



Telecom Order CRTC 2012-564

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Ottawa, 16 October 2012

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre, Canada Without Poverty, and the Consumers' Association of Canada in the Telecom Notice of Consultation 2012-206 proceeding

File numbers: 8661-C12-201204057, 8620-R28-201202598, 8661-P8-201116807,
and 4754-402

1. By letter dated 16 May 2012, the Public Interest Advocacy Centre (PIAC), on behalf of itself, Canada Without Poverty, and the Consumers' Association of Canada (collectively PIAC et al.), applied for costs with respect to their participation in the proceeding initiated by Telecom Notice of Consultation 2012-206 (the proceeding).
2. The Commission did not receive any interventions in response to the application.

Application

3. PIAC et al. submitted that they 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 they represented a group or class of subscribers that had an interest in the outcome of the proceeding, they had assisted the Commission in developing a better understanding of the matters that were considered, and they had participated in a responsible way.
4. PIAC et al. requested that the Commission fix their costs at \$9,478.21, consisting entirely of legal fees. PIAC et al.'s claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which PIAC et al. are entitled in connection with the HST. PIAC et al. filed a bill of costs with their application.
5. PIAC et al. submitted that all corporate participants that made submissions during the proceeding are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).
6. PIAC et al. suggested that the responsibility for payment of costs should be divided among the costs respondents based on their telecommunications operating revenues (TORs)¹ and in accordance with paragraph 48 of the *Guidelines for the Assessment of Costs* (the Guidelines), as set out in Telecom Regulatory Policy 2010-963.

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

Commission's analysis and determinations

7. The Commission finds that PIAC et al. have satisfied the criteria for an award of costs set out in section 68 of the Rules of Procedure. Specifically, the Commission finds that PIAC et al. represented a group or class of subscribers that had an interest in the outcome of the proceeding, they assisted the Commission in developing a better understanding of the matters that were considered, and they 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 et al. 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 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; Bragg Communications Inc., operating as EastLink; Data & Audio-Visual Enterprises Wireless Inc., operating as Mobilicity; Globalive Wireless Management Corp., operating as WIND Mobile; MTS Inc. and Allstream Inc. (MTS and Allstream); Public Mobile Inc.; Quebecor Media Inc., on behalf of its affiliate Videotron G.P. (Videotron); Rogers Communications Partnership (RCP); Saskatchewan Telecommunications; Shaw Communications Inc. (Shaw); and TELUS Communications Company (TCC).
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 many costs respondents, resulting in a significant administrative burden to the applicant. 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 respondents to Bell Canada, MTS and Allstream, RCP, Shaw, TCC, and Videotron.
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 as reported to the Commission. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

TCC	31.0%
RCP	29.7%
Bell Canada	24.5%
MTS and Allstream	5.4%
Shaw	5.0%
Videotron	4.4%

13. The Commission notes that MTS and Allstream filed joint submissions in this proceeding. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes MTS Inc. responsible for payment on behalf of the MTS and Allstream, and leaves it to MTS and Allstream to determine the appropriate allocation of the costs among themselves.

Directions regarding costs

14. The Commission **approves** the application by PIAC et al. for costs with respect to their participation in the proceeding.
15. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC et al. at \$9,478.21.
16. The Commission directs that the award of costs to PIAC et al. be paid forthwith by TCC, RCP, Bell Canada, MTS and Allstream, Shaw and Videotron, according to the proportions set out in paragraph 12.

Secretary General

Related documents

- *Proceeding to consider whether the conditions in the Canadian wireless market have changed sufficiently to warrant Commission intervention with respect to retail wireless services*, Telecom Notice of Consultation CRTC 2012-206, 4 April 2012
- *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