

M A N I T O B A                    )     Order No. 41/09  
  )  
THE PUBLIC UTILITIES BOARD ACT   )     April 20, 2009

BEFORE:   Graham Lane, C.A., Chairman  
           Len Evans, LL.D., Member

CONSUMERS' ASSOCIATION OF CANADA (MANITOBA) INC./  
MANITOBA SOCIETY OF SENIORS:  
AWARD OF COSTS FOR INTERVENING IN  
THE APPLICATION OF  
MANITOBA PUBLIC INSURANCE CORPORATION  
FOR APPROVAL OF 2009-10 RATES AND FEES

## **Introduction**

By this Order, the Public Utilities Board (Board) provides a cost award of \$63,018.65 to the Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors (CAC/MSOS). The award is for CAC/MSOS's intervention in the Board's public hearing of Manitoba Public Insurance's (MPI) application for 2009/10 driver and motor vehicle insurance rates.

The Board's public hearing of MPI's application was held at the Board's offices in Winnipeg in September and October 2008.

Pursuant to Section 56 of *The Public Utilities Board Act*, the Board has jurisdiction to award costs, and the Board's Rules of Practice and Procedure (Rules) stipulate four criteria for determining whether costs should be awarded, the applicant:

1. has to have made a significant contribution that was relevant and contributed to a better understanding by all parties of the issues before the Board;
2. would have participated in a responsible manner, and cooperated with other Interveners with common objectives in order to avoid a duplication of intervention;
3. would have insufficient financial resources to allow for its participation without a cost award; and
4. would have had a substantial interest in the outcome of the proceeding, and have represented the interests of a substantial number of MPI's ratepayers (policyholders).

In addition, the Board considers other matters in considering an award, these include the quantum of the claim and the support provided by the applicant for its expenditures, the hourly and/or per diem professional fee levels involved, and the number of service hours reflected in the application.

**Application**

CAC/MSOS applied for:

Legal Costs:

Fees	\$19,242.00
Disbursements	1,082.90

Consulting Costs

Decom Consulting

Fees	15,000.00
------	-----------

Econalysis Consulting Services

Fees	25,943.75
------	-----------

Stephen Johnson CA

Fees	<u>1,750.00</u>
------	-----------------

Total Claim	<u><u>\$63,018.65</u></u>
-------------	---------------------------

The application was submitted on March 26, 2009, six months after the hearing concluded and well beyond the 30-day limit suggested in the Board's Rules. CAC/MSOS cited a number of reasons for its overdue application, those primarily being a busy regulatory schedule and staff shortages, and asked the indulgence of both MPI and the Board.

**CAC/ MSOS' representation**

With respect to the substance of their participation, CAC/MSOS advanced the following:

"CAC/MSOS expressly address(ed) the limitations of the current regulatory model suggesting that 'the regulatory intent is being frustrated by the opaque nature of the integrated corporate structure.' They also identified challenges the Corporation was experiencing in PIPP Claims Forecasting, Expenditure Controls, and Road Safety Programming"

And,

"Through the expert evidence of Drs. Wayne Simpson and Derek Hum, CAC/MSOS also made an extensive contribution to the proceeding by addressing issues relating to the revised investment portfolio. The evidence of Drs. Simpson and Hum was cited extensively by the Board in the course of its decision."

As to the total amount sought, CAC/MSOS expressed the view that it was:

" ... very pleased ... to bring the total number of hours billed upon this file very close to the original estimate notwithstanding the fact (of)... incur(ing) an additional 112 hours associated with an expert witness as well as close to 9 hours associated with accounting assistance which were not contemplated at the time of the original estimate."

In the view of CAC/MSOS, the file was conducted in a specialized manner which minimized duplication."

**MPI's perspective**

MPI advised it had no comments on or objections to the application.

**Board Findings**

CAC/MSOS met the criteria for an award as set out in the Board's Rules.

CAC/MSOS had a substantial interest in the matters explored in its intervention and provided responsible and co-operative participation throughout the proceeding, making a substantial contribution and contributing to a better understanding of the matters that were before the Board.

Accordingly, the Board accepts CAC/MSOS' use of legal and expert consulting services for the hearing, and the costs that were incurred through their utilization.

While the Board is concerned with CAC/MSOS' tardiness in submitting the application, the Board understands the staffing challenges of the Public Interest Law Centre and accepts that such tardiness may have been unavoidable in the circumstances.

Accordingly, the Board will accept CAC/MSOS' submission, with the understanding that CAC/MSOS will make every effort to submit future claims within the prescribed 30-day deadline.

**IT IS THEREFORE ORDERED THAT:**

1. Consumers' Association of Canada (Manitoba) Inc./  
Manitoba Society of Seniors be awarded costs in the  
amount of \$63,018.65; and
2. Costs shall be payable by the Manitoba Public  
Insurance within 30 days of the date of this Order.

THE PUBLIC UTILITIES BOARD  
"GRAHAM LANE, C.A."  
Chairman

"G. A. GAUDREAU, C.M.A."  
Secretary

Certified a true copy of Order No.  
41/09 issued by The Public  
Utilities Board

\_\_\_\_\_  
Secretary