



Telecom Order CRTC 2011-505

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Ottawa, 17 August 2011

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the Broadcasting and Telecom Notice of Consultation 2011-192 proceeding

File numbers: 8663-C12-201104926 and 4754-386

1. By letter dated 3 June 2011, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by Broadcasting and Telecom Notice of Consultation 2011-192 (the proceeding).
2. On 13 June 2011, Bell Canada filed an intervention in response to PIAC's application, on behalf of itself; Bell Aliant Regional Communications, Limited Partnership (Bell Aliant); Télébec, Limited Partnership (Télébec); and their respective affiliates (collectively, Bell Canada et al.). PIAC did not file any reply comments.

Application

3. PIAC submitted that it had met the criteria for an award of costs set out in section 68 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* SOR/2010-277 (the Rules of Procedure) because it represented a group of subscribers that had an interest in the outcome of the proceeding, it had assisted the Commission in developing a better understanding of the matters that were considered, and it had participated in a responsible way.
4. PIAC requested that the Commission fix its costs at \$4,365.48, consisting entirely of legal fees for outside counsel (John Lawford). PIAC's claim included the Ontario Harmonized Sales Tax (HST) on fees, less the rebate to which PIAC is entitled in connection with the HST. PIAC filed a bill of costs with its application.
5. PIAC claimed 16.8 hours at a rate of \$250 per hour for Mr. Lawford's legal fees.
6. PIAC submitted that the following are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents): Bell Canada et al.; Quebecor Media Inc., on behalf of its affiliate Videotron Ltd. (Videotron); Bragg Communications Inc., operating as EastLink (EastLink); Rogers Communications Partnership (RCP); Saskatchewan Telecommunications (SaskTel); and TELUS Communications Company (TCC).

Answer

7. Bell Canada et al. did not object to PIAC's entitlement to costs or to the amount claimed.
8. With respect to the allocation of costs, Bell Canada et al. submitted that all telecommunications service providers that were parties to the proceeding should be named as costs respondents, with responsibility for costs allocated in proportion to their respective share of telecommunications operating revenues (TORs).¹

Commission's analysis and determinations

9. The Commission finds that PIAC has satisfied the criteria for an award of costs set out in section 68 of the Rules of Procedure. Specifically, the Commission finds that PIAC represented a group or class of subscribers that had an interest in the outcome of the proceeding, it assisted the Commission in developing a better understanding of the matters that were considered, and it participated in a responsible way.
10. The Commission notes that the rates claimed in respect of legal fees associated with outside legal counsel are in accordance with the rates established in the Commission's *Guidelines for the Assessment of Costs* (the Guidelines), as set out in Telecom Regulatory Policy 2010-963. The Commission finds that the 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. In determining the appropriate costs respondents, the Commission has generally considered 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: Bell Canada et al.; Cogeco Cable Inc. (Cogeco); EastLink; MTS Allstream Inc. (MTS Allstream); RCP; SaskTel; Shaw Communications Inc. (Shaw); TBayTel; TCC; and Videotron.
13. The Commission further notes, however, that in allocating costs among costs respondents, it has also been sensitive to the fact that if numerous costs respondents are named, the applicant may have to collect small amounts from many costs respondents, resulting in a significant administrative burden to the applicant.
14. In light of the above, and given the relatively small size of the costs award and the large number of potential costs respondents in this case, the Commission considers that, consistent with section 48 of the Guidelines, it is appropriate to limit the costs

¹ TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

respondents to Bell Canada et al., MTS Allstream, RCP, SaskTel, Shaw, TCC, and Videotron.

15. The Commission notes that it generally allocates the responsibility for payment of costs among costs respondents based on their 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 costs respondents in proportion to their TORs, based on their most recent audited financial statements. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

Bell Canada et al.	32%
TCC	27.2%
RCP	25.8%
MTS Allstream	5.2%
Shaw	3.7%
Videotron	3.1%
SaskTel	3%

16. The Commission notes that Bell Canada filed submissions in the proceeding on behalf of Bell Canada et al. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for payment on behalf of Bell Canada et al., and leaves it to the members of Bell Canada et al. to determine the appropriate allocation of the costs among themselves.

Directions regarding costs

17. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$4,365.48.
19. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Canada on behalf of Bell Canada et al., by MTS Allstream, by RCP, by Shaw, by SaskTel, by TCC, and by Videotron, according to the proportions set out in paragraph 15.

Secretary General

Related documents

- *Call for comments on issues related to customer/carrier services groups*, Broadcasting and Telecom Notice of Consultation CRTC 2011-192, 18 March 2011
- *Revision of CRTC costs award practices and procedures*, Telecom Regulatory Policy CRTC 2010-963, 23 December 2010
- *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