



Telecom Costs Order CRTC 2008-20

Ottawa, 7 November 2008

Determination of award of interim costs with respect to the participation of the Canadian Association of the Deaf in the Broadcasting Notice of Public Hearing/ Telecom Public Notice 2008-8 proceeding

Reference: 8665-C12-200807943 and 4754-327

1. By letter dated 1 October 2008, the Canadian Association of the Deaf (CAD) applied for interim costs with respect to its participation in the proceeding initiated by Broadcasting Notice of Public Hearing/Telecom Public Notice 2008-8 (Public Notice 2008-8 proceeding).
2. On 7 October 2008, the Commission addressed CAD's application to Bell Canada and Bell Aliant Regional Communications, Limited Partnership (collectively, the Companies), TELUS Communications Company (TCC), MTS Allstream Inc. (MTS Allstream), and Rogers Communications Inc. (Rogers).
3. On 9 October 2008, the Commission received comments in response to CAD's application from the Companies and TCC, and on 14 October 2008 from Rogers. No comments were filed by MTS Allstream. CAD did not file any reply comments.

Application

4. CAD submitted that it represents a group of subscribers that has an interest in the outcome of the Public Notice 2008-8 proceeding, it will participate responsibly, and it will contribute to a better understanding of the issues by the Commission through its participation. In this regard, CAD noted that it has participated in many other CRTC proceedings in the past, and that it has always contributed responsibly and towards a better understanding of the issues involved. Furthermore, CAD submitted that it does not have the financial resources to participate effectively in the Public Notice 2008-8 proceeding in the absence of an award of interim costs.
5. In particular, CAD submitted that it is aware that the presentation could be made by a video link from the Commission's Vancouver office but that doing so would not be appropriate in the circumstances. CAD explained that given the length and detail of its presentation, as well as its need to be able to monitor the presentations of other parties, it will only be able to participate effectively by having its representative attend the Gatineau hearing in person.
6. CAD estimated its interim costs to be \$3,400, consisting entirely of accommodations and travel expenses for its lawyer in the amounts of \$800 for airfare and \$2,600 for accommodations from 16 to 28 November 2008 (inclusive) at a rate of \$200 per night. CAD filed a statement of estimated interim costs with its application.
7. CAD made no submission as to the appropriate interim costs respondents.

8. CAD requested that in the event that more than one respondent is to be held responsible for interim costs, a single respondent be designated as a payor in full and the others should reimburse that payor. CAD submitted that this would simplify its ability to collect the interim costs awarded.

Answer

9. In response to the application by CAD, the Companies, TCC, and Rogers (collectively, the interim costs respondents) submitted that they did not object to the request by CAD for interim costs nor to the amounts claimed.
10. TCC took issue with the selection by the Commission of the interim costs respondents. TCC submitted that other parties were specifically mentioned in CAD's submissions in this proceeding and, as a result, should also be made respondents to any award of interim costs to CAD. According to TCC, interim costs in this proceeding should be assessed to the same respondents as would be assessed any final costs, namely all telecommunications service providers (TSPs) participating in the Public Notice 2008-8 proceeding and benefiting from CAD's participation. In the alternative, if this were not possible, TCC agreed that interim costs should be awarded against the interim costs respondents, in proportion to their respective shares of telecommunications operating revenues (TORs).
11. The Companies and Rogers agreed that interim costs should be paid by the interim costs respondents, in proportion to their TORs.
12. The interim costs respondents further submitted that their respective shares of interim costs be deducted from the respective amounts that each of them may be liable to pay for CAD's final costs, after the final costs have been allocated to all TSPs listed as interested parties in the Public Notice 2008-8 proceeding, again in proportion to their respective shares of TORs.
13. Finally, the interim cost respondents disagreed with CAD's proposal that a single respondent be designated a payor and the other respondents reimburse the designated payor. The interim costs respondents submitted that given the amount of interim costs claimed and the small number of interim costs respondents, collecting interim costs directly from each of them should not be overly burdensome.

Reply

14. CAD provided no reply to the interim costs respondents' submissions.

Commission's analysis and determinations

15. The Commission finds that CAD has satisfied the criteria for an award of interim costs set out in subsection 45(1) of the *CRTC Telecommunications Rules of Procedure* (the Rules). The Commission is satisfied that CAD is representative of a class of subscribers that has an interest in the outcome of the Public Notice 2008-8 proceeding and that CAD does not have the financial resources to participate effectively in the absence of an award of interim costs. Furthermore, based on CAD's past participation in Commission hearings, as well as CAD's

submissions and responses to interrogatories in the present proceeding to date, the Commission is satisfied that it will participate responsibly and will contribute to a better understanding of the issues by the Commission.

16. Furthermore, in response to CAD's submission that it cannot participate effectively via video-conference, the Commission recognizes the necessity of counsel for CAD to be able to communicate effectively with members of the group he represents as well as interact effectively with the other participants in the Public Notice 2008-8 proceeding.
17. The Commission considers that this is an appropriate case in which to fix the maximum interim costs awardable.
18. With regard to the appropriate respondents to this award of interim costs, the Commission notes the small amount claimed by CAD and the need for CAD to be able to collect the interim costs awarded in a timely manner so as to be able to participate effectively in the Public Notice 2008-8 proceeding. In the circumstances, the Commission considers it appropriate to limit the interim costs respondents to the Companies, TCC, MTS Allstream, and Rogers.
19. The Commission considers that, in the present circumstances, it is appropriate to apportion the interim costs 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 interim costs should be allocated as follows:

The Companies	49.3%
TCC	36.4%
MTS Allstream	7.4%
Rogers	6.9%

20. Although the Commission takes note of CAD's submission that a single respondent be designated a payor, given the small number of interim cost respondents, collecting interim costs directly from each of them should not be overly burdensome.
21. The Commission notes that Bell Canada has filed submissions in the Public Notice 2008-8 proceeding on behalf of the Companies. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for payment on behalf of the Companies and leaves it to them to determine the appropriate allocation of the interim costs among themselves.

Direction as to costs

22. The Commission **approves** the application by CAD for interim costs with respect to its participation in the Public Notice 2008-8 proceeding.

23. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the interim costs to be paid to CAD at a maximum of \$3,400.
24. CAD is to submit a maximum of two accounts for expenses incurred to the interim costs respondents and to the Commission. The accounts are to be accompanied by an affidavit of disbursements and supporting documents.
25. The Commission directs that the award of interim costs to CAD be paid within five days of receipt of the account by the interim costs respondents according to the proportions set out in paragraph 19 of this Order.
26. CAD is directed to file an application for final costs, along with the additional documentation required by subsection 45(4) of the Rules, no later than 10 days after the close of the record in the Public Notice 2008-8 proceeding or as otherwise directed by the Commission during the course of the Public Notice 2008-8 proceeding or upon its closing.

Secretary General

Related documents

- *Notice of consultation – Unresolved issues related to the accessibility of telecommunications and broadcasting services to persons with disabilities*, Broadcasting Notice of Public Hearing CRTC 2008-8/Telecom Public Notice CRTC 2008-8, 10 June 2008, as amended by Broadcasting Notice of Public Hearing CRTC 2008-8-1/Telecom Public Notice CRTC 2008-8-1, 24 July 2008, and Broadcasting Notice of Public Hearing CRTC 2008-8-2/Telecom Public Notice CRTC 2008-8-2, 17 October 2008
- *Action Réseau Consommateur, the Consumers' Association of Canada, Fédération des associations coopératives d'économie familiale and the National Anti-Poverty Organization application for costs – Public Notice CRTC 2001-60*, Telecom Costs Order CRTC 2002-4, 24 April 2002

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