



## Telecom Costs Order CRTC 2006-7

Ottawa, 16 June 2006

### **ARCH Disability Law Centre - Application for Costs - CISC Accessibility Issues AD-Hoc Working Group (AIWG)**

Reference: 8663-C12-200402892 and 4754-265

1. By letter dated 2 March 2006, ARCH Disability Law Centre (ARCH) applied for costs with respect to its participation in the CRTC Interconnection Steering Committee (CISC) Accessibility Issues Ad-Hoc Working Group (AIWG).
2. By letter dated 10 March 2006, Aliant Telecom Inc., Bell Canada, Saskatchewan Telecommunications and Société en commandite Télébec (collectively, the Companies) filed comments in response to the application. By letters dated 13 March 2006, TELUS Communications Company (TCC) and Shaw Communications Inc. (Shaw) filed their responses to the application.

#### **The application**

3. ARCH submitted that it met the criteria for an award of costs set out in subsection 44(1) of the *CRTC Telecommunications Rules of Procedure* (the Rules), as it represented a group of subscribers that had an interest in the outcome of the CISC-AIWG deliberations, had participated responsibly and had contributed to a better understanding of the issues.
4. ARCH submitted a bill of costs with its application, claiming a total amount of \$14,539.81. This amount represents \$12,906.25 in legal fees and \$1,633.56 in disbursements.
5. ARCH took no position on the appropriate respondents to its application.

#### **Answer**

6. In answer to the application, Shaw submitted that, while ARCH's participation was responsible and necessary to the exploration of the issues under review by the CISC-AIWG, ARCH's lack of familiarity with CISC process contributed, to a degree, to a longer and broader debate than was originally contemplated by the Commission's direction in *Regulatory framework for voice communication services using Internet Protocol*, Telecom Decision CRTC 2005-28, 12 May 2005. Shaw submitted that the Commission should consider this fact in assessing the quantum for the time and expenses claimed.
7. The Companies objected to the amount claimed for a second year law student in relation to the hourly rate and disbursements, on the basis that the student's participation was primarily a learning experience and the companies should not be required to, effectively, pay for the student's education.

8. With respect to the appropriate respondents and the allocation of costs, Shaw submitted that *Disposition of funds in the deferral accounts*, Telecom Decision CRTC 2006-9, 16 February 2006 (Decision 2006-9) contemplates the use of funds in the incumbent local exchange carriers' (ILECs') deferral accounts for precisely the purpose that necessitated ARCH's active involvement in the CISC-AIWG and that the funds should come from the ILECs' deferral accounts.
9. The Companies submitted that the Commission should identify the same costs respondents and allocate costs in the same proportions as it did for the costs awards in the main voice over Internet protocol (VoIP) proceeding, on the basis that the CISC-AIWG dealt with broad-based social issues that affect the entire telecommunications industry and its users and that in CISC the Companies made significant contributions relating to this important topic. In the Companies' view, to select only those parties who participated in the CISC-AIWG as cost respondents would impose a financial burden on those parties who acted in a socially responsible manner.
10. TCC recommended that the respondents to ARCH's application and the cost allocation methodology should be the same as that adopted by the Commission in *Application for costs by ARCH: A Legal Resource Centre for Persons with Disabilities - Regulatory framework for voice communication services using Internet Protocol*, Telecom Public Notice CRTC 2004-2, Telecom Costs Order CRTC 2005-2, 8 August 2005, and *Application for costs by ARCH: A Legal Resource Centre for Persons with Disabilities - Forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2005-2, Telecom Costs Order CRTC 2006-2, 23 February 2006. Specifically, TCC recommended that the ILECs and MTS Allstream Inc. be responsible for 75% of the costs based on their telecommunications revenues and the cable companies (Rogers Communications Inc. (Rogers), Cogeco Cable Inc. (Cogeco), Bragg Communications Inc., carrying on business as EastLink (EastLink), Quebecor Média Inc. (QMI) and Shaw) be responsible for the remaining 25%.

### **Commission analysis and determination**

11. The Commission finds that ARCH has satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that ARCH represents a group or class of subscribers that has an interest in the outcome of the CISC-AIWG deliberations, has participated in a responsible way, and has contributed to a better understanding of the issues by the Commission.
12. With respect to the Companies' submissions regarding the amounts claimed for the law student, the Commission notes that the application indicates that the law student was an in-house employee and that rates charged for his time were at a midway point between the rates for an Articling Student and a Legal Assistant (\$175.00 per day), according to the Legal Directorate's *Guidelines for Taxation of Costs* (the Guidelines), revised as of 15 May 1998. The Guidelines do not include a classification for someone of his education and experience. The Commission considers that this hourly rate is reasonable. Further, the Commission considers that the disbursements claimed for air travel for a face-to-face meeting for the law student are in accordance with the Guidelines with respect to employees of applicants.

13. The Commission finds that the fees and disbursements claimed are in accordance with the rates set out in the Guidelines.
14. The Commission finds that the total amount claimed was necessarily and reasonably incurred and should be allowed.
15. 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.
16. The Commission does not accept Shaw's submission that the funds to pay ARCH's costs should come from the ILECs' deferral accounts. The Commission considers that awards of costs incidental to Commission proceedings are not within the scope of ILEC programs to improve accessibility to telecommunications services for persons with disabilities contemplated in Decision 2006-9.
17. In determining the appropriate respondents to an award of costs, the Commission has generally looked at which parties are affected by the issues and have actively participated in the proceeding. However, the Commission has also been sensitive to the fact that if too large a number of respondents are named, the applicant may have to collect small amounts from many respondents.
18. Accordingly, the Commission concludes that the appropriate respondents to ARCH's costs application are Bell Canada and TCC (collectively, the respondent ILECs) and Cogeco, QMI, Rogers, EastLink, and Shaw (collectively, the respondent cable companies).
19. Turning to the issue of the proper method of apportioning costs awarded among the respondents, the Commission considers that the respondent ILECs should be responsible for 75% of the costs, based on their telecommunications operating revenues (TORs). The respondent cable companies should be responsible for the remaining 25%.
20. Accordingly, the respondent ILECs are to share \$10,904.86, which represents 75% of the costs awarded, in proportion to their most recent TORs, as follows:

Bell Canada	60%
TCC	40%

21. With respect to the respondent cable companies, the Commission considers that they should equally share \$3,634.95, which represents the remaining 25% of the costs, such that each pays \$726.99.

### **Direction as to costs**

22. The Commission **approves** the application by ARCH for costs with respect to its participation in the CISC-AIWG.

23. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to ARCH at \$14,539.81.
24. The Commission directs that the award of costs to ARCH be paid forthwith by the respondent ILECs and the respondent cable companies according to the proportions set out in paragraphs 20 and 21.

Secretary General

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