

Order No. 75/18

**AWARD OF COSTS TO
THE REPRESENTATIVES OF THE GENERAL SERVICE SMALL AND GENERAL
SERVICE MEDIUM CUSTOMER CLASSES AND THE KEYSTONE AGRICULTURAL
PRODUCERS
FOR THEIR INTERVENTION IN THE
MANITOBA HYDRO 2017/18 AND 2018/19 GENERAL RATE APPLICATION**

June 14, 2018

BEFORE: Robert Gabor, Q.C., Chair
Marilyn Kapitany, B.Sc., (Hon), M.Sc., Vice Chair
Hugh Grant, Ph.D., Member
Shawn McCutcheon, Member
Sharon McKay, BGS, Member
Larry Ring, Q.C., Member

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1.0 Introduction

By this Order, the Public Utilities Board (Board) approves an award of costs of \$373,719.76 to the Representatives of the General Service Small and General Service Medium Customer Classes and the Keystone Agricultural Producers for their intervention in Manitoba Hydro's 2017/18 and 2018/19 General Rate Application.

2.0 Application

On April 9, 2018, the Representatives of the General Service Small and General Service Medium Customer Classes (GSS/GSM) and the Keystone Agricultural Producers (KAP) filed with the Board an Application for an Award of Costs for their intervention at the Manitoba Hydro 2017/18 and 2018/19 General Rate Application.

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 to GSS/GSM and to KAP in Procedural Order 70/17. In the same Order, the Board requested that all approved interveners file a budget proposal with the Board by July 14, 2017.

On July 14, 2017, both GSS/GSM and KAP filed budget proposals with the Board. GSS/GSM proposed a budget of \$420,090 (\$119,813 in legal costs and \$300,277 for London Economics); KAP proposed a budget of \$218,520 (\$130,000 in legal costs and \$88,000 for an expert consultant International LLC). On August 22, 2017, counsel for GSS/GSM wrote to the Board to advise that GSS/GSM and KAP had decided to combine their interventions. On September 7, 2017, counsel for GSS/GSM provided a revised budget proposal of \$389,713.50 (119,812.50 in legal costs and \$269,901 for an expert consultant), which supported the combined intervention of GSS/GSM and KAP.

On September 15, 2017 the Board approved the combined intervention of GSS/GSM/KAP and acknowledged a budget of \$389,713.50 for the GSS/GSM/KAP intervention.

On April 9, 2018 GSS/GSM/KAP filed an Application for award of cost with the Board. The Application included statements of accounts as summarized below:

	Budget Total	Cost Application Total
Legal Costs		
Counsel (including Disbursements)	\$119,812.50	\$96,962.76
GST	N/A	NIL
RST	N/A	\$7,644.00
<i>Sub Total Legal</i>	<i>\$119,812.50</i>	<i>\$104,606.76</i>
Consultants		
London Economics International LLC (including Disbursements)	\$269,901.00	\$269,113.00
<i>Sub Total Consultants</i>	<i>\$269,901.00</i>	<i>\$269,113.00</i>
TOTAL COSTS	\$389,713.50	\$373,719.76

3.0 Manitoba Hydro's Comments

On April 24, 2018 Manitoba Hydro provided its comments on the GSS/GSM Cost Application. Manitoba Hydro raised three primary concerns regarding the Cost Application:

- Manitoba Hydro noted that while all legal costs fell within budget range, the legal fees covered all oral hearing days with the exception of January 29 and February 1, 2018.
- Manitoba Hydro reiterated its concerns with respect to the hourly rates charged by London Economics International LLC (London Economics). Manitoba Hydro noted that London Economics hourly rates were substantially higher than Board-approved rates for the Board's own technical advisors.
- Manitoba Hydro raised concerns that the quality of London Economics' evidence was "simplistic", "based on poor data", and "included recommendations that were inconsistent with Manitoba's regulatory framework and which failed to recognize Keeyask's advanced state of construction and the realities associated therewith". Manitoba Hydro also suggested, "the quality of London Economics' evidence was not in keeping with the rates sought to be charged and as such its accounts should be reduced accordingly".

4.0 GSS/GSM/KAP Rebuttal

On April 25, 2018, GSS/GSM/KAP filed a response to Manitoba Hydro's comments of April 24, 2018. In its submission, GSS/GSM/KAP stated that legal counsel monitored the oral hearing remotely via web livestreaming in an effort to reduce costs. GSS/GSM/KAP also suggested the evidence provided by London Economics was more "illustrative" to demonstrate the magnitude of rate impacts to the GSS/GSM/KAP customer. GSS/GSM/KAP also highlighted they were "the only intervener to challenge Manitoba Hydro's view that an examination of the economics of Keeyask ought not to be in play".

5.0 Board Findings

The Board has reviewed the Cost Application by GSS/GSM/KAP, the comments provided by Manitoba Hydro, as well as the response from GSS/GSM/KAP. The Board considered the GSS/GSM/KAP argument that the expert fees were previously dealt with by the Board in its letter of September 15, 2017. The Board finds that GSS/GSM/KAP meets the requirements for a cost award. The Board also finds that the contribution of the London Economics International LLC would have been more significant if that expert had reviewed the work of other experts who were commenting on the effect of a rate increase on the Manitoba economy, had based their sector analysis and advice on the Manitoba situation, and had recognized the advanced state of construction at the Keeyask Hydroelectric Dam when making their recommendations. The Board further finds that the costs incurred by GSS/GSM/KAP are less than the amounts approved in the Board's letter of September 15, 2017 and as such, the Board is prepared to accept them as filed in GSS/GSM/KAP Cost Application.

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 the Board's website at www.pubmanitoba.ca.

6.0 IT IS THEREFORE ORDERED THAT:

1. The Application of the Representatives of the General Service Small and General Service Medium Customer Classes and the Keystone Agricultural Producers for an award of costs BE AND IS HEREBY APPROVED in the total amount of \$373,719.76.
2. Costs be payable by Manitoba Hydro to Hill, Solkalski, Walsh, Olson within 15 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"Robert Gabor, Q.C."
Panel Chair

"Kurt Simonsen"
Associate Secretary

Certified a true copy of Order No. 75/18
issued by The Public Utilities Board



Associate Secretary