

**Order No. 35/20**

**AWARD OF COSTS TO  
MANITOBA KEEWATINOWI OKIMAKANAK  
FOR THEIR INTERVENTION IN THE  
EFFICIENCY MANITOBA 2020 THREE-YEAR EFFICIENCY PLAN REVIEW**

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**February 28, 2020**

**BEFORE:** Robert Gabor, Q.C., Chair  
Marilyn Kapitany, B.Sc., (Hon), M.Sc., Vice Chair  
Hugh Grant, Ph.D., Panel Member  
Irene A. Hamilton, Q.C., Panel Member

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## 1.0 Introduction

By this Order, the Public Utilities Board (Board) approves an award of costs of \$53,571.17 to Manitoba Keewatinowi Okimakanak for their intervention in Efficiency Manitoba's three-year Efficiency Plan Submission.

## 2.0 Application

In February, 2019, Manitoba Keewatinowi Okimakanak (MKO) filed with the Board an Application for an Award of Costs for their intervention at the Efficiency Manitoba's three-year Efficiency Plan Submission.

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.

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;*

The Board awarded MKO Intervener status on November 05, 2019 in Board Order 162/19. Included in the Board's Order was an issues list deemed by the Board as applicable to MKO for this proceeding.

On November 22, 2019, MKO filed its projected budget of \$64,139.00 with the Board. Board staff acknowledged receipt of the budget. On December 30, 2019, MKO filed a projected budget amendment of \$70,971.85 with the Board. On December 11, 2019, MKO filed an application for an advance cost award in the amount of \$7,761.70. These funds were awarded to MKO.

On February 11, 2020, MKO filed its Cost Application for its participation in Efficiency Manitoba's three-year Efficiency Plan Submission. The Cost Application was supported by statement of account as summarized below:

	<b>Amended Budget Total*</b>	<b>Cost Application Total</b>
<b>Legal Costs</b>		
<b>(J. Wheeler)</b>	\$22,200.00	\$26,100.00
<b>(M. Buchart)</b>	\$40,755.00	\$22,486.50
<b>Disbursements</b>	\$3,610.00	\$1,583.61
<b>GST</b>	\$0	\$0
<b>PST</b>	\$4,406.85	\$3,401.06
<b>TOTAL COSTS</b>	<b>\$70,971.85</b>	<b>\$53,571.17</b>

MKO's Cost Application was supported by detailed invoices and a written submission describing MKO's participation in the Board's review of Efficiency Manitoba's 2020/21 Efficiency Plan Submission.

### 3.0 Efficiency Manitoba's Comments

On February 25, 2020, Efficiency Manitoba provided its comments regarding MKO's legal costs. EM requested more details respecting disbursements and clarification of the MKO budget. On February 25, 2020, MKO provided disbursement receipts and a written explanation to Efficiency Manitoba. Efficiency Manitoba stated they "take no position on the cost claim submitted".

### 4.0 Board Findings

The Board has reviewed the Cost Application by MKO, as well as the comments provided by Efficiency Manitoba. The Board finds that MKO meets 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 \$53,571.17 for MKO's intervention in the Board's review of Efficiency Manitoba's three-year Efficiency Plan Submission. As

Efficiency Manitoba has already paid an advance cost award of \$7,761.70 to MKO, the total outstanding balance amounts to \$45,809.47.

## 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 \$53,571.17.
2. Efficiency Manitoba Hydro pay the outstanding balance of \$45,809.47
3. Efficiency Manitoba Hydro to pay Jerch Law within 15 days of the date of this Order.

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)

THE PUBLIC UTILITIES BOARD

"Robert Gabor, Q.C."

Chair

"Darren Christle, PhD, CCLP, P.Log., MCIT"  
Secretary

Certified a true copy of Order 35/20  
issued by the Public Utilities Board



Secretary