



Compliance and Enforcement Order CRTC 2014-409

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Ottawa, 5 August 2014

File numbers: 8665-C12-201313030 and 4754-445

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Compliance and Enforcement Notice of Consultation 2013-527

1. By letter dated 12 December 2013, the Public Interest Advocacy Centre (PIAC), on behalf of itself and the Council of Senior Citizens' Organizations of British Columbia, applied for costs with respect to its participation in the proceeding initiated by Compliance and Enforcement Notice of Consultation 2013-527 regarding permanent number registration on the National Do Not Call List (the proceeding).
2. The Commission did not receive any interventions in response to the application.

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 \$4,700.17, 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 claimed 26.6 hours at a rate of \$165 per hour and 1.9 hours at a rate of \$70 per hour for the legal fees.
6. PIAC submitted that the intervening telecommunications service providers in the proceeding are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).

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*, 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 finds that the appropriate costs respondents to PIAC's costs application are Bell Aliant Regional Communications, Limited Partnership (Bell Aliant) and Bell Canada (collectively, the Bell companies); Bragg Communications Inc., operating as Eastlink; MTS Inc. and Allstream Inc. (collectively, MTS Allstream); Rogers Communications Partnership (RCP); Saskatchewan Telecommunications (SaskTel); Shaw Communications Inc. (Shaw); TBayTel; and TELUS Communications Company (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. However, the Commission has occasionally departed from this approach. With regard to the present application, the Commission finds that the approach of dividing responsibility for a costs award based on TORs would require PIAC to collect negligible sums of money from some costs respondents. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

| | |
|-----------------|-------|
| Bell companies: | 30.4% |
| TCC: | 29.1% |
| RCP: | 28.7% |
| MTS Allstream: | 5.1% |
| Shaw: | 3.5% |
| SaskTel: | 3.2% |

12. The Commission notes that Bell Canada filed submissions in the proceeding on behalf of itself, Bell Aliant, and SaskTel. The Commission articulated its general approach to such a scenario in Telecom Costs Order 2002-4, whereby it would generally make the party that filed submissions on behalf of other costs respondents

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

responsible for payment on behalf of those costs respondents, and let them determine among themselves the appropriate allocation of their share of costs. The Commission notes that, in this case, it is departing from this approach with regard to SaskTel because SaskTel, a provincial Crown corporation, has no formal corporate affiliation with the Bell companies. Therefore, the Commission (i) makes Bell Canada responsible for payment on behalf of the Bell companies, and leaves it to the Bell companies to determine the appropriate allocation of the costs among themselves; and (ii) makes SaskTel responsible for payment of its share of costs as set out in paragraph 11.

Directions regarding costs

13. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
14. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$4,700.17.
15. The Commission **directs** that the award of costs to PIAC be paid forthwith by Bell Canada on behalf of the Bell companies, by TCC, by RCP, by MTS Allstream, by Shaw, and by SaskTel according to the proportions set out in paragraph 11.

Secretary General

Related documents

- *Permanent number registration*, Compliance and Enforcement Notice of Consultation CRTC 2013-527, 30 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