



## Telecom Order CRTC 2010-32

Ottawa, 25 January 2010

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the Telecom Notice of Consultation 2009-303 proceeding**

File numbers: 8657-C12-200907751 and 4754-353

1. By letter dated 3 July 2009, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2009-303 (the proceeding).
2. The Commission did not receive any comments in response to the application.

#### **Application**

3. PIAC 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) because it represents a body of subscribers that had an interest in the outcome of the proceeding, it had participated responsibly, and it had contributed to a better understanding of the issues by the Commission through its participation in the proceeding.
4. PIAC requested that the Commission fix its costs at \$5,291.05, consisting entirely 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 made no submission as to the appropriate costs respondents.

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

6. The Commission finds that PIAC has satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that PIAC represented a group or class of subscribers that had an interest in the outcome of the proceeding, participated in a responsible way, and 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 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 PIAC 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. 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 that the following parties actively participated in

the proceeding and had a significant interest in its outcome: Bell Canada, the Canadian Cable Systems Alliance Inc., Ciel Satellite Limited Partnership, Globalive Wireless Management Corp., MTS Allstream Inc. (MTS Allstream), Rogers Communications Inc. (RCI), Shaw Communications Inc. (Shaw), and TELUS Communications Company (TCC).

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 Commission considers that it is appropriate to limit the respondents to Bell Canada, MTS Allstream, RCI, Shaw, and TCC.
12. The Commission notes that in previous decisions it has 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. In calculating TORs, the Commission considers it appropriate to include wireless revenues, because the proceeding dealt with ownership and control reviews under the *Telecommunications Act* (the Act) that apply to both wireless and non-wireless entities. Accordingly, the Commission finds that responsibility for the payment of costs should be allocated as follows:

Bell Canada	36%
TCC	29%
RCI	26%
MTS Allstream	6%
Shaw	3%

### **Direction as to costs**

13. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
14. Pursuant to subsection 56(1) of the Act, the Commission fixes the costs to be paid to PIAC at \$5,291.05.
15. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Canada, MTS Allstream, RCI, Shaw, and TCC according to the proportions set out in paragraph 12.

Secretary General

## Related documents

- *Call for comments – Canadian ownership and control review procedure under section 16 of the Telecommunications Act*, Telecom Notice of Consultation CRTC 2009-303, 22 May 2009
- *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002

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