



Telecom Order CRTC 2009-655

Ottawa, 16 October 2009

Determination of costs award with respect to the participation of the Canadian Association of the Deaf in the Telecom Notice of Consultation 2009-6 proceeding

File numbers: 8661-C12-200900094 and 4754-350

1. By letter dated 10 March 2009, the Canadian Association of the Deaf (CAD) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2009-6 (the Notice of Consultation 2009-6 proceeding).
2. The Commission did not receive any comments in response to CAD's application.

Application

3. In its application, CAD 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 Notice of Consultation 2009-6 proceeding, it had participated responsibly, and it had contributed to a better understanding of the issues by the Commission through its participation in the Notice of Consultation 2009-6 proceeding.
4. CAD requested that the Commission fix its costs at \$1,827, consisting of legal fees and the federal Goods and Services Tax on fees. CAD claimed six hours at a rate of \$290 per hour for legal fees associated with outside legal counsel.
5. CAD made no submission as to the appropriate costs respondents.

Commission's analysis and determinations

6. The Commission finds that CAD has satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that CAD 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.
7. 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 24 April 2007. The Commission also finds that the total amount claimed by CAD was necessarily and reasonably incurred and should be allowed.
8. 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.

9. The Commission notes that it has generally determined that the appropriate respondents to an award of costs are the parties who have a significant interest in the outcome of the proceeding and have participated actively in the proceeding. The Commission notes, in this regard, that Cogeco Cable Inc. was among the parties that actively participated in the Notice of Consultation 2009-6 proceeding and had a significant interest in its outcome.
10. The Commission further notes, however, that in allocating costs among respondents, it 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, resulting in a significant administrative burden to the applicant.
11. In light of the above and given the relatively small size of the costs award in this case, the large number of potential costs respondents, and the result that if all potential costs respondents were retained, CAD would be required to collect small amounts from certain respondents. Accordingly, the Commission considers that it is appropriate, in the present circumstances, to limit the respondents to MTS Allstream Inc. (MTS Allstream), Quebecor Media Inc. (Quebecor), Rogers Communications Inc. (RCI), and TELUS Communications Company (TCC).
12. 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:

TCC	67.5%
MTS Allstream	13.0%
RCI	13.0%
Quebecor	6.5%

Direction as to costs

13. The Commission **approves** the application by CAD for costs with respect to its participation in the Notice of Consultation 2009-6 proceeding.
14. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to CAD at \$1,827.
15. The Commission directs that the award of costs to CAD be paid forthwith by MTS Allstream, Quebecor, RCI, and TCC according to the proportions set out in paragraph 12.

Secretary General

Related documents

- *Call for comments on a proposed model tariff for the 9-1-1 emergency response service offered by competitive local exchange carriers*, Telecom Notice of Consultation CRTC 2009-6, 8 January 2009
- *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002

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