

Order No. 80/19

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

June 13, 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

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1.0 Introduction

By this Order, the Public Utilities Board (Board) approves an award of costs of \$33,308.14 to Manitoba Keewatinowi Okimakanak for their intervention in Manitoba Hydro's 2019/20 General Rate Application.

2.0 Application

On May 31, 2019, Manitoba Keewatinowi Okimakanak (MKO) 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;*

On January 4, 2019 MKO filed an Application for Intervener status with the Board. The Board awarded MKO Intervener status on January 17, 2019 in Board Order 9/19. Included in the Board's Order was an issues list deemed by the Board as applicable to MKO for this proceeding.

On January 24, 2019 MKO filed its projected budget with the Board. Board staff acknowledged the budget on January 25, 2019.

On May 31, 2019 MKO 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 (Jerch Law)		
Fees	\$50,635.00	\$30,758.00
Disbursements	\$400.00	\$89.50
Taxes	\$4082.80	\$2,463.04
TOTAL COSTS	\$55,177.80	\$33,310.54

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

3.0 Manitoba Hydro's Comments

On June 7, 2019 Manitoba Hydro provided its comments regarding MKO's Cost Application. Manitoba Hydro did not dispute MKO's Cost Application but did highlight a small error in the calculation of Retail Sales Tax. This error results in a reduction in the total cost claim from \$33,310.54 to \$33,308.14.

4.0 Board Findings

The Board has reviewed the Cost Application by MKO, as well as the comments provided by Manitoba Hydro. The Board finds that MKO meets all of the requirements for a cost award. The Board further finds that the costs incurred by MKO are reasonable and the Board is prepared to award an amount of \$33,308.14 for MKO's intervention in the Board's review of Manitoba Hydro's 2019/20 GRA. As Manitoba Hydro has already paid an advance cost award of \$5,096.28 to MKO, the total outstanding balance amounts to \$28,209.46.

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 Manitoba Keewatinowi Okimakanak for an award of costs BE AND IS HEREBY APPROVED in the total amount of \$33,308.14.
2. Manitoba Hydro pay the outstanding balance of \$28,209.46
3. Manitoba Hydro to pay Jerch Law within 15 days of the date of this Order.

THE PUBLIC UTILITIES BOARD


"Robert Gabor, Q.C."

Chair

"Kurt Simonsen"

Associate Secretary

Certified a true copy of Order No. 80/19
issued by The Public Utilities Board



Associate Secretary