



Telecom Order CRTC 2014-443

PDF version

Ottawa, 27 August 2014

File numbers: 8620-C12-201317230, 8620-C12-201312082, and 4754-460

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding leading to Telecom Decision 2014-398

1. By letter dated 13 March 2014, the Public Interest Advocacy Centre (PIAC) applied for costs on behalf of itself, the Consumers' Association of Canada, the National Pensioners Federation,¹ and the Council of Senior Citizens Organizations of British Columbia (collectively, the applicants), with respect to their participation in the proceeding initiated by Telecom Notice of Consultation 2013-685 and leading to Telecom Decision 2014-398 (the proceeding). The proceeding related to potential unjust discrimination or undue preference in wholesale mobile wireless roaming arrangements in Canada. PIAC later filed amended information regarding its application for costs.
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 \$10,767.33, consisting of \$7,823.56 for in-house legal fees, \$2,889.02 for external legal fees, and \$54.75 for disbursements. 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 all wireless service providers (WSPs) and corporate parties that participated in the proceeding are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).
6. PIAC further submitted that any potential costs respondent whose share of the total costs award would be less than \$100 should be excluded.

¹ Formerly known as the National Pensioners and Senior Citizens Federation.

7. PIAC suggested that the responsibility for payment of costs should be divided among the costs respondents based on their telecommunications operating revenues (TORs).²

Commission's analysis and determinations

8. 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.

9. The Commission finds that the applicants have satisfied these criteria through their participation in the proceeding. In particular, the Commission considers that the applicants' submissions in the proceeding, especially those that addressed the issue of whether any discrimination in wholesale mobile roaming arrangements is unjust, contributed to a better understanding of the matters being considered by the Commission.
10. The Commission notes that the rates claimed in respect of legal fees, as well as the amounts claimed in respect of disbursements, 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.
11. 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.
12. 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 Commission notes, in this regard, that WSPs had a significant interest in the outcome of the proceeding and that many WSPs participated in the proceeding.

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

13. The Commission further notes, however, that in allocating costs among costs respondents, it has also been aware that if numerous costs respondents are named, the applicant would likely have to collect small amounts from many costs respondents, resulting in a significant administrative burden to the applicant.
14. 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 it is appropriate to limit the costs respondents to Bell Aliant Regional Communications, Limited Partnership;³ Bell Mobility Inc. (Bell Mobility); the members of the Comcentric Group;⁴ and Northwestel Inc. (collectively, Bell Mobility et al.); Rogers Communications Inc. (RCI); and TELUS Communications Company (TCC).
15. The Commission notes that it generally allocates the responsibility for payment of costs among costs respondents based on their TORs 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:

TCC:	35.0%
RCI:	34.5%
Bell Mobility et al.:	30.5%

16. The Commission notes that Bell Mobility filed submissions in the proceeding on behalf of Bell Mobility et al. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Mobility responsible for payment on behalf of Bell Mobility et al. The Commission leaves it to the members of Bell Mobility et al. to determine the appropriate allocation of the costs among themselves.

Directions regarding costs

17. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$10,767.33.

³ In respect of its subsidiaries, KMTS; NorthernTel, Limited Partnership; and Télébec, Limited Partnership.

⁴ These are Brooke Telecom Co-operative Ltd., Bruce Telecom, Hay Communications Co-operative Limited, Huron Telecommunications Co-operative Limited, Mornington Communications Co-operative Limited, Quadro Communications Co-operative Inc., and Tuckersmith Communications Co-operative Limited.

19. The Commission **directs** that the award of costs to PIAC be paid forthwith by Bell Mobility on behalf of Bell Mobility et al., by RCI, and by TCC according to the proportions set out in paragraph 15.

Secretary General

Related documents

- *Wholesale mobile wireless roaming in Canada – Unjust discrimination/undue preference*, Telecom Decision CRTC 2014-398, 31 July 2014
- *Wholesale mobile wireless roaming in Canada – Unjust discrimination/undue preference*, Telecom Notice of Consultation CRTC 2013-685, 12 December 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