



Telecom Order CRTC 2012-604

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Ottawa, 30 October 2012

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre and the Consumers' Association of Canada in the Telecom Notice of Consultation 2012-168 proceeding

File numbers: 8661-C12-201203546 and 4754-408

1. By letter dated 13 July 2012, the Public Interest Advocacy Centre (PIAC), on behalf of itself and the Consumers' Association of Canada (CAC), applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2012-168 (the proceeding).
2. On 20 July 2012, TELUS Communications Company (TCC) 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 \$17,920.30, consisting entirely of legal fees. PIAC's claim included 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 "all corporate parties" 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, TCC did not object to PIAC's entitlement to costs. TCC noted that PIAC had offered no clear definition of "corporate parties" and submitted that industry parties, including the Canadian Network Operators Consortium (CNO), should be named as costs respondents due to their active participation in the proceeding and significant interest in its outcome.

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 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.
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 Cogeco Cable Inc. (Cogeco); Quebecor Media Inc. (Quebecor), on behalf of its affiliate Videotron G.P. (Videotron); Rogers Communications Inc. (RCI); and Shaw Communications Inc. (Shaw) (collectively, the Cable companies); as well as Bell Aliant Regional Communications, Limited Partnership; Bell Canada; and Télébec, Limited Partnership (collectively, Bell Canada et al.); CNOC; MTS Inc. (MTS) and Allstream Inc. (collectively, MTS Allstream); Saskatchewan Telecommunications (SaskTel); and TCC all had a significant interest in the outcome of the proceeding and participated actively throughout the proceeding. The Commission therefore finds that the appropriate costs respondents to PIAC's application for costs are Bell Canada et al., the Cable companies, CNOC, MTS Allstream, SaskTel, and TCC.
11. The Commission notes that it generally allocates the responsibility for payment of costs among costs respondents based on their telecommunications operating revenues (TORs)¹ 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.
12. The Commission notes that the TORs for all CNOC members are not readily available to the Commission. On examining the TORs of those members whose revenues are readily available, the Commission considers it appropriate in these circumstances to find CNOC responsible for the payment of two percent of the total costs awarded. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

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

Bell Canada et al.	28.5%
TCC	27.5%
RCI	26.5%
MTS Allstream	4.8%
Videotron	3.9%
SaskTel	2.9%
Shaw	2.8%
CNOC	2.0%
Cogeco	1.1%

13. The Commission notes that in the proceeding, Bell Canada et al. and MTS Allstream filed joint submissions. 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 makes MTS responsible for payment on behalf of MTS Allstream. The Commission leaves it to the members of these two groups to determine the appropriate allocation of the costs among themselves.

Directions regarding costs

14. The Commission **approves** the application by PIAC, on behalf of itself and CAC, 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 \$17,920.30.
16. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Canada on behalf of Bell Canada et al., TCC, RCI, MTS on behalf of MTS Allstream, Quebecor on behalf of Videotron, SaskTel, Shaw, CNOC, and Cogeco, according to the proportions set out in paragraph 12.

Secretary General

Related documents

- *Confidentiality of information used to establish wholesale service rates*, Telecom Notice of Consultation CRTC 2012-168, 22 March 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