

MANITOBA) Order No. 3/02
)
THE PUBLIC UTILITIES BOARD ACT) January 2, 2002

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

**APPLICATION BY THE CANADIAN BAR
ASSOCIATION (MANITOBA BRANCH) FOR AN
AWARD OF COSTS FOR INTERVENING IN THE
APPLICATION OF MANITOBA PUBLIC INSURANCE
CORPORATION FOR APPROVAL OF ITS 2002
INSURANCE RATES**

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 awarding 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 Canadian Bar Association (Manitoba Branch) ("CBA") applied to the Board, in a letter dated October 30, 2001, for an award of costs in the amount of \$10,117.40 comprising:

Professional fees:	
Legal	\$ 9,795.00
Disbursements:	
Facsimiles, photocopying, Couriers, etc.	<u>\$ 322.40</u>
Total	<u>\$10,117.40</u>

In a letter dated December 13, 2001 MPI responded to the

application for costs indicating that this intervenor failed to meet the criteria justifying an award for costs. MPI indicated that CBA did not make a significant contribution in the proceeding or contribute to a better understanding of the issues and did not demonstrate that CBA does not have sufficient financial resources for its intervention without an award of costs.

MPI stated CBA raised issues of a legislative nature dealing with a change in rating methodology using factors of age, gender and marital status and also, dealing with the requirement to compel the Corporation to pay legal costs of claimants on reviews and appeals. With respect to matters raised by CBA within the scope of the proceeding, MPI stated that the issues were either of commercial interest to CBA or already canvassed by another intervenor. These matters dealt with service levels and road safety and compensation issues respectively.

Concerning financial resources, MPI reiterated its position that CBA intervened because of its commercial interests and notwithstanding statements made by CBA, MPI contended that the financial statements of CBA (MBA) clearly show an ability to pay with a year-end surplus of \$19,508 as at August 31, 2001 and an investment fund of \$188,101.

In a letter dated December 14, 2001, CBA responded to MPI's submission noting that, with respect to contribution to the process, the Board Order now requests further investigation into matters raised by CBA including service levels and the safety program. With respect to financial resources, CBA advised that reserves are needed for future expenses and that, CBA does not anticipate any surplus this year. Accordingly, CBA maintained it

is not in a position to pay its legal costs.

Board Finding

In the Board's view, CBA did make a contribution to the proceeding and did contribute to a better understanding of the issues before the Board. However, the Board agrees with MPI that certain aspects of the intervention dealt with matters beyond the scope of the proceeding including the legislative matters referenced above.

With respect to whether CBA has sufficient financial resources, the Board appreciates the position taken by MPI but as in past circumstances, recognizes that where an intervention deviates from the "pure" commercial interest of the intervenor and adds value to the process, the Board will allow partial costs.

In this regard, the Board is satisfied that CBA canvassed an area dealing with service levels that are important to Manitobans and did so in a responsible manner. The Board, therefore will award sixty percent of the applied for costs.

IT IS THEREFORE ORDERED THAT:

1. The Canadian Bar Association (Manitoba Branch) be awarded costs of \$6,070.44 in making its intervention at the Manitoba Public Insurance Corporation's 2002 Insurance Rates Hearing.
2. Costs shall be payable by the Manitoba Public Insurance Corporation within 30 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"G. D. FORREST"
Chairman

"G. O. BARRON"
Secretary

Certified a true copy of Order
No. 3/02 issued by The Public
Utilities Board

Secretary