



Telecom Order CRTC 2014-494

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Ottawa, 24 September 2014

File numbers: 8633-T66-201401827 and 4754-466

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by TELUS Communications Company's application seeking interpretation of the Wireless Code

1. By letter dated 8 May 2014, the Public Interest Advocacy Centre (PIAC) applied for costs on behalf of itself, the Consumers' Association of Canada (CAC), and the Council of Senior Citizens' Organizations of British Columbia (COSCO), with respect to their participation in the proceeding initiated by the application of TELUS Communications Company (TCC) to request interpretation of Telecom Regulatory Policy 2013-271 (the Wireless Code) [the proceeding].
2. On 15 May 2014, TCC filed an intervention in response to PIAC's application. PIAC did not file a reply.
3. By letter dated 5 June 2014, Commission staff requested additional information from PIAC regarding its application for costs. PIAC filed a reply by letter dated 6 June 2014.

Application

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 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.
5. In the 5 June 2014 letter, Commission staff requested that PIAC provide additional information that would more specifically demonstrate how PIAC had met these criteria in the circumstances of the proceeding.
6. In response, PIAC submitted that, regarding its interest in the proceeding, CAC is a volunteer-based organization with a mandate to advocate for consumers with government and industry; COSCO is an umbrella organization representing senior citizens' groups and individuals in the province of British Columbia; and PIAC is a non-profit organization that provides legal and research services to represent consumer interests concerning public services.

7. PIAC submitted that, regarding its contribution to a better understanding of the matters under consideration, it brought to light the consequences that would flow from the Commission granting TCC the relief it sought in the proceeding.
8. Finally, regarding responsible participation, PIAC submitted that it made efficient use of its legal counsel in the proceeding.
9. PIAC requested that the Commission fix its costs at \$3,948.68, consisting entirely of external 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.
10. PIAC submitted that TCC is the appropriate party to be required to pay any costs awarded by the Commission (the costs respondent).

Answer

11. In response to the application, TCC submitted that PIAC had, in its view, met the eligibility criteria for an award of costs. Further, TCC submitted that it agreed with PIAC's proposal regarding the appropriate costs respondent.

Commission's analysis and determinations

12. The criteria for an award of costs are set out in section 68 of the Rules of Procedure, which reads as follows:
 68. 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.
13. The Commission accepts the additional information provided by PIAC regarding its eligibility for costs, and finds that PIAC has met these criteria through its participation in the proceeding.
14. However, regarding the first eligibility criterion, the Commission notes that in the future, an applicant for costs may be required to provide evidence, either of having an interest in the outcome of the proceeding or of representing a group of subscribers

that have an interest in the outcome of the proceeding, that is more specific and more detailed than the additional information provided by PIAC in this case. This may include evidence regarding consultations undertaken with the members of the subscriber group that the applicant claims to represent, or evidence of other measures that the applicant used to ensure that it was reliably giving voice to the interests and concerns of this subscriber group.

15. The Commission considers that PIAC contributed to a better understanding of the matters under consideration, especially through PIAC's submissions on the relevance of an employer stipend to whether certain types of corporate plans for mobile wireless services should be covered by the Wireless Code. The Commission further considers that PIAC participated responsibly, particularly by making efficient use of a single external counsel.
16. 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.
17. 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.
18. The Commission finds that the appropriate costs respondent to PIAC's costs application is TCC, whose application initiated the proceeding.

Directions regarding costs

19. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
20. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$3,948.68.
21. The Commission **directs** that the award of costs to PIAC be paid forthwith by TCC.

Secretary General

Related documents

- *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