



Telecom Order CRTC 2014-407

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Ottawa, 5 August 2014

File numbers: 8650-C12-201310078 and 4754-449

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Telecom Notice of Consultation 2013-338

1. By letter dated 10 December 2013, the Public Interest Advocacy Centre (PIAC), on behalf of itself, the Consumers' Association of Canada, and the Council of Senior Citizens' Organizations of British Columbia, applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2013-338 regarding the removal of the last payphone in a community (the proceeding).
2. The Commission did not receive any interventions in response to the application.

Application

3. In its application, PIAC acknowledged its delay in filing the application for costs and asked that the Commission exercise its discretion to accept and consider the application despite the delay. PIAC submitted that it had assumed that its costs in this proceeding could have been considered as part of the broader payphone fact-finding process initiated by Telecom Notice of Consultation 2013-337, issued on the same day as the notice of consultation that launched the present proceeding. Further, PIAC submitted that no real prejudice would be caused to the parties who would be required to pay any costs awarded by the Commission (the costs respondents).
4. 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 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.
5. In particular, PIAC submitted that it represented users of telecommunications services in their capacity as consumers, and that this perspective was integral to a full understanding of the issues relevant to the proceeding.
6. PIAC requested that the Commission fix its costs at \$1,762.82, consisting entirely of legal fees for external counsel. 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.

7. PIAC submitted that all incumbent local exchange carriers (ILECs) and small ILECs are appropriate costs respondents.
8. PIAC submitted that the responsibility for payment of costs should be divided among the costs respondents on the basis of their telecommunications revenues and that any potential costs respondents whose responsibility for payment of costs would be less than \$100 should be excluded.

Commission's analysis and determinations

9. The Commission considers that, in the circumstances, it is appropriate to consider PIAC's application for costs.
10. 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 of subscribers that had an interest in the outcome of the proceeding, namely Canadian consumers; it assisted the Commission in developing a better understanding of the matters that were considered, particularly regarding the applicability of the policy objectives of the *Telecommunications Act* (the Act) and the Policy Direction¹ in the circumstances; and it participated in a responsible way.
11. 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 also finds that the total amount claimed by PIAC was necessarily and reasonably incurred and should be allowed.
12. 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.
13. 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 following ILECs and small ILECs filed submissions in the proceeding: Amtelecom Limited Partnership and People's Tel Limited Partnership, carrying on business as Eastlink; Bell Aliant Regional Communications, Limited Partnership, Bell Canada, DMTS, KMTS, NorthernTel, Limited Partnership, Northwestel Inc., and Télébec, Limited Partnership (collectively, Bell Canada et al.); MTS Inc. (MTS) and Allstream Inc. (collectively, MTS Allstream); Saskatchewan Telecommunications; TBayTel; and TELUS Communications Company (TCC).

¹ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

14. 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 for the applicant.
15. In light of the above, and given the small amount of the costs award, the Commission considers that, consistent with section 48 of the Guidelines, it is appropriate to limit the costs respondents to Bell Canada et al., MTS Allstream, and TCC.
16. The Commission notes that it generally allocates responsibility for the payment of costs among costs respondents based on their telecommunications operating revenues (TORs)² 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 Canada et al.:	48.6%
TCC:	44.0%
MTS Allstream :	7.4%
17. The Commission notes that Bell Canada filed submissions in the proceeding on behalf of Bell Canada et al., and MTS filed submissions on behalf of MTS Allstream. 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. The Commission leaves it to the members of Bell Canada et al. and of MTS Allstream to determine the appropriate allocation of the costs among themselves.

Directions regarding costs

18. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
19. Pursuant to subsection 56(1) of the Act, the Commission fixes the costs to be paid to PIAC at \$1,762.82.
20. The Commission **directs** Bell Canada, on behalf of Bell Canada et al.; TCC; and MTS, on behalf of MTS Allstream, to pay forthwith the award of costs to PIAC according to the proportions set out in paragraph 16.

Secretary General

² TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

Related documents

- *Removal of the last payphone in a community*, Telecom Notice of Consultation CRTC 2013-338, 16 July 2013, as amended by Telecom Notice of Consultation CRTC 2013-338-1, 2 August 2013
- *Fact-finding process on the role of payphones in the Canadian communications system*, Telecom Notice of Consultation CRTC 2013-337, 16 July 2013, as amended by Telecom Notice of Consultation CRTC 2013-337-1, 11 September 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