



Telecom Order CRTC 2014-496

PDF version

Ottawa, 24 September 2014

File numbers: 8662-N1-201401091 and 4754-448

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding leading to Telecom Decision 2014-379

1. By letter dated 8 May 2014, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding leading to Telecom Decision 2014-379 (the proceeding), regarding the application of Northwestel Inc. (Northwestel) to review and vary Telecom Regulatory Policy 2013-711. PIAC amended its letter on 23 June 2014.
2. The Commission did not receive any interventions in response to the application for costs.

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 \$9,032.38, 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.
5. PIAC submitted that Northwestel is the appropriate party to be required to pay any costs awarded by the Commission (the costs respondent).

Commission's analysis and determinations

6. 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.
7. The Commission finds that PIAC has satisfied these criteria through its participation in the proceeding. In particular, PIAC's submissions regarding the following contributed to a better understanding of the issues considered by the Commission: the legality of Northwestel's charging of a surcharge before its review and vary application was considered by the Commission; the lack of evidence (including a cost study) provided by Northwestel to justify the surcharge; and what, in PIAC's view, was a failure by Northwestel to raise new evidence regarding the company's argument to justify a review of the Commission's decision not to allow rate ranges and rate de-averaging.
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 respondent to PIAC's costs application is Northwestel, since this company initiated the proceeding and had the most significant interest in the outcome.

Directions regarding costs

11. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
12. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$9,032.38.

13. The Commission **directs** that the award of costs to PIAC be paid forthwith by Northwestel.

Secretary General

Related documents

- *Northwestel Inc. – Application to review and vary certain determinations in Telecom Regulatory Policy 2013-711*, Telecom Decision CRTC 2014-379, 21 July 2014
- *Northwestel Inc. – Regulatory Framework, Modernization Plan, and related matters*, Telecom Regulatory Policy CRTC 2013-711, 18 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