

**MANITOBA** ) **Order No. 114/13**  
 )  
**THE PUBLIC UTILITIES BOARD ACT** ) **October 1, 2013**

BEFORE: Régis Gosselin, CGA, MBA, Chair  
Larry Soldier, Member  
Marilyn Kapitany, B.Sc., M.Sc., Member

**AWARD OF COSTS to CONSUMERS' ASSOCIATION OF  
CANADA (MANITOBA) INC. - INTERVENTION IN CENTRA GAS  
MANITOBA INC.'S 2013/14 GENERAL RATE APPLICATION**

## **Introduction**

By this Order, the Public Utilities Board (Board) approves an award of costs of \$257,519.35 to the Consumers' Association of Canada (Manitoba) Inc. (CAC).

CAC intervened in the Board's deliberation of Centra Gas Manitoba Inc.'s (Centra) 2013/14 General Rate Application.

## **Application**

The Board has considered CAC's application for an award of costs, filed with the Board on July 19, 2013.

Pursuant to Section 56 of *The Public Utilities Board Act*, the Board has jurisdiction to award costs of, and incidental to, any proceeding. The Board's Rules of Practice and Procedure (Rules) stipulate the Board may award costs to be paid to an Intervener who has:

1. 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;
2. participated in the hearing in a responsible manner and cooperated with other Interveners with common objectives in the outcome of the proceedings in order to avoid a duplication of intervention;
3. insufficient financial resources to present the case adequately without an award of costs; and
4. a substantial interest in the outcome of the proceeding, and represents the interests of a substantial number of the ratepayers.

The Board approved Intervener status in the hearing to:

- a) Consumers' Association of Canada (Manitoba) Inc.
- b) Just Energy (Manitoba) L.P.
- c) Shell Energy North America (Canada) Inc. and
- d) Communication Energy and Paperworkers Union of Canada

Of the approved interveners, only CAC indicated it would be seeking costs.

CAC's request for reimbursement of costs was supported by statements of account from the consultants engaged by CAC: J.D. McCormick Financial Services, Inc. (on matters related to financial forecasting); Stauff Consulting Ltd. (on matters related to gas supply, transportation as well as regulatory methodology) and Jerrold Oppenheim (on matters related to the Lower Income Energy Efficiency Programs and specifically the Furnace Replacement Program). Additionally, CAC filed the statement of account from D'Arcy & Deacon LLP, legal counsel for this Intervener.

CAC applied for an award of costs of \$257,519.35, comprised of the following:

<b>Legal Fees: Darcy Deacon</b>	\$108,617.60
Disbursements	\$10,463.12
GST	\$5,954.05
RST	\$7,758.69
Total	\$132,793.46
<b>Consultant Fees: Jerrold Oppenheim</b>	\$31,258.50
Disbursements	\$2,445.37
GST	
RST	
Total	\$33,703.87
<b>Consultant Fees: Stauff Consulting</b>	\$19,813.50
Disbursements	
GST	\$990.68
RST	

Total	\$20,804.18
<b>Consultant Fees: McCormick Financial</b>	\$65,915.50
Disbursements	\$958.63
GST	\$3,343.71
RST	
Total	\$70,217.84
<b>TOTAL</b>	<b>\$257,519.35</b>

In support of its application, CAC noted that its budget was \$236,332.07 and CAC's resulting intervention was \$21,187.28 in excess of the budget estimate. CAC claimed \$10,556.60 in additional legal costs due to more time required to review Rebuttal evidence and to deal with complex topics such as the Furnace Replacement Program. Additional costs in the amount of \$9,490.50 were also required by Mr. McCormick for the review of Rebuttal evidence and preparation of the final argument. The remaining additional costs were attributed to disbursements.

CAC opined that it had contributed in a constructive and meaningful way to the proceeding by identifying issues of concern and providing information and recommendations to the Board as to how it could address the issues. CAC was the only active intervener of the registered interveners and as such there is no issue with respect to the potential for duplication among intervening parties. CAC cooperated with Board Counsel and Board advisors to minimize duplicative efforts.

CAC proposed a substantial amount of written information requests and participated in the hearing through cross-examination of Centra witnesses and presenting expert evidence in the form of written and oral evidence from Jerrold Oppenheim and John McCormick.

### **Centra's Comments**

Centra brought various matters to the attention of the Board in respect of the invoices by CAC's consultants, including hourly rates, hours expended, areas of expertise and ways to reduce disbursement costs. Centra's comments focussed on the comparison of hours spent by the consultants in the 2013/14 GRA versus the previous 2009/10 & 2010/11 GRA. Centra claimed Mr. McCormick spent an additional 132 hours and Mr. Oppenheim an additional 64.8 hours dealing with similar matters in the recent GRA versus the 2009/10 & 2010/11 GRA. Centra also contended Mr. Stauff's time, while similar to the previous GRA, may be inappropriate given Mr. Stauff did not provide written evidence and spent additional time on revenue requirement matters. Centra also criticized spending an additional \$2,522 on copying costs for transcripts which were available on the web.

### **BOARD FINDINGS**

The Board has reviewed the cost application by CAC as well as the comments provided by Centra. The Board finds that CAC meets all of the requirements for a cost award. In particular, the Board is of the view that CAC made a significant contribution that was relevant to the GRA proceeding, and which enhanced the understanding of the issues before the Board. Further, it is the view of the Board that CAC participated in the hearing in a responsible manner.

The Board also understands that CAC has insufficient financial resources to present its case adequately without an award of costs. Lastly, the Board is mindful that CAC has a substantial interest in the outcome of Centra's rate application.

With respect to Centra's claim that CAC consultants spent additional time in this GRA versus the previous GRA, the Board is of view that the additional time was reasonable given the nature and complexity of the issues examined at the GRA.

With respect to the request by Centra to reduce the disbursement costs for transcripts, the Board agrees that in future CAC should seek economies of scale and avail itself of the version on the Board's web site.

In conclusion, the Board finds that the costs incurred by CAC are reasonable and the Board is prepared to accept them as presented.

The award of costs will therefore be approved for CAC in the total amount of \$257,519.35.

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](http://www.pub.gov.mb.ca).

**IT IS THEREFORE ORDERED THAT:**

1. The application of the Consumers' Association of Canada (Manitoba) Inc. for an award of costs BE AND IS HEREBY APPROVED in the total amount of \$257,519.35 and
2. Costs be payable by Centra Gas Manitoba Inc. to CAC as soon as possible within 15 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

*"ORIGINAL SIGNED BY"*

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Régis Gosselin, BA, MBA, CGA  
Chair

*"ORIGINAL SIGNED BY"*

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Kurt Simonsen, P.Eng.  
Acting Secretary