



## Telecom Order CRTC 2010-178

Ottawa, 24 March 2010

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the Telecom Notice of Consultation 2009-575 proceeding**

File numbers: 8663-C12-200912437 and 4754-362

1. By letter dated 22 December 2009, the Public Interest Advocacy Centre (PIAC), on behalf of the Consumers' Association of Canada and Canada Without Poverty (collectively, the Consumer Groups), applied for costs with respect to their participation in the proceeding initiated by Telecom Notice of Consultation 2009-575 (the proceeding).
2. On 5 January 2010, TELUS Communications Company (TCC) filed comments in response to PIAC's application. PIAC did not file any 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 proceeding, they had participated responsibly, and they had contributed to a better understanding of the issues by the Commission through their participation in the proceeding.
4. PIAC requested that the Commission fix the Consumer Groups' costs at \$7,520.42, which consists of legal fees. The Consumer Groups' claim included the federal Goods and Services Tax (GST) on fees less the rebate to which the Consumer Groups are entitled in connection with the GST. A bill of costs was filed with the application.
5. PIAC made no submission as to the appropriate costs respondents.

#### **Answer**

6. TCC did not object to the Consumer Groups' entitlement to costs or the amount claimed. TCC submitted that in addition to itself, Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies); the Canadian Independent Telephone Company Joint Task Force (CITC-JTF); MTS Allstream Inc. (MTS Allstream); Northwestel Inc. (Northwestel); Rogers Communications Inc. (RCI); and Saskatchewan Telecommunications (SaskTel) should be named as costs respondents. TCC argued that each of the above parties had participated in the proceeding and had a significant interest in its outcome. TCC further submitted that costs should be allocated among the costs respondents in proportion to their respective share of telecommunications operating revenues.

## **Commission's analysis and determinations**

7. 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 represented groups or classes of subscribers that had interest in the outcome of the proceeding, they participated responsibly, and they contributed to a better understanding of the issues by the Commission.
8. The Commission notes that the rates claimed in respect of legal fees are in accordance with the rates set out in the Commission's 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 the Consumer Groups was necessarily and reasonably incurred and should be allowed.
9. 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.
10. 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. The Commission notes, in this regard, that the following parties actively participated in the proceeding and had a significant interest in its outcome: the Bell companies, TCC, MTS Allstream, RCI, SaskTel, Northwestel, and the various small incumbent local exchange carriers represented in the proceeding by the CITC-JTF.
11. 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.
12. 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, PIAC, on behalf of the Consumer Groups, would be required to collect small amounts from certain respondents, the Commission considers that it is appropriate, in the present circumstances, to limit the respondents to the Bell companies, TCC, MTS Allstream, RCI, and SaskTel.
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' telecommunications operating revenues, 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 telecommunications operating revenues, 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 Bell companies	45%
TCC	37%
MTS Allstream	7%
RCI	7%
SaskTel	4%

14. The Commission notes that the Bell companies filed joint submissions in the proceeding. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for payment on behalf of the Bell companies, and leaves it to the Bell 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 proceeding.
16. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to the Consumer Groups at \$7,520.42.
17. The Commission directs that the award of costs to the Consumer Groups be paid forthwith by Bell Canada on behalf of the Bell companies, TCC, MTS Allstream, RCI and SaskTel, according to the proportions set out in paragraph 13.

Secretary General

### **Related documents**

- *Call for comments – Identification, scope, and prioritization of issues regarding obligation to serve, basic service objective, and local subsidy regime*, Telecom Notice of Consultation CRTC 2009-575, 11 September 2009
- *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

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