



Telecom Costs Order CRTC 2006-16

Ottawa, 2 November 2006

Application for costs by ARCH – A Legal Resource Centre for Persons with Disabilities – *Reconsideration of Regulatory framework for voice communication services using Internet Protocol, Telecom Decision CRTC 2005-28, Telecom Public Notice CRTC 2006-6*

Reference: 8663-C12-200605587 and 4754-273

1. By letter dated 4 August 2006, ARCH: A Legal Resource for Persons with Disabilities (ARCH) applied for costs with respect to its participation in the proceeding initiated by *Reconsideration of Regulatory framework for voice communication services using Internet Protocol, Telecom Decision CRTC 2005-28, Telecom Public Notice CRTC 2006-6, 10 May 2006* (the Public Notice 2006-6 proceeding).
2. By letter dated 8 August 2006, TELUS Communications Company (TCC) filed comments in response to ARCH's costs application. By letter dated 9 August 2006, Bell Aliant Regional Communications, Limited Partnership, Bell Canada, Saskatchewan Telecommunications, and, Société en commandite Télébec (collectively, the Companies) filed comments in response to the application.

The application

3. ARCH submitted that it has met the criteria for a costs award set out in subsection 44(1) of the *CRTC Telecommunications Rules of Procedure* (the Rules), as it represented the views of subscribers with disabilities who would be materially affected by the outcome of the Public Notice 2006-6 proceeding, it has an interest in the outcome of the Public Notice 2006-6 proceeding, it has participated responsibly and it has contributed to a better understanding of the issues by the Commission through their comments in the Public Notice 2006-6 proceeding.
4. ARCH requested that the Commission fix its costs at \$2,250.00, consisting of legal fees. ARCH did not claim the Federal Goods and Services Tax on the fees.
5. ARCH did not make any representations with regard to the appropriate costs respondents.

Answer

6. In answer to the application, the Companies submitted that they did not object to ARCH's entitlement to costs, nor to the amount claimed. The Companies suggested that the Commission name as costs respondents and allocate the costs in the same manner as it did in the proceeding initiated by *Regulatory framework for voice communication services using Internet Protocol, Telecom Public Notice CRTC 2004-2, 7 April 2004* (Public Notice 2004-2) and cited Telecom Costs Order CRTC 2005-2, 8 August 2005 (Costs Order 2005-2) as an example. The Companies suggested that the costs allocated to the cable companies be divided evenly amongst Cogeco Cable Inc., Quebecor Media Inc., Rogers Communications Inc., and Shaw Communications Inc.

7. TCC submitted that it did not oppose ARCH's entitlement to costs nor the amount claimed. TCC also suggested that the Commission allocate costs in the same manner as it did in the two main Costs Orders relating to Public Notice 2004-2, namely Costs Order 2005-2 and Telecom Costs Order CRTC 2005-4, 19 August 2005 (Costs Order 2005-4).

Commission analysis and determination

8. The Commission finds that ARCH has satisfied the criteria for a costs award set out in subsection 44(1) of the Rules. Specifically, the Commission finds that ARCH is representative of a group or class of subscribers that has an interest in the outcome of the proceeding, has participated in a responsible way and has contributed to a better understanding of the issues by the Commission.
9. 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 finds that the total amount claimed by ARCH was necessarily and reasonably incurred and should be allowed.
10. 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.
11. The Commission is of the view that Costs Orders 2005-2 and 2005-4 do not provide a relevant framework for considering the appropriate costs respondents to ARCH's application. The Commission notes the relatively small amount claimed by ARCH and the potential administrative burden placed upon it if it were to collect from many respondents. The Commission is of the view that an appropriate framework for ARCH's application can be found in Telecom Costs Order CRTC 2005-1, 8 August 2005 which was also issued in relation to the Public Notice 2004-2 proceeding. In that Costs Order, the Commission named the incumbent local exchange carriers as sole costs respondents, since the amount claimed was relatively small and naming many costs respondents would pose an administrative burden on the applicant. Consistent with the Commission's approach to costs generally, the Commission considers that it is appropriate in this instance to limit the number of respondents to the Companies, TCC and MTS Allstream Inc. (MTS Allstream).
12. The Commission notes that it has, in previous decisions, allocated the responsibility for the payment of costs among respondents based on 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 among the respondents in proportion to their TORs, as reported in their most recent audited financial statements. The Commission names the following companies as costs respondents: the Companies, TCC and MTS Allstream. The Commission finds that the responsibility for the payment of costs should be allocated as follows:

the Companies	66%
TCC	24%
MTS Allstream	10%

13. Consistent with its general approach articulated in Telecom Costs Order CRTC 2002-4, 24 April 2002, the Commission makes Bell Canada responsible for payment on behalf of the Companies and leaves it to the Companies to determine the appropriate allocation of the costs among themselves.

Direction as to costs

14. The Commission **approves** the application by ARCH with respect to its participation in the Public Notice 2006-6 proceeding.
15. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to ARCH at \$2,250.00.
16. The Commission directs that the costs award to ARCH be paid forthwith by Bell Canada on behalf of the Companies, TCC and MTS Allstream according to the proportions set out in paragraph 12.

Secretary General

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