



## Telecom Order CRTC 2014-439

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Ottawa, 22 August 2014

*File numbers: 8662-B54-201305178 and 4754-452*

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding leading to Telecom Decision 2013-399**

1. By letter dated 7 June 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 their participation in the proceeding leading to Telecom Decision 2013-399 (the proceeding). The proceeding was initiated by the application of Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies) to review and vary certain determinations in Telecom Decisions 2013-72 and 2013-73.
2. On 14 June 2013, 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 \$6,604.85, consisting entirely of 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.
5. PIAC submitted that the Bell companies 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 submitted that all industry parties that participated in the proceeding should be named as costs respondents.

## Commission's analysis and determinations

7. The criteria for an award of costs are set out in section 68 of the Rules of Procedure, which reads as follows:

The Commission must determine whether to award final costs and the maximum percentage of costs that is to be awarded on the basis of the following criteria:

- (a) whether the applicant had, or was the representative of a group or a class of subscribers that had, an interest in the outcome of the proceeding;
  - (b) the extent to which the applicant assisted the Commission in developing a better understanding of the matters that were considered; and
  - (c) whether the applicant participated in the proceeding in a responsible way.
8. The Commission finds that PIAC has satisfied these criteria through its participation in the proceeding. In particular, the Commission considers that PIAC's submissions, especially regarding the applicability of the Policy Direction,<sup>1</sup> assisted the Commission in developing a better understanding of the issues.
  9. 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.
  10. 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.
  11. 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. While several interveners participated actively in the proceeding, the Commission considers that, in the circumstances, the Bell companies, as the party that initiated the proceeding through their review and vary application, had the most significant interest in the outcome of the proceeding. The Commission therefore finds that the appropriate costs respondents to PIAC's application for costs are the Bell companies.
  12. The Commission notes that the Bell companies filed joint submissions in the proceeding. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for payment on behalf of the

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

Bell companies and leaves it to the members of the Bell companies to determine the appropriate allocation of the costs among themselves.

### **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 \$6,604.85.
15. The Commission **directs** that the award of costs to PIAC be paid forthwith by Bell Canada on behalf of the Bell companies.

Secretary General

### **Related documents**

- *Bell Aliant Regional Communications, Limited Partnership, and Bell Canada – Application to review and vary determinations made in Telecom Decisions 2013-72 and 2013-73 regarding the use of a common billing model for both residential and business wholesale high-speed access (HSA) services and the markup associated with business wholesale HSA services, Telecom Decision CRTC 2013-399, 9 August 2013*
- *Canadian Network Operators Consortium Inc. – Application to review and vary Telecom Regulatory Policies 2011-703 and 2011-704, Telecom Decision 2013-73, 21 February 2013*
- *Canadian Network Operators Consortium Inc. – Application requesting relief to address implementation of the capacity model approved in Telecom Regulatory Policy 2011-703, Telecom Decision CRTC 2013-72, 21 February 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*