

Order No. 109/19

**AWARD OF COSTS TO
ASSEMBLY OF MANITOBA CHIEFS FOR THEIR INTERVENTION IN THE
MANITOBA HYDRO 2019/20 GENERAL RATE APPLICATION**

July 25, 2019

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

Table of Contents

1.0 Introduction 3

2.0 Application..... 3

3.0 Manitoba Hydro’s Comments 6

4.0 Board Findings 6

5.0 IT IS THEREFORE ORDERED THAT: 7

1.0 Introduction

By this Order, the Public Utilities Board (Board) approves an award of costs of \$34,711.39 to the Assembly of Manitoba Chiefs (AMC) for their intervention in Manitoba Hydro's 2019/20 General Rate Application.

2.0 Application

On July 26, 2018, the Assembly of Manitoba Chiefs (AMC), filed with the Board an Application for an Award of Costs for their intervention at the Manitoba Hydro 2019/20 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 before the Board. For the purpose of this hearing, the Board adopted an "Intervener Costs Policy". The purpose of this Policy was to set out the Board's procedures for considering requests for Intervener costs and to provide guidance to Interveners on how to apply for funding of costs for participation in Board Proceedings. This Policy was to apply specifically for the Manitoba Hydro 2019/20 General Rate Application.

Sections 3.1 and 3.2 of the Intervener Costs Policy describes Intervener eligibility for a cost award and the Board's principles in determining the amount of the cost award:

3.1 *In any proceeding the Board may award costs to be paid to any Intervener who has:*

- (a) *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;*
- (b) *participated in the hearing in a responsible manner and cooperated with other Interveners who have common objectives in the outcome of the proceedings in order to avoid a duplication of intervention;*

- (c) *represented interests beyond their sole business interest; and*
- (d) *a substantial interest in the outcome of the proceeding and represents the interests of a substantial number of ratepayers.*

3.2 *In determining whether the Intervener should receive the amount of costs sought in a costs application, the Board may consider whether the Intervener did one or more of the following:*

- (a) *made reasonable efforts to ensure that the intervener's evidence was not unduly repetitive of evidence presented by another intervener;*
- (b) *made reasonable efforts to cooperate with other interveners to reduce the duplication of evidence and questions or to combine the intervener's submission with that of similarly interested interveners; and*
- (c) *needed legal or technical assistance to take part in the proceeding;*

In December 2018, AMC filed an Application for Intervener status with the Board. The Board awarded AMC Intervener status on January 02, 2019 in Board Order 1/19. Included in the Board's Order was an issues list deemed by the Board as applicable to AMC for this proceeding.

On January 18, 2019, AMC filed its projected budget with the Board. Board staff acknowledged receipt of the budget.

On July 08, 2019, AMC filed its Cost Application for its participation in Manitoba Hydro's 2019/20 General Rate Application. The Cost Application was supported by statements of accounts as summarized below:

	Budget Total*	Cost Application Total
Legal Costs (L. Senwung / OKT)	\$20,900.00	\$5,434.00
(C. Shefman / OKT)	\$18,200.00	\$11,100.00
(J. Brown / OKT)	\$0.00	\$2,128
Disbursements	\$6,000.00	\$6,681.61
Taxes	\$2,222.40	\$1,990.78
Consultant Costs (P. Raphals / Helios)		
Fees	\$6,250.00	\$7,375.00
Disbursements	\$0.00	\$0.00
Taxes	\$0.00	\$0.00
TOTAL COSTS	\$53,572.40	\$34,711.39

AMC's Cost Application was supported by detailed invoices and a written submission describing AMC's participation in the Board's review of Manitoba Hydro's 2019/20 GRA. Olthuis Kleer Townshend LLP represented AMC in addressing the issues identified by the Board as in scope for AMC for this proceeding.

3.0 Manitoba Hydro's Comments

On July 23, 2019, Manitoba Hydro provided its comments regarding AMC's Cost Application. Manitoba Hydro noted that the costs related to AMC's consultant were elevated by \$1,375 over estimate.

4.0 Board Findings

The Board has reviewed the Cost Application by AMC, as well as the comments provided by Manitoba Hydro. The Board finds that AMC meets all of the requirements for a cost award. The Board further finds that the most costs incurred by AMC are reasonable and the Board is prepared to award an amount of \$34,711.39 for AMC's intervention in the Board's review of Manitoba Hydro's 2019/20 GRA.

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.

5.0 IT IS THEREFORE ORDERED THAT:

1. The Application of the Assembly of Manitoba Chiefs for an award of costs BE AND IS HEREBY APPROVED in the total amount of \$34,711.39.
2. Manitoba Hydro to pay OKT LLP within 15 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"Robert Gabor, Q.C."

Chair

"Dr. Darren Christle"

Secretary

Certified a true copy of Order No. 109/19
issued by The Public Utilities Board



Secretary