



## Telecom Costs Order CRTC 2008-26

Ottawa, 22 December 2008

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre, on behalf of the Consumers' Association of Canada and the National Anti-Poverty Organization, in the Telecom Public Notice 2008-7 proceeding**

Reference: 8665-C12-200807828 and 4754-328

1. By letter dated 3 October 2008, the Public Interest Advocacy Centre (PIAC) applied for costs on behalf of the Consumers' Association of Canada and the National Anti-Poverty Organization (the Consumer Groups) with respect to their participation in the proceeding initiated by Telecom Public Notice 2008-7 (the Public Notice 2008-7 proceeding).
2. On 9 October 2008, Bell Canada, on behalf of itself and Bell Aliant Regional Communications, Limited Partnership, Saskatchewan Telecommunications, and Télébec, Limited Partnership (collectively, the Companies), filed comments in response to the application by PIAC. PIAC did not file reply comments.

### **Application**

3. PIAC submitted that the Consumer Groups 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 had an interest in the outcome of the Public Notice 2008-7 proceeding, they had participated responsibly, and they had contributed to a better understanding of the issues by the Commission through their participation in the Public Notice 2008-7 proceeding.
4. PIAC requested that the Commission fix its costs at \$19,908.29, consisting of legal fees. PIAC's claim included the federal Goods and Services Tax (GST) on fees less the rebate to which PIAC is entitled in connection with the GST. PIAC filed a bill of costs with its application.
5. PIAC claimed 65 hours at a rate of \$250 per hour for legal fees associated with outside legal counsel, and 96 hours at a rate of \$235 per day for legal fees associated with an articling student.
6. PIAC made no submission as to the appropriate costs respondents.

### **Answer**

7. In response to the application, the Companies stated that they had no objection to PIAC's eligibility for costs nor to the amounts claimed. The Companies submitted that any costs awarded should be allocated among the costs respondents in proportion to each respondent's relative share of telecommunications operating revenues (TORs).

## Reply

8. PIAC did not file reply comments.

### Commission's analysis and determinations

9. The Commission finds that the Consumer Groups have satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that the Consumer Groups are representative of a group or class of subscribers that has an interest in the outcome of the proceeding, they have participated in a responsible way, and they have contributed to a better understanding of the issues by the Commission.
10. The Commission notes that the rates claimed in respect of outside legal counsel and an in-house articling student are in accordance with the rates set out in the Legal Directorate's *Guidelines for the Taxation of Costs*, revised as of 24 April 2007. However, the Commission notes that there was a mathematical error in calculating the amount claimed for claimant Karen Lam and that the correct amount is \$3,083.20, not \$3,303.29. As a result, the Commission considers that the correct total amount claimed is \$19,688.20. The Commission finds that this revised total amount claimed by PIAC was necessarily and reasonably incurred and should be allowed.
11. The Commission considers 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 Telecom Public Notice 2002-5.
12. The Commission finds that the appropriate respondents to PIAC's costs application are the Companies, TELUS Communications Company (TCC), and MTS Allstream Inc. (MTS Allstream).
13. 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' TORs, as an indicator of the relative size and interest of the parties involved in the proceeding. The Commission considers 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. Accordingly, the Commission finds that the responsibility for the payment of costs should be allocated as follows:

The Companies	55%
TCC	37%
MTS Allstream	8%

14. The Commission notes that Bell Canada filed submissions in the Public Notice 2008-7 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 the members of the Companies to determine the appropriate allocation of the costs among themselves.

## **Direction as to costs**

15. The Commission **approves** the application by PIAC, on behalf of the Consumer Groups, for costs with respect to their participation in the Public Notice 2008-7 proceeding, as revised in paragraph 10.
16. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$19,688.20.
17. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Canada on behalf of the Companies, TCC, and MTS Allstream, according to the proportions set out in paragraph 13.

Secretary General

## **Related documents**

- *Review of the regulatory requirements to provide information to customers using various means of communication in light of Telecom Decision 2008-34, Telecom Public Notice CRTC 2008-7, 9 June 2008*
- *New procedure for Telecom costs awards, Telecom Public Notice CRTC 2002-5, 7 November 2002*
- *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*

*This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*