



## Telecom Order CRTC 2012-177

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Ottawa, 26 March 2012

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by the Part I application by Bell Aliant Regional Communications, Limited Partnership and Télébec, Limited Partnership, to modify the price ceiling applicable to residential primary exchange services in non-high-cost serving areas where residential local exchange services are regulated**

File numbers: 8678-B54-201113620 and 4754-395

1. By letter dated 8 December 2011, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by the Part I application submitted by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant) and Télébec, Limited Partnership (Télébec) [collectively, the Companies], to modify the price ceiling applicable to residential primary exchange services in non-high-cost serving areas where residential local exchange services are regulated.
2. On 13 December 2011, the Companies filed an intervention in 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 \$2,258.62, consisting entirely of legal fees. 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 submitted that the Companies are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).

## Answer

6. In response to the application, the Companies did not object to PIAC's eligibility for costs or to the amount claimed. However, the Companies submitted that Bell Canada, MTS Allstream, and TELUS Communications Company (TCC) should be included as costs respondents, due to their interest in the Commission's decision and active participation in the proceeding. The Companies also submitted that PIAC's costs should be allocated in proportion to each company's respective share of telecommunications operating revenues (TORs),<sup>1</sup> in accordance with the *Guidelines for the Assessment of Costs* (the Guidelines), as set out in Telecom Regulatory Policy 2010-963.

## Commission's analysis and determinations

7. 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.
8. The Commission notes that the rates claimed in respect of legal fees are in accordance with the rates established in the Guidelines. The Commission finds that the total amount claimed by PIAC 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. The Commission notes that it has generally determined that the appropriate costs respondents to an award of costs are the parties that have a significant interest in the outcome of the proceeding in question and have participated actively in that proceeding. The Commission considers that the following parties had a significant interest in the outcome of the proceeding and participated actively throughout the proceeding: Bell Aliant, Bell Canada, MTS Allstream, TCC, and Télébec.
11. 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 some costs 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, and the fact that the proceeding was initiated by a Part I application filed by the Companies, the Commission considers that, consistent with section 48 of the Guidelines, it is appropriate to limit the costs respondents to the Companies.

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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.

13. 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 Aliant	89.5%
Télébec	10.5%

### **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 \$2,258.62.
16. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Aliant and Télébec according to the proportions set out in paragraph 13.

Secretary General

### **Related documents**

- *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