



Telecom Order CRTC 2018-74

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Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding that led to Telecom Decision 2018-18

Application

1. By letter dated 16 May 2017, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding that led to Telecom Decision 2018-18 (the proceeding). In the proceeding, the Commission examined Bell Canada's request to expand certain Commission determinations in Telecom Regulatory Policy 2015-326. Bell Canada requested that, among other things, its line-sharing wholesale services be found to be non-essential and forborne.
2. The Commission did not receive any interventions in response to the application for costs.
3. PIAC submitted that it had met the criteria for an award of costs set out in section 68 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) because it represented a group or class of subscribers that had an interest in the outcome of the proceeding, it had assisted the Commission in developing a better understanding of the matters that were considered, and it had participated in a responsible way.
4. In particular, PIAC submitted that it is a non-profit organization that represents consumer interests in the provision of important public services. PIAC noted that in telecommunications matters it typically advocates for equitable access, choice, and affordability of telecommunications services. PIAC further submitted that it assisted the Commission in developing a better understanding of the matters considered in the proceeding through well-researched and structured written comments, notably on the matter of line-sharing, and provided a distinct point of view offered by an organization representing the interests of Canadian telecommunications service users. In regard to the responsible participation criterion, PIAC submitted that it complied with all deadlines in regards to Part 1 applications set out in the Rules of Procedure.
5. PIAC requested that the Commission fix its costs at \$747.00, consisting of internal and external legal fees. In particular, PIAC claimed the following:

- 1.0 working day at the rate of \$600 per day for Ms. Alysia Lau as internal legal counsel; and
 - 2.1 hours at the rate of \$70 per hour for Mr. Ben Segel-Brown as an external articling student.
6. PIAC filed a bill of costs with its application.
 7. PIAC submitted that Bell Canada is the appropriate party to be required to pay any costs awarded by the Commission (the costs respondent).

Commission's analysis and determinations

8. The criteria for an award of costs are set out in section 68 of the Rules of Procedure, which reads as follows:

68. The Commission must determine whether to award final costs and the maximum percentage of costs that is to be awarded on the basis of the following criteria:

 - (a) whether the applicant had, or was the representative of a group or a class of subscribers that had, an interest in the outcome of the proceeding;
 - (b) the extent to which the applicant assisted the Commission in developing a better understanding of the matters that were considered; and
 - (c) whether the applicant participated in the proceeding in a responsible way.
9. In Telecom Information Bulletin 2016-188, the Commission provided guidance regarding how an applicant may demonstrate that it satisfies the first criterion with respect to its representation of interested subscribers. In particular, applicants are required to both identify the specific group of subscriber represented, and describe the methods by which they verified that the views put forward reflect the interests of the group, whether by directly consulting the represented group or by other means, such as research.
10. PIAC did not directly address the information bulletin in its submissions. However, it did identify the group of subscribers it represented, i.e., Canadian telecommunications service customers in general, and vulnerable consumers in particular. Although PIAC did not explain how the positions it presented reflected the interests of these consumers, the Commission considers that direct consultation or research would not necessarily have been practical in the circumstances of the proceeding. Therefore, it was reasonable for PIAC to develop its positions based on its internal expertise. Accordingly, PIAC meets the first criterion set out in paragraph 68(a) of the Rules of Procedure.
11. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's submissions regarding mandating and regulating

line-sharing and its impact on Canadian consumers assisted the Commission in developing a better understanding of the matters that were considered. PIAC was the only consumer group that intervened in the proceeding and it provided concise arguments as to how the interests of Canadian consumers might be affected by Bell Canada's application.

12. In Telecom Order 2017-364, the Commission determined that the articling student was a resource internal to PIAC and that the Coalition¹ was eligible to claim costs for the student's services based on the internal daily rate. The Commission finds that the same determination is appropriate in the present case.
13. The Commission also finds that there are no exceptional circumstances in this case that would justify a deviation from the normal rate scale for costs applicable under the *Guidelines for the Assessment of Costs* (the Guidelines), as set out in Telecom Regulatory Policy 2010-963.
14. PIAC is eligible to claim costs for the articling student using the internal daily rate. The Commission therefore alters the costs for the articling student from \$147.00 to \$117.50, calculated using the daily rate of \$235. The 2.1 hours claimed at the external rate were converted into 0.5 days based on a 7-hour work day, in accordance with the Guidelines.
15. The rates claimed in respect of legal fees for PIAC's internal legal counsel are in accordance with the Guidelines. The Commission finds that the total amount claimed by PIAC, as adjusted above, was necessarily and reasonably incurred and should be allowed.
16. Accordingly, the total legal fees claimed are reduced from \$747.00 to \$717.50.
17. This is an appropriate case in which to fix the costs and dispense with taxation, in accordance with the streamlined procedure set out in Telecom Public Notice 2002-5.
18. Given the small amount of the costs award in this case, it would not be appropriate to name more than one costs respondent.
19. While several parties had a significant interest in the outcome of the proceeding and participated actively in it, the Commission considers that the appropriate costs respondent to PIAC's costs application is Bell Canada.

Directions regarding costs

20. The Commission **approves, with changes**, the application by PIAC for costs with respect to its participation in the proceeding.

¹ In the proceeding leading to Telecom Order 2017-364, the Coalition consisted of the Consumers' Association of Canada, the Council of Senior Citizens' Organizations of British Columbia, the National Pensioners Federation, and PIAC.

21. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$717.50.
22. The Commission **directs** that the award of costs to PIAC be paid forthwith by Bell Canada.

Secretary General

Related documents

- *Bell Canada – Application to modify the provision of various wholesale services*, Telecom Decision CRTC 2018-18, 17 January 2018
- *Determination of costs award with respect to the participation of the Coalition in the proceeding that led to Telecom Regulatory Policy 2017-200*, Telecom Order CRTC 2017-364, 16 October 2017
- *Guidance for costs award applicants regarding representation of a group or a class of subscribers*, Telecom Information Bulletin CRTC 2016-188, 17 May 2016
- *Review of wholesale wireline services and associated policies*, Telecom Regulatory Policy CRTC 2015-326, 22 July 2015; as amended by Telecom Regulatory Policy CRTC 2015-326-1, 9 October 2015
- *Revision of CRTC costs award practices and procedures*, Telecom Regulatory Policy CRTC 2010-963, 23 December 2010
- *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002