



## Telecom Order CRTC 2011-688

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Ottawa, 4 November 2011

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the Telecom Notice of Consultation 2011-77 proceeding**

File numbers: 8661-C12-201102350 and 4754-391

1. By letter dated 25 August 2011, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2011-77 (the proceeding).
2. On 6 September 2011, Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies) filed a response to PIAC's application. PIAC did not file a reply.

#### **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* (the Rules of Procedure) because it represented a group or class 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 \$58,602.39, consisting of \$57,592.11 for legal fees, \$237.28 for in-house articling student fees, and \$773.00 for disbursements. PIAC filed a bill of costs with its application.
5. PIAC submitted that the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents) are all corporate parties that participated in the proceeding, except for those that would be responsible for paying less than \$100 of the total costs award.
6. PIAC suggested that the responsibility for payment of costs should be divided among the costs respondents on the basis of their telecommunications operating revenues (TORs).<sup>1</sup>

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

## Answer

7. In response to the application, the Bell companies did not object to PIAC's entitlement to costs nor to the amounts claimed. They submitted that costs should be allocated among all telecommunications service providers that were parties to the proceeding, in proportion to their respective share of TORs.

## Commission's analysis and determinations

8. 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 matters that were considered, and it participated in a responsible way.
9. The Commission notes that the rates claimed in respect of legal fees, articling student fees, and disbursements are in accordance with the rates established in the Commission's *Guidelines for the Assessment of Costs*, 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.
10. 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.
11. The Commission finds that the appropriate costs respondents to PIAC's application for costs are the Bell companies, Cogeco Cable Inc. (Cogeco), Distributel Communications Limited, MTS Allstream Inc. (MTS Allstream), Primus Telecommunications Canada Inc. (Primus), Quebecor Media Inc. on behalf of its affiliate Videotron G.P. (QMI), Rogers Communications Partnership (RCP), Saskatchewan Telecommunications (SaskTel), Shaw Cablesystems G.P. (Shaw), and TELUS Communications Company (TCC).
12. 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 companies	30.0%
TCC	27.1%
RCP	27.0%
MTS Allstream	5.0%
QMI	3.6%
SaskTel	3.0%
Shaw	2.6%

Cogeco	1.0%
Primus	0.7%

13. The Commission notes that Bell Canada filed submissions in the proceeding on behalf of the Bell 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 Bell companies and leaves it to the members of the Bell companies to determine the appropriate allocation of the costs among themselves.

### **Directions regarding costs**

14. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
15. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$58,602.39.
16. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Canada on behalf of the Bell companies, by TCC, by RCP, by MTS Allstream, by QMI, by SaskTel, by Shaw, by Cogeco, and by Primus, according to the proportions set out in paragraph 12.

Secretary General

### **Related documents**

- *Review of billing practices for wholesale residential high-speed access services*, Telecom Notice of Consultation CRTC 2011-77, 8 February 2011, as amended by Telecom Notice of Consultation CRTC 2011-77-1, 17 March 2011, and Telecom Notice of Consultation CRTC 2011-77-2, 8 April 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