

MANITOBA ) Order No. 1/02  
 )  
THE PUBLIC UTILITIES BOARD ACT ) January 2, 2002

BEFORE: G. D. Forrest, Chairman  
E. Jorgensen, Member  
D. Côté, Member

**APPLICATION BY THE MANITOBA CAR AND  
TRUCK RENTAL ASSOCIATION INC. FOR AN AWARD  
OF COSTS FOR INTERVENING IN THE APPLICATION  
OF MANITOBA PUBLIC INSURANCE CORPORATION FOR  
APPROVAL OF ITS 2002 INSURANCE RATES**

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The Public Utilities Board (the "Board") held a public hearing of the application by Manitoba Public Insurance ("MPI") for approval of its proposed driver and motor vehicle insurance rates effective March 1, 2002. The hearing was held at the Board's offices, in Winnipeg, and concluded on October 29, 2001.

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 Draft Rules of Practice and Procedure ("Draft Rules") stipulate four main criteria for determining whether costs should be awarded to an intervenor. The Notice of

Public Hearing relative to MPI's application advises the reader of the Board's guidelines for the awarding of costs. The four main criteria are as follows:

"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) insufficient financial resources to present the case adequately without an award of costs; and
- d) a substantial interest in the outcome of the proceeding and represents the interests of a substantial number of the ratepayers."

Pursuant to the Board's Draft Rules, the Manitoba Car and Truck Rental Association Inc. ("MCTRA") applied to the Board, in a letter dated November 20, 2001, for an award of costs in the amount of \$87,898.50 comprising:

Professional fees:	
Legal	\$85,193.40
Disbursements:	
Facsimiles, photocopying, Couriers, etc.	<u>\$ 2,705.10</u>
Total	<u>\$87,898.50</u>

In a letter dated December 4, 2001, MPI responded to the application for costs indicating that it opposed any award of costs

to MCTRA. MPI contended that MCTRA's Application failed to meet any of the Board's four (4) criteria for an award.

With respect to whether MCTRA made a significant contribution that was relevant to the proceedings and contributed to a better understanding of the issues, MPI stated that MCTRA's challenge to the U-Drive rates was based on supposition and conjecture and that MCTRA failed to understand MPI's rate making methodology. In MPI's view this was reflected in many of MCTRA's information requests which required a response already contained in MPI's evidence filed with its Application. MPI also maintained that in support of MCTRA's contention that U-drive rates were not just or reasonable no cogent evidence, through an expert witness or otherwise, was provided by MCTRA.

Considering the commercial nature of MCTRA's intervention MPI suggested that the Board ought to look past the non-profit status of the Association and consider that MCTRA represents some 95% of the organizations involved in commercial car and truck rentals.

The Corporation also maintained that MCTRA failed to demonstrate that it represented the interests of a substantial number of ratepayers in that 85% of the vehicles in the U-Drive division are contracted by the Association's six largest members and while MCTRA had a substantial interest, it was a commercial interest only.

On December 10, 2001 MCTRA responded to MPI's submission and also addressed the Board's criteria for an award of costs.

With respect to whether MCTRA made a significant contribution that was relevant to the proceedings and contributed to a better understanding of the issues, MCTRA reiterated that it was the Board in Order No. 151/00 that directed MPI to file a report for this hearing to determine the most appropriate rates for the U-Drive Insurance Use Category and it was MPI's lack of response to that directive that necessitated and shaped MCTRA's participation. MCTRA maintained that its witnesses were not experts but were officers of MCTRA who were called to address the U-Drive industry for the purpose of contributing to a better understanding of the issues before the Board.

Concerning the issues of Incurred But Not Reported Reserve ("IBNR") and Internal Loss Adjustment Expense ("ILAE"), MCTRA indicated that these issues have a significant impact on ratepayers and it is not the Board's decision with respect thereto that is relevant to a cost award but it is rather the opportunity which MCTRA provided to the Board to assess important issues such as this in the public interest.

Similarly, with respect to the issues of MPI's non-regulated activities, MCTRA stated it was not challenging the cost allocation formulas for shared services but rather the potential to allocate revenues of non-regulated activities back to MPI's regulated monopoly activities. MCTRA contended that these issues naturally affect rates and, in MCTRA's opinion, the exchange benefited the Board.

As MPI did not challenge any information requests of MCTRA as vexatious or inappropriate, MCTRA argued that there is no merit whatsoever to MPI's position that MCTRA did not participate

in a responsible manner at that level.

MCTRA indicated that its position with respect to financial need is no different than the position of Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors or Coalition of Manitoba Motorcycle Groups Inc. MCTRA suggested that MPI overlooks the fact that all parties intervene for reasons of a commercial nature and an award of costs should be based on the other criteria adopted by the Board.

Finally, MCTRA submitted that an award of costs should not be based on an intervenor's lack of understanding as suggested by MPI or be conditional on an intervenor having expert knowledge of the rate making methodology. MCTRA submitted that the costs award should rather be based on whether MCTRA's intervention did address the appropriateness of premiums payable by the U-Drive industry and by the ratepayers as a whole.

### **Board Finding**

The Board accepts that MCTRA had a role in these proceedings and that the Association Members, while represented by few in number, have through the premiums they pay to MPI a substantial interest in the outcome. Indeed, as noted by MCTRA, the matter of U-Drive Insurance Use Category was an issue specifically identified by the Board for discussion at this hearing. Accordingly, the Board is satisfied that MCTRA's intervenor status was appropriate.

With respect to the other matters addressed by MCTRA, such as issues relating to IBMR and ILAE and non-regulated

activities of MPI, the Board does not believe that MCTRA made a significant contribution which would have contributed to a better understanding of the issues. In fact, MPI's position on those issues reflected long standing practices that the Board had canvassed and accepted on prior occasions.

The Board acknowledges MCTRA's panel of witnesses did provide information with respect to the impact of MPI's Application on their industry. The Board would note however, that such information often comes to the Board by way of short presentations or opening remarks and not oral evidence.

MCTRA did test the evidence of MPI as it pertains to U-Drive rates. In this regard, however, MCTRA was acting in their "pure" commercial interest. While the Board agrees that matters pertaining to rates are financial matters affecting all ratepayers, MCTRA failed to substantiate that its members with respect to that part of the intervention lacked the financial resources to make its intervention.

Accordingly, the Application for an award of costs of MCTRA is denied.

**IT IS THEREFORE ORDERED THAT:**

1. Manitoba Car and Truck Rental Association Inc.'s Application for an award of costs be denied.

THE PUBLIC UTILITIES BOARD

"G. D. FORREST"  
Chairman

"G. O. BARRON"  
Secretary

Certified a true copy of Order  
No. 1/02 issued by The Public  
Utilities Board

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Secretary