

Order No. 48/16

Before: Régis Gosselin, B ès Arts, M.B.A., C.P.A., C.G.A., Chair
Richard Bel, B.A., M.A. , M.Sc.
Dr. Hugh Grant, Ph.D. (Economics)
Marilyn Kapitany, B.Sc. Honours, MSc.

**ORDER WITH RESPECT TO AWARD OF COSTS
TO THE CONSUMER COALITION FOR
INTERVENTION AT
MANITOBA HYDRO's 2014/15 & 2015/16 GENERAL RATE APPLICATION**

INTRODUCTION

By this Order, the Public Utilities Board (Board) approves an award of costs of \$218,227.80 to the Consumer Coalition (Coalition).

The Coalition intervened in the Board's deliberation of Manitoba Hydro's 2014/15 and 2015/16 General Rate Application (GRA).

THE CONSUMER COALITION BUDGETS

The Consumer Coalition (Coalition) consists of the Consumers' Association of Canada (Manitoba) Inc. (CAC) and Winnipeg Harvest. CAC has long represented residential consumers at Board regulatory proceedings.

The Coalition prepared two budget proposals for its participation in the review of Manitoba Hydro's GRA; one in February of 2015 filed in advance of the Pre-Hearing Conference, and a second revised budget filed in April of 2015 when the Coalition's scope of work changed after the discovery process of the hearing. The Coalition's February 2015 and April 2015 budgets and actual cost submission are summarized in Table 1.

At the Pre-Hearing Conference, the Coalition indicated that they would appear throughout the hearing, test evidence and make final argument. The Coalition sought to retain Bill Harper as a consultant to assist it throughout the GRA process, as well as two experts on corporate finance issues, namely John McCormick and Lawrence Booth, and an expert on capital asset management, namely La Capra and Associates. In addition, the Consumer Coalition sought a modest budget for Mr. Harvey Stevens to provide data to a witness proposed by the Green Action Centre, Mr. Roger Colton.

The Coalition advised that it intended to examine the reliability of Manitoba Hydro's forecasts, the impact of projected costs, the utility's revenue requirement, and what would constitute just and reasonable rates. In particular, the Consumer Coalition proposed to examine consumer impacts and take the lead intervener role on issues relating to financial targets, financial risk management and interest rate forecasting, and the testing of Manitoba Hydro's prioritization of expenditures on sustaining capital assets.

In Board Order 18/15 the Board approved the Coalition as an Intervener but denied the services of Mr. McCormick and limited the services of Dr. Booth. The Board concluded the evidence of Mr. McCormick on financial issues was better suited for a future GRA.

On April 28, 2015 the Coalition filed a revised budget with the Board. In that filing, the Coalition decided not to bring expert evidence to the Board on the grounds of what the Coalition stated were deficiencies in Manitoba Hydro's filings and subsequent response to the Coalition's Information Requests. The Coalition therefore proposed to reduce the scope of work for Mr. Harper and La Capra and Associates and would no longer require the services of Dr. Booth or Mr. Stevens. The Coalition did propose the retention of a depreciation expert in partnership with MIPUG.

On May 12, 2015 the Board issued a letter to the Coalition accepting the proposed budget amendments.

THE CONSUMER COALITION APPLICATION FOR COSTS

The Coalition filed a Cost Application with the Board on February 3, 2016. A summary of the Coalition's Cost Application is shown on Table 1.

Table 1 **The Coalition Cost Submission - Summary of Budget Submissions**

	February 2015 Budget		April 2015 Budget	Cost Application
	Lower Range	Upper Range		
Legal Cost				
Senior Counsel	\$67,200.00	\$89,600.00	\$79,700.00	\$86,441.60
Junior Counsel	\$12,500.00	\$12,500.00		
Sub-Total Legal	\$79,700.00	\$102,100.00	\$79,700.00	\$86,441.60
Consultants				
Bill Harper	\$42,370.00	\$64,670.00	\$42,370.00	\$49,115.75
Contingency		\$20,000.00		
John McCormick	\$63,555.00	\$93,102.50		
La Capra Associates	\$99,868.40	\$99,868.40	\$53,216.45	\$50,933.13
Dr. Lawrence Booth	\$70,000.00	\$80,000.00		
Harvey Stevens	\$2,125.00	\$2,125.00		
Depreciation Expert			\$28,000.00	\$22,833.64
Sub-Total Consultants	\$277,918.40	\$359,765.90	\$123,586.45	\$122,882.52
Total Professional Costs	\$357,618.40	\$461,865.90	\$203,286.45	\$209,324.12
Disbursements				
Travel	\$3,350.00	\$3,350.00		
Food	\$400.00	\$400.00		
Hotels	\$1,500.00	\$1,500.00		
Taxi	\$500.00	\$500.00		
Printing	\$2,500.00	\$5,000.00		
Misc	\$1,000.00	\$1,000.00		\$8,903.68
Sub-Total Disbursements	\$9,250.00	\$11,750.00		\$8,903.68
Totals	\$366,868.40	\$473,615.90	\$203,286.45	\$218,227.80

Subsection 56(1) of *The Public Utilities Board Act* provides:

Cost in discretion of board

56(1) The costs of, and incidental to, any proceeding before the board are in the discretion of the board, and may be fixed in any case at a sum certain or may be taxed.

In exercising its discretion, the Board is guided by Rule 43 of the Board's *Rules of Practice and Procedure*:

43. *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) insufficient financial resources to present the case adequately without an award of costs; and*
 - (d) a substantial interest in the outcome of the proceeding and represents the interests of a substantial number of the ratepayers.*

In its Application the Coalition suggested that it contributed to the GRA review process and has:

- made a significant contribution that was relevant to the proceedings and contributed to a better understanding by all parties of the issues before the Board
- 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 duplication
- insufficient financial resources to present its case adequately without an award of costs, and
- a substantial interest in the outcome of the proceedings and represents the interests of a substantial number of ratepayers.

The Coalition also stated the positions and advice of the Consumers Coalition were reflected in the key findings of the Board. These findings included the Board's determinations related to:

- the finance cost cushion
- a credibility gap related to export prices
- a failure to adequately evaluate the long term prioritization of sustaining capital expenditures
- the need for more robust sustaining capital assessment and management
- the requirement to employ ASL for rate setting
- the need for independent oversight of capital expenditures, and
- support for more robust approached for Bill Affordability

The Coalition also suggested it participated in a reasonable manner that minimized duplication with parties. Specifically, the Coalition noted it collaborated with MIPUG on depreciation matters through sponsoring of joint evidence.

MANITOBA HYDRO COMMENTS

On February 16, 2016, Manitoba Hydro filed their comments with the Board on the Coalition's Application for Costs.

Manitoba Hydro had no comments or objections with the Coalition's Application.

BOARD FINDINGS

The Board has reviewed the Cost Application provided by the Coalition as well as comments from Manitoba Hydro. The Board believes the Coalition made a reasonable contribution that was relevant to the proceeding which enhanced the understanding of the issues before the Board. Further, it is the view of the Board that the Coalition participated in the hearing in a responsible manner and co-operated with other interveners to avoid duplication in their intervention.

The Board understands that the Coalition has insufficient financial resources to present its case adequately without an award of costs.

The Board will therefore approve the Coalition's Application for Costs of \$218,227.80

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 Board's website at www.pub.gov.mb.ca.

