

**Order No. 99/18**

**AWARD OF COSTS TO THE  
GREEN ACTION CENTRE  
FOR THEIR INTERVENTION IN THE  
MANITOBA HYDRO 2017/18 AND 2018/19 GENERAL RATE APPLICATION**

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**July 24, 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 \$260,442.81 to the Green Action Centre for their intervention in Manitoba Hydro's 2017/18 and 2018/19 General Rate Application.

## 2.0 Application

On May 29, 2018, the Green Action Centre (GAC) filed with the Board an Application for an Award of Costs for its 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 which 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.

In Order 70/17 the Board found that the sufficiency of financial resources (point #3, above) would not be a factor in determining the cost awards in the General Rate Application, as the full Board was in the process of reviewing its rules and policies respecting interveners, including the factors to be considered for awarding costs.

The Board approved Intervener status to GAC in Order 70/17, the Procedural Order for Manitoba Hydro's 2017/18 and 2018/19 General Rate Application. 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, GAC filed a budget proposal with the Board. On August 25, 2017, the Board provided its decision regarding intervener budgets. In the case of GAC, the Board approved GAC's consultant budget proposal of \$119,501 but reduced GAC's legal fee budget from \$158,369.50 to \$125,000 (inclusive of taxes and disbursements) to reflect the approved scope of participation.

In Order 70/17, the Board approved interim invoicing from interveners for the duration of the General Rate Application hearing. All interim invoices were subject to a 25% holdback. Based on a statement of accounts, the total interim costs paid out to date to GAC is \$195,573.64 (including taxes).

On May 29, 2018, GAC 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:

	<b>Budget Total*</b>	<b>Cost Application Total</b>
<b>Legal Costs</b>		
Fees	\$110,154.87	\$114,905.50
Disbursements	\$500.00	\$486.18
GST	\$5,532.74	\$5,768.69
PST	\$8,812.39	\$9,192.44
<b><i>Sub Total Legal</i></b>	<b><i>\$125,000.00</i></b>	<b><i>\$130,352.81</i></b>
<b>Consultants</b>		
Fees	\$113,535.00	\$123,572.50
Disbursements	\$5,966.00	\$6,517.50
<b><i>Sub Total Consultants</i></b>	<b><i>\$119,501.00</i></b>	<b><i>\$130,090.00</i></b>
<b>TOTAL COSTS</b>	<b>\$244,501.00</b>	<b>\$260,442.81</b>

\* Budget legal costs shown account for the Board's budget reduction of August 25, 2017.

### 3.0 Manitoba Hydro's Comments

On June 15, 2018 Manitoba Hydro provided its comments regarding GAC's Cost Application. Manitoba Hydro stated that it had reviewed GAC's Cost Application and had no comments on the request by GAC for the approval of fees.

### 4.0 Board Findings

The Board has reviewed the Cost Application by GAC, as well as the comments provided by Manitoba Hydro. The Board finds that GAC meets all of the requirements for a cost award. The Board further finds that the costs incurred by GAC are reasonable and the Board is prepared to accept them as filed in the Application for Costs. Based on \$195,573.64 in interim costs paid out to date, the total balance owing is \$64,869.17.

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](http://www.pubmanitoba.ca).

**5.0 IT IS THEREFORE ORDERED THAT:**

1. The Application of the Green Action Centre for an award of costs BE AND IS HEREBY APPROVED in the total amount of \$260,442.81.
2. Manitoba Hydro is to pay Gange Collins Holloway Barristers & Solicitors, for work undertaken on behalf of the Green Action Centre, the holdback amount and the final invoice amount of \$64,869.17.
3. Costs be payable by Manitoba Hydro to the Gange Collins Holloway Barristers & Solicitors within 15 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"Robert Gabor, Q.C."  
Chair

"Darren Christle MPA, BA, CCLP, P.Log, MCIT"  
Secretary

Certified a true copy of Order No. 99/18  
issued by The Public Utilities Board



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Secretary