



## Telecom Order CRTC 2013-522

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Ottawa, 27 September 2013

### **Determination of costs award with respect to the participation of l'Union des consommateurs in the proceeding leading to Telecom Regulatory Policy 2013-271**

File numbers: 8665-C12-201212448 and 4754-416

1. By letter dated 11 April 2013, l'Union des consommateurs (l'Union) applied for costs with respect to its participation in the proceeding leading to Telecom Regulatory Policy 2013-271 (the proceeding).
2. The Commission did not receive any interventions in response to the application.

#### **Application**

3. L'Union 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. L'Union requested that the Commission fix its costs at \$25,039.20, consisting of \$11,200 for legal fees, \$13,630 for consultant fees, and \$209.20 for disbursements. L'Union filed a bill of costs with its application.
5. L'Union made no submission as to the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).

#### **Commission's analysis and determinations**

6. The Commission finds that l'Union has satisfied the criteria for an award of costs set out in section 68 of the Rules of Procedure. Specifically, the Commission finds that l'Union 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 through its detailed submissions on a broad cross-section of issues related to the wireless market and the proposed wireless code, and it participated in a responsible way.
7. The Commission notes that the rates claimed in respect of legal and consultant 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 l'Union was necessarily and reasonably incurred and should be allowed.

8. 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.
9. 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 in question. The Commission notes, in this regard, that the following parties actively participated in the proceeding and had a significant interest in its outcome: Bell Aliant Regional Communications, Limited Partnership, Bell Canada, and Télébec, Limited Partnership (collectively, Bell Canada et al.); Bragg Communications Inc. (operating as EastLink); Data & Audio-Visual Enterprises Wireless Inc. (operating as Mobilicity); Globalive Wireless Management Corp. (Globalive); MTS Inc. (MTS) and Allstream Inc. (collectively, MTS Allstream); Public Mobile Inc.; Rogers Communications Partnership (RCP); Saskatchewan Telecommunications (SaskTel); TELUS Communications Company (TCC); and Videotron G.P. (Videotron).
10. 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.
11. 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 et al., EastLink, Globalive, MTS Allstream, RCP, SaskTel, and TCC.
12. The Commission notes that it generally allocates the responsibility for payment of costs among costs respondents based on their telecommunications operating revenues (TORs)<sup>1</sup> as an indicator of the relative size and interest of the parties involved in the proceeding. For the reasons discussed in Telecom Order 2013-521, also released today, 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.:	39.8%
TCC:	24.6%
RCP:	23.7%
MTS Allstream:	4.3%
Videotron:	3.5%

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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.

SaskTel:	2.6%
EastLink:	0.8%
Globalive:	0.7%

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

### **Directions regarding costs**

14. The Commission **approves** the application by l'Union 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 l'Union at \$25,039.20.
16. The Commission directs that the award of costs to l'Union be paid forthwith by Bell Canada on behalf of Bell Canada et al., by TCC, by RCP, by MTS on behalf of MTS Allstream, by Videotron, by SaskTel, by EastLink, and by Globalive, according to the proportions set out in paragraph 12.

Secretary General

### **Related documents**

- *Determination of costs award with respect to the participation of the Consumers Council of Canada in the proceeding leading to Telecom Regulatory Policy 2013-271*, Telecom Order CRTC 2013-521, 27 September 2013
- *The Wireless Code*, Telecom Regulatory Policy CRTC 2013-271, 3 June 2013
- *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