



## Telecom Costs Order CRTC 2008-4

Ottawa, 21 May 2008

### **Determination of costs award with respect to the participation of Centre québécois de la déficience auditive in the Telecom Public Notice 2006-15 proceeding**

Reference: 8678-C12-200615578 and 4754-304

1. By letter dated 12 October 2007, Centre québécois de la déficience auditive (CQDA) applied for costs with respect to its participation in the proceeding initiated by Telecom Public Notice 2006-15 (the Public Notice 2006-15 proceeding).
2. On 22 October 2007, Saskatchewan Telecommunications (SaskTel) filed comments in response to CQDA's application. On 15 October 2007, TELUS Communications Company (TCC) and Bell Canada, on behalf of itself and Bell Aliant Regional Communications, Limited Partnership (collectively, the Companies) filed comments. CQDA filed further detailed information on 6 February 2008.

### **Application**

3. CQDA submitted that it 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 it represents a group of subscribers that had an interest in the outcome of the Public Notice 2006-15 proceeding, it had participated responsibly, and it had contributed to a better understanding of the issues by the Commission through its participation in the Public Notice 2006-15 proceeding.
4. CQDA requested that the Commission fix its costs at \$32,557.50 consisting of \$32,395.00 for in-house analyst fees, and \$162.50 for disbursements. CQDA's claim did not include the federal Goods and Services Tax (GST). CQDA filed a bill of costs with its application.
5. CQDA made no submission as to the appropriate costs respondents.

### **Answer**

6. In response to the application, TCC and the Companies supported CQDA's entitlement to costs but questioned the amount claimed. Both TCC and the Companies submitted that the amount claimed by CQDA was excessive both in absolute terms and when compared to the amount claimed by similarly situated interveners. They also submitted that, given that CQDA and the Centre de communications adaptées (CCA) made many of their submissions jointly, there was little evidence in the costs claims of these organizations of the efficiencies one would expect from joint submissions.
7. SaskTel made no comment as to the entitlement of CQDA or the amount, but submitted that it should not be included as a costs respondent as CQDA's discussions related to service offered in Quebec.

## Reply

8. Although CQDA did not file a reply to the concerns raised by TCC and the Companies, it did file a detailed accounting of the time dockets for its in-house analysts as requested.

### Commission's analysis and determinations

9. The Commission finds that CQDA has satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that CQDA is representative of a group or class of subscribers that has an interest in the outcome of the proceeding, it has participated in a responsible way, and it has contributed to a better understanding of the issues by the Commission.
10. The Commission notes, however, that the rates claimed in respect of in-house analyst fees are not in accordance with the rates set out in the Legal Directorate's *Guidelines for the Taxation of Costs*, revised as of 24 April 2007 (the Guidelines). In particular, CQDA has claimed its costs for Denise Desrosiers and Martin Bergevin, both identified as in-house analysts, on an hourly basis. According to the Guidelines, costs applicants may claim a daily rate for in-house analysts of \$470.00 per 7 hour day with no additional amount given for days in which more than 7 hours of work were spent on the proceeding and claims to be reduced using quarter-day increments for days in which fewer than 7 hours are worked. The Commission also notes that the number of hours allocated to each analyst in the detailed breakdown provided by CQDA is significantly less than the number of hours originally claimed in the application for costs. Accordingly, the Commission has calculated the amount of the costs award in accordance with the rates for in-house analysts with the hours identified by CQDA rounded up or down as the case may be to ¼ day increments and on the basis of the detailed breakdown provided by CQDA.
11. On the basis of this calculation, the total claim, including disbursements should, therefore, be \$11,442.50. The Commission finds that this revised amount is reasonable when compared to the amounts claimed by similarly situated interveners and that it was necessarily and reasonably incurred and should, therefore, be allowed.
12. 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.
13. 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. Given that the issue in this proceeding is the incumbent local exchange carriers' (ILECs) deferral accounts, for which the Commission directed the ILECs to file proposals for broadband expansion and initiatives to improve accessibility and that CQDA's submissions related only to accessibility initiatives in Quebec, the Commission considers that the appropriate respondents to CQDA's costs application are the ILECs who have proposed to use deferral account funds for accessibility initiatives in Quebec, namely the Companies and TCC.
14. 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 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	61%
TCC	39%

15. The Commission notes that Bell Canada filed submissions in the Public Notice 2006-15 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**

16. The Commission **approves** the application by CQDA for costs with respect to its participation in the Public Notice 2006-15 proceeding.
17. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to CQDA at \$11,442.50.
18. The Commission directs that the award of costs to CQDA be paid forthwith by Bell Canada and TCC according to the proportions set out in paragraph 14.

Secretary General

### **Related documents**

- *Review of Proposals to dispose of the funds accumulated in the deferral accounts*, Telecom Public Notice CRTC 2006-15, 30 November 2006
- *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>*