

Order No. 81/18

**AWARD OF COSTS TO
CONSUMERS COALITION (CONSUMERS' ASSOCIATION OF CANADA
(MANITOBA) / WINNIPEG HARVEST)
FOR THEIR INTERVENTION IN THE
MANITOBA HYDRO 2017/18 AND 2018/19 GENERAL RATE APPLICATION**

June 27, 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 \$608,444.64 to the Consumers Association (Consumers' Association of Canada (Manitoba) / Winnipeg Harvest) for their intervention in Manitoba Hydro's 2017/18 and 2018/19 General Rate Application.

2.0 Application

On April 20, 2018, the Consumers Association (Consumers' Association of Canada (Manitoba) / Winnipeg Harvest) filed with the Board an Application for an Award of Costs for their intervention in 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 the Consumers Coalition 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, the Consumers Coalition filed a budget proposal with the Board. On August 25, 2017, the Board provided its decision regarding intervener budgets. In the case of the Consumers Coalition, the Board reduced the upper limit for legal fees to \$160,000, denied the requested budget for the proposed consumer engagement, and deferred its decision on budget approvals regarding Dr. Gotham, a proposed expert consultant, until a decision was made on the Board's possible retention of an Independent Expert Consultant on load forecast and export pricing.

On September 26, 2017, the Consumers Coalition provided the Board a revised budget for Dr. Gotham's role in the Consumers Coalition's intervention.

On April 20, 2018 The Consumers Coalition filed its Cost Application for its participation in Manitoba Hydro's 2017/18 and 2018/19 General Rate Application. The Cost Application was supported by statements of accounts as summarized below:

	Budget Total	Cost Application Total
Legal Costs		
Counsel	\$160,000.00	\$170,666.67
Sub Total Legal	\$160,000.00	\$170,666.67
Consultants		
Harper	\$96,750.00	\$101,587.50
Simpson	\$21,000.00	\$21,000.00
Compton	\$10,200.00	\$10,200.00
METSCO	\$119,600.00	\$125,580.00
Morrison Park Advisors *	\$125,000.00	\$134,000.00
Consumer Panel	\$5,000.00	\$1,154.64
Gotham	\$16,196.40	\$16,196.40
Sub Total Consultants	\$393,746.40	\$409,718.54
Disbursements		
Office and Travel Expenses (Legal and Consultants)	\$23,900.00	\$28,059.43
Sub Total Disbursements	\$23,900.00	\$28,059.43
Contingency	\$28,882.32	N/A
TOTAL COSTS *	\$606,528.72	\$608,444.64

* The budget accounts shown for Morrison Park Advisors are inclusive of the 50/50 shared expert costs initially identified to be borne by the Manitoba Industrial Power Users Group.

3.0 Manitoba Hydro's Comments

On May 11, 2018 Manitoba Hydro provided its comments on the Consumers Coalition's Cost Application. Manitoba Hydro raised concerns in two areas of the Application. First, Manitoba Hydro did not support the reimbursements of two specific disbursement claims, totalling \$2,876.25, as these were not initially identified in the Consumers Coalition's proposed budget and were not justified in the Consumers Coalition's Cost Application. Specifically, the Consumers Coalition requested \$1,856.25 from Froese Law Office in British Columbia for legal research on Charter Values as well as 1,020.00 for an analysis of consumer complaints received by The Board on Manitoba Hydro's proposed rate increase. Second, Manitoba Hydro reiterated its prior concerns with respect to the hourly rates charged by Morrison Park Advisors and stated that it appears from the justification for the increase in costs associated with Morrison Park Advisors' participation that efficiencies were not obtained and in fact contributed to an increase in costs beyond the budget amount approved by the Board.

4.0 Response Comments

On May 17, 2018, the Consumers Coalition filed a response to Manitoba Hydro's comments of May 11, 2018. In its submission, the Consumers Coalition provided additional information regarding the two disbursement claims identified by Manitoba Hydro.

The Consumers Coalition argued the work of Froese Law Office was directly relevant and included in The Consumers Coalition Closing Argument. Likewise, The Coalition's analysis of consumer's complaints was a significant input into the Coalition's recommendations. The Consumers Coalition also provided additional comments regarding the evidence and fees of Morrison Park Advisors. The Consumers Coalition conceded there was an increase in the Morrison Park budget but it was still more efficient to share the services of Morrison Park between Manitoba Industrial Power User Group and the Consumers Coalition, thus each providing an expert witness.

5.0 Board Findings

The Board has reviewed the Cost Application by the Consumers Coalition, the comments provided by Manitoba Hydro, as well as the response from the Consumers Coalition. The Board finds that the Consumers Coalition meets all of the requirements for a cost award. The Board further finds that the costs incurred by the Consumers Coalition are reasonable and the Board is prepared to accept them as filed in the Application for Costs.

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 Consumers Coalition for an award of costs BE AND IS HEREBY APPROVED in the total amount of \$608,444.64.
2. Costs be payable by Manitoba Hydro to the Consumers Coalition within 15 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"Robert Gabor, Q.C."
Panel Chair

"Kurt Simonsen"
Acting Secretary

Certified a true copy of Order No. 81/18
issued by The Public Utilities Board



Acting Secretary