

MANITOBA) Order No. 7/02
)
THE PUBLIC UTILITIES BOARD ACT) January 10, 2002

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

**APPLICATION BY THE CONSUMERS' ASSOCIATION
OF CANADA (MANITOBA) INC./MANITOBA SOCIETY
OF SENIORS 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 Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors ("CAC/MSOS") applied to the Board, in a letter dated November 27, 2001, (adjusted in a letter dated December 18, 2001) for an award of costs in the amount of \$59,881.45 comprising:

Professional fees:

Legal	\$15,106.00
Consultant	\$39,703.00

Disbursements:

Facsimiles, photocopying, Couriers, etc.	<u>\$ 5,072.45</u>
---	--------------------

Total	<u>\$59,881.45</u>
-------	--------------------

In a letter dated December 13, 2001, MPI, noting that CAC/MSOS meets the criteria for an award of costs, expressed some concern with respect to the escalation in fees over the last three (3) years. MPI maintained that because of this intervenor's ongoing participation in MPI's General Rate Applications and because the issues related to this General Rate Application were, in MPI's view, less complex than in previous years, the consultant's fees ought to have resulted in a reduced fee.

In a letter dated December 21, 2001 CAC/MSOS responded to the comments of MPI's indicating that to the extent that MPI's concern appears to be the amount of time billed by a single member from the consultant group, the reasons for that level of involvement were related to the increased assistance provided to legal Counsel due to time constraints of Counsel, and to the reduced participation by the lead consultant. CAC/MSOS also noted that had it not been for MPI's October 3rd amendment to its Application, the time spent would have been less than last year's GRA.

Board Finding

The Board is satisfied that CAC/MSOS meets the full criteria for an award of costs.

The Board finds that level of fees charged by the consultant are reasonable recognizing the division of labour between the legal and consultant representatives necessitated by workloads, and recognizing that the Corporation's application required a significant update part way through the proceeding requiring a re-examination of a number of issues.

IT IS THEREFORE ORDERED THAT:

1. The Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors be awarded costs of \$59,881.45 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. 7/02 issued by The Public
Utilities Board

Secretary