

MANITOBA) **Order No. 75/14**
)
THE PUBLIC UTILITIES BOARD ACT) **July 4, 2014**

BEFORE: Régis Gosselin, B ès Arts, MBA, CGA, Chair
Karen Botting, B.A., B.Ed., M.Ed., Member
The Hon. Anita Neville, P.C., B.A.(Hons), Member

**AWARD OF COSTS: CONSUMERS' ASSOCIATION OF CANADA (MANITOBA) INC.
INTERVENTION IN MANITOBA PUBLIC INSURANCE CORPORATION'S
GENERAL RATE APPLICATION FOR THE 2014/15 INSURANCE YEAR**

Introduction

By this Order, the Public Utilities Board (Board) varies the application of the Consumers' Association of Canada (Manitoba) Inc. (CAC) and approves a cost award of \$138,772.51 with respect to the Board hearing of Manitoba Public Insurance's (MPI) application for 2014/15 Compulsory Basic Driver and Vehicle Insurance Premiums and other matters.

Application

The Board held a public hearing of MPI's application at the Board's offices in Winnipeg commencing in September 24, 2013 with final argument on October 17, 2013. Several interested parties, including CAC, intervened.

Pursuant to Section 56 of *The Public Utilities Board Act*, the Board has jurisdiction to award the costs of, and incidental to, any proceeding. The Board's Rules of Practice and Procedure (Rules) stipulate four main criteria to be reviewed in determining whether costs should be awarded to an Intervener. Those criteria were reflected in the Notice of Public Hearing of MPI's application and are summarized as follows:

- Contribution by the Intervener to the process;
- Responsible and co-operative participation in the process;
- Available financial resources; and
- Representation of a substantial number of ratepayers.

Pursuant to the Board's Rules and following the hearing, CAC applied for an award of costs in the amount of \$137,203.11, comprised of:

Legal Fees		\$47,082.00
Disbursements (including GST)		<u>\$ 3,977.04</u>
Total Legal		\$51,059.04

Consultants		
Andrea Sherry	\$18,192.00	
Peter Dyck	\$33,660.00	
Dr. Wayne Simpson	\$ 4,125.00	
Mavis Johnson	\$28,800.00	
Disbursements	<u>\$ 1,367.07</u>	
	<u>\$86,144.07</u>	<u>\$86,144.07</u>

Total Claim \$137,203.11

CAC's Comments

CAC submitted that its cost application of \$137,203.11 is lower than its original budget which forecast a cost application of between \$131,500.00 and \$149,500.00 and is appropriate given the length and complexity of the hearing. CAC also noted that the bill of costs includes the time spent by Mr. Williams, Ms. Sherry and Mr. Simpson on the two day Dynamic Capital Adequacy Testing technical conference in the spring of 2013, as well as the significant role CAC played in facilitating the input of Bike Winnipeg. CAC provided information relating to more than 200 hours incurred by Ms. Menzies on the file; CAC is not seeking recovery of her costs. CAC also submitted that it exercised effective management of the duties of its expert advisors and witness.

MPI's Comments

The Board requested the input of MPI on the application. In its response received by the Board on June 18, 2014, MPI offered no objection to CAC's cost application and stated that MPI would pay the costs sought by CAC, if so ordered by the Board.

BOARD FINDINGS

The Board has reviewed the cost application of CAC and the response provided by MPI. The cost application included \$47,082.00 in hourly fees for Mr. Byron Williams, based on an hourly rate of \$210.00. Board Order No. 77/13, Schedule "A", is a rate sheet by which Board counsel and counsel for the interveners shall have their rates set, according to years of seniority at the Bar. Based on that rate sheet, Mr. Williams' rate should be \$217.00 per hour. The cost award was recalculated accordingly and increased by \$1,569.40 to a total of \$138,772.51.

The Board finds that CAC meets all of the requirements for a cost award. In particular, the Board is of the view that CAC makes a significant contribution that is relevant to the GRA proceeding, and which enhances all parties' understanding of the issues before the Board. Further, it is the Board's view that CAC responsibly participated in the hearing and co-operated with other interveners to avoid duplication in intervention. The Board would like to recognize the CAC for its prudence in not including the additional hours put in by Ms. Menzies, while acknowledging the value of her participation in the process.

The Board also understands that CAC has insufficient financial resources to present its case adequately without an award of costs. Lastly, there is no doubt that CAC has a substantial interest in the outcome of MPI rate applications given its representation of the interests of CAC members acting on behalf of a substantial number of ratepayers. MPI is a Crown corporation and the Basic insurance program is a monopoly which touches on the lives of all Manitoba drivers and vehicle owners, as well as Manitobans involved in motor vehicle accidents in Canada and the US.

IT IS HEREBY ORDERED THAT:

1. Consumers' Association of Canada (Manitoba) Inc. **BE AND IS HEREBY** awarded costs of \$138,772.51 with respect to its intervention at the Manitoba Public Insurance Corporation's 2014/15 Compulsory Driver and Vehicle Insurance Premiums hearing.
2. Costs shall be payable by the Manitoba Public Insurance Corporation to Consumers' Association of Canada (Manitoba) Inc. within 30 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"Régis Gosselin, B ès Arts, MBA, CGA"
Chair

"H. M. Singh"
Secretary

Certified a true copy of Order No. 75/14
issued by The Public Utilities Board
