

MANITOBA) Order No. 105/05
)
THE PUBLIC UTILITIES BOARD ACT) July 7, 2005

BEFORE: Graham F. J. Lane, C.A., Chairman
E. Jorgensen, Member
D. Côté, Member
L. Evans, Member

**APPLICATION BY THE MANITOBA BAR ASSOCIATION
FOR AN AWARD OF COSTS FOR PARTICIPATING IN A
SPECIAL HEARING REGARDING THE CURRENT CLAIMS
COST ATTRIBUTION METHODOLOGY OF MANITOBA
PUBLIC INSURANCE AND THE CONCEPT OF LOSS
TRANSFER IMPLEMENTATION**

The Public Utilities Board (the "Board") held a special public hearing regarding the current claims cost attribution methodology of Manitoba Public Insurance ("MPI") and the concept of Loss Transfer implementation. The hearing was held at the Board's offices in Winnipeg on May 10 through May 12, 2005, and concluded on May 17, 2005.

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 criteria for determining whether costs should be awarded, and the Notice of Public Hearing advised as to these Draft Rules. The criteria are as follows and are used to determine whether an intervener:

1. 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;
2. 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;
3. Insufficient financial resources to present the case adequately without an award of costs; and
4. 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 Bar Association ("MBA") applied to the Board for an award of costs in the amount of \$10,226.94, comprising of legal fees only.

MBA noted that this application did not include fees related to meetings, conversations or correspondence to and from MBA and its representatives or representations to and from the Board, MPI and others. The application also did not include travel time, legal research and the time required to prepare cross-examination of others which were found unnecessary after the cross-examination of other parties.

The fees included 22.3 hours of preparation and 24.4 hours related to appearances at \$190.00 per hour and 3.2 hours related to final argument at a rate of \$170.00 per hour.

MPI took no position on this request for costs.

Board Finding

MBA is well known to the Board because of its participation in other MPI proceedings and accordingly, is satisfied again that MBA meets the of eligibility criteria related to substantial interest in this proceeding and to financial need. The Board is also satisfied that MBA participated in a responsible and co-operative manner and only participated in the hearing to the extent required. When considering the level of contribution, the Board found MBA's participation was within the scope of the proceedings and assisted the Board in a better understanding of the issue before the Board.

Accordingly, the Board will award cost to MBA in full.

In so doing, however, the Board noted that the fee charged for approximately half of the time spent by Council exceeded the tarrif paid by the Board for its own counsel. While the Board noted that Counsel's appearance time is charged out at a higher fee, no fee, in the future, should exceed the tariff for Board counsel.

IT IS THEREFORE ORDERED THAT:

1. The Manitoba Bar Association be awarded costs in the amount of \$10,226.94.
2. Costs shall be payable by the Manitoba Public Insurance within 30 days of the date of this Order.

THE PUBLIC UTILITIES BOARD

"GRAHAM F. J. LANE, C.A."
Chairman

"G. O. BARRON"
Secretary

Certified a true copy of Order
No. 105/05 issued by The Public
Utilities Board

Secretary