

MANITOBA) Order No. 174/06
)
THE PUBLIC UTILITIES BOARD ACT) December 21, 2006

BEFORE: Graham Lane, B.A., C.A., Chairman
Monica Girouard, C.G.A., Member
Alain Molgat, B.Comm., C.M.A, Member

**COST AWARD APPLICATION, CONSUMERS' ASSOCIATION
OF CANADA (MANITOBA) INC. AND MANITOBA SOCIETY
OF SENIORS: INTERVENTION, COST OF GAS
PROCEEDING, CENTRA GAS MANITOBA INC.**

Introduction

By this Order, the Public Utilities Board (Board) awards costs of \$94,293.70 to the Consumers' Association of Canada (Manitoba) Inc. and Manitoba Society of Seniors (CAC/MSOS).

The award of costs is with respect to the Board's hearing of an application by Centra Gas Manitoba Inc. (Centra) regarding 2006/07 Non-Primary Gas Costs and other matters.

CAC/MSOS were granted intervener status by the Board to present a joint intervention in the proceeding, which culminated in a public hearing held in the Board's Winnipeg office in November 2006.

Application

By letters of December 8th and 11th of 2006, CAC/MSOS filed with the Board an application for costs, with supporting documentation.

The application was for an award of costs of \$94,293.70, comprised of:

- a) Fees and disbursements of expert witness Ashmead Pringle, of \$14,143.20;
- b) Fees and disbursements of supporting consultant Stauft Consulting Ltd. (Mark Stauft) of \$11,744.80;
- c) Fees and disbursements of supporting consultant Stephen Johnson of \$3,922.00;
- d) Fees and disbursements of CAC/MSOS' counsel, D'Arcy & Deacon (K. Saxberg and B. Meronek) of \$63,673.91; and
- e) Transcript costs incurred of \$809.79.

In support of its application for costs, CAC/MSOS opined it had contributed significantly to the proceeding, providing

"perspectives (the Board) may not otherwise have understood or obtained."

CAC/MSOS noted that the hearing phase of the proceeding involved four full days, with CAC/MSOS in attendance throughout, having filed pre-hearing interrogatories, cross-examined Centra's panel of witnesses, presented its witness, Mr. Ashmead Pringle, and provided closing argument.

CAC/MSOS's application for costs was approximately \$10,000 lower than its pre-hearing estimate. CAC/MSOS noted that it had capped its request for hourly fees for its counsel, consultants and witness at \$200, representing a fee level below the normal billing rates of the parties and being its understanding of the Board's maximum allowable rate.

The Applicant submitted that with its intervention there had not been any duplication of effort with respect to the involvement of the other interveners. The Applicant also noted its lack of financial resources, and its substantial interest in the outcome of the proceedings.

In short, CAC/MSOS suggested that its contribution to the hearing deserved an award of costs as it had fully met the Board's criteria for an award of costs.

Centra raised issues related to the magnitude of the cost award application, and suggested deductions with respect to the consultants engaged by CAC/MSOS, questioning the value of the contribution. CAC/MSOS also questioned the cost application with respect to travel charges. Subsequently, through its counsel, provided receipts for travel costs and defended the involvement of

and contribution made by its consultants.

Board Findings

The Board has reviewed the submission of the Applicant, and concurs that CAC/MSOS made a significant contribution to the proceeding. As well, the Board finds that the applicant met the Board's criteria for an award.

The Board notes that the subject matter of the hearing had significant implications for Centra's ratepayers, including the consumers represented by the intervener, and finds that the Applicant has both demonstrated financial need and a substantial interest in the proceeding. Furthermore, the Board finds that the Applicant represented CAC/MSOS' interests in a responsible manner, and both respected the public hearing process and co-operated with the other parties, including the Board, through the hearing.

Although the Board finds the cost application to be significant as to quantum, it is, as CAC/MSOS observed, lower than the proposed budget and relates to a complex hearing proceeding that benefited from external consultants engaged by CAC/MSOS.

The Board will approve CAC/MSOS' application for costs, for payment by Centra no later than thirty (30) days from the date of this Order. If Centra is able to make payment to CAC/MSOS by December 31, 2006, the Board understands it would be greatly appreciated by CAC/MSOS and its counsel.

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 AND IS HEREBY APPROVED in the amount of \$94,293.70; and
2. This award be paid by Centra Gas Manitoba Inc. to CAC/MSOS no later than 30 days following the date of this Order.

THE PUBLIC UTILITIES BOARD

"GRAHAM F. J. LANE, C.A."
Chairman

"G. O. BARRON, C.G.A."
Acting Secretary

Certified a true copy of Order
No. 174/06 issued by The Public
Utilities Board

Acting Secretary