



## Telecom Costs Order CRTC 2005-15

Ottawa, 21 November 2005

### **British Columbia Public Interest Advocacy Centre - Application for costs - Telecom Public Notice CRTC 2004-1**

Reference: 8678-C12-200402313 and 4754-250

1. By letter dated 3 October 2005, British Columbia Public Interest Advocacy Centre (BCPIAC) applied for costs on behalf of the British Columbia Old Age Pensioners' Organization, Council of Senior Citizens' Organizations of British Columbia, federated anti-poverty groups of British Columbia, Senior Citizens' Association of British Columbia, West End Seniors' Network, End Legislated Poverty, and Tenants Rights Action Coalition (BCOAPO et al.) with respect to their intervention in the proceeding initiated by *Review and disposition of deferral accounts for the second price cap period*, Public Notice CRTC 2004-1, 24 March 2004 (the PN 2004-1 proceeding).
2. By letters dated 4 October 2005 and 14 October 2005, TELUS Communications Inc. (TELUS) and Aliant Telecom Inc. (Aliant Telecom), Bell Canada, Saskatchewan Telecommunications (SaskTel), and the Société en comandite Télébec (Télébec) (collectively, the Companies) filed comments in response to BCPIAC's application for costs. By letter dated 13 October 2005 Telesat Canada filed comments in response to comments filed by TELUS. BCPIAC did not file reply comments.

#### **The application**

3. BCPIAC submitted that BCOAPO et al. had met the criteria for an award of costs set out in subsection 44(1) of the *CRTC Telecommunications Rules of Procedure* (the Rules) as they represent a group of subscribers that will receive a benefit or suffer a detriment as a result of the PN 2004-1 proceeding, they had participated in a responsible manner and they had contributed to a better understanding of the issues by the Commission through their participation in the PN 2004-1 proceeding.
4. In particular, BCPIAC submitted that BCOAPO et al. represent the interests of consumers, seniors, low-income persons and information rights advocates throughout the Province of British Columbia and that BCOAPO et al. were the only active participants in these proceedings from the Province of British Columbia.
5. BCPIAC requested that the Commission fix its costs at \$7,688.10, consisting of legal fees and disbursements. BCPIAC's claim included the Federal Goods and Services Tax (GST) on fees. BCPIAC filed a bill of costs with its application.
6. BCPIAC claimed 29.3 hours at a rate of \$230 per hour for legal fees for James Quail and \$5.64 for disbursements.

7. BCPIAC submitted that the appropriate costs respondents were Aliant Telecom, Bell Canada, MTS Communications Inc. (now MTS Allstream) (MTS), SaskTel, Télébec and TELUS (collectively, the incumbent local exchange carriers or ILECs).

### **Answer**

8. In answer to the application, the Companies and TELUS stated that they did not object to BCPIAC's application.
9. The Companies and TELUS submitted that, in addition to the ILECs, the appropriate costs respondents were Call-Net Enterprises Inc. (Rogers Communications Inc.), the Canadian Cable Telecommunications Association and Microcell Telecommunications Inc. as they had actively participated in the proceeding and would directly or indirectly benefit from the outcome. TELUS also submitted that Telesat Canada and Xit telecom inc. were also appropriate respondents.
10. Telesat Canada submitted that it was not a proper costs respondent as suggested by TELUS.

### **Commission analysis and determination**

11. The Commission finds that BCOAPO et al. have satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that BCOAPO et al. are representative of a group or class of subscribers that has an interest in the outcome of the proceeding, have participated in a responsible way, and have contributed to a better understanding of the issues by the Commission.
12. The Commission notes that the rates claimed in respect of legal fees are in accordance with the rates set out in the Legal Directorate's *Guidelines for the Taxation of Costs*, revised as of 15 May 1998. The Commission also finds that the total amount claimed by BCPIAC was necessarily and reasonably incurred and should be allowed.
13. The Commission is of the view that this is an appropriate case in which to fix the costs and dispense with taxation, in accordance with the streamlined procedure set out in *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002.
14. The Commission notes that the PN 2004-1 proceeding related to the review and disposition of the deferral accounts associated with the ILECs. The Commission therefore concludes that the appropriate costs respondents to BCPIAC's costs application are the ILECs.
15. The Commission notes that it has, in previous decisions, allocated the responsibility for the payment of costs among respondents on the basis of the respondents' telecommunications operating revenues (TORs), as an indicator of the relative size and interest of the parties involved in the proceeding. The Commission is of the view that, in the present circumstances, it is appropriate to apportion the costs relating to the PN 2004-1 proceeding among the respondents in proportion to their TORs, as reported in their most recent audited financial statements. Accordingly, the Commission finds that the responsibility for the payment of costs should be allocated as follows:

Bell Canada	51%
TELUS	32%
Aliant Telecom	8%
MTS	4%
SaskTel	4%
Télébec	1%

**Direction as to costs**

16. The Commission **approves** the application by BCPIAC for costs with respect to the participation of BCOAPO et al. in the PN 2004-1 proceeding.
17. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to BCPIAC at \$7,688.10.
18. The Commission directs that the award of costs to BCPIAC be paid forthwith according to the proportions set out in paragraph 15.

Secretary General

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