC for this proceeding.

On November 14, 2019, CC filed its projected budget of \$162,245.00 with the Board. Board staff acknowledged receipt of the budget. On December 20, 2019, CC filed a budget amendment of \$160,445.00 with the Board. On January 17, 2020, CC filed its second amended budget of \$178,490.00 with the Board. Board staff acknowledged receipt of both amendments.

On March 31, 2020, CC filed its Cost Application for its participation in Efficiency Manitoba's three-year Efficiency Plan Submission. The Cost Application was supported by statement of account as summarized below:

	Budget Total	Amended Budget Dec. 20/2019	Amended Budget Jan. 17/2020	Cost Application Total
Legal Costs (K. Dilay)	\$27,300.00	\$27,300.00	\$27,300.00	\$36,277.50
(B. Willams)	\$6,000.00	\$6,000.00	\$6,000.00	\$870.00
Consultant Costs				
(J. Grevatt)	\$31,620.00	\$31,620.00	\$39,015.00	\$39,971.25
(C. Neme)	\$23,460.00	\$23,460.00	\$30,090.00	\$27,667.50
(E. Bergan)	\$2,465.00	\$2,465.00	\$3,335.00	\$2,415.00
(W. Harper)	\$46,800.00	\$46,800.00	\$46,800.00	\$41,175.00
(Dr. Fitzpatrick)	\$8,400.00	\$8,400.00	\$11,550.00	\$10,812.00
Disbursements	\$16,200.00	\$14,400.00	\$14,400.00	\$13,519.52
GST	\$0.00	\$0.00	\$0.00	\$0.00
PST	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL COSTS	\$162,245.00	\$160,445.00	\$178,490.00	\$172,707.77

CC's Cost Application was supported by detailed invoices and a written submission describing CC's participation in the Board's review of Efficiency Manitoba's 2020/21 Efficiency Plan Submission.

3.0 Efficiency Manitoba's Comments

On April 7, 2020, Efficiency Manitoba provided its comments regarding CC's total costs. Efficiency Manitoba noted the costs of an honorarium and meals related to one participant of the CC and MKO joint ratepayer panel, had already been awarded in Board Order No. 35/20 (MKO cost award). Efficiency Manitoba requested the CC cost estimate be reduced

by the amount of the honorarium already awarded to MKO. Efficiency Manitoba also noted that CC was the only intervener to request final costs in excess of its original budget amount. No further dispute on costs is listed.

4.0 Board Findings

The Board has reviewed the Cost Application by CC, as well as the comments provided by Efficiency Manitoba. The Board notes that the final costs for CC are higher than the original budget, as stated by Efficiency Manitoba. However, the Board further notes that while the total legal fees are higher than the estimated budget, the combined legal and expert fees are lower than the January 17, 2020 revised budget estimate. The Board accepts the rationale provided by CC that more legal time was required than originally stated and notes that CC took measures to keep costs below the January 17, 2020 budget estimate, as stated from its letter below:

“While experts’ budgets contemplated time to assist with reviewing the record and preparing closing submissions, this additional time was instead re-allocated to legal fees, which enabled our team as a whole to stay within the total budgeted for legal and expert fees.”

The Board finds that CC meets the requirements for a cost award. After looking into the cost award for MKO and the possible overlap in one participant’s honorarium and meals for the ratepayer panel, the Board found that this was the case for the honorarium but not for the meals.

The Board therefore reduces the CC cost award by the amount already awarded to MKO for one participant honorarium in the amount of the \$200.00. The Board finds all other costs incurred by CC are reasonable. The Board awards an amount of \$172,507.77 for CC’s intervention in the Board’s review of Efficiency Manitoba’s three-year Efficiency Plan Submission.

5.0 IT IS THEREFORE ORDERED THAT:

1. The Application of the Consumers Coalition for an award of costs BE AND IS HEREBY APPROVED in the total amount of \$172,507.77.
2. Efficiency Manitoba to pay Consumers Association of Manitoba Inc. within 15 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

THE PUBLIC UTILITIES BOARD

"Robert Gabor, Q.C."

Chair

"Rachel McMillin, BSc."

Assistant Associate Secretary

Certified a true copy of Order No. 57/20
issued by The Public Utilities Board



Assistant Associate Secretary