



Telecom Order CRTC 2014-87

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Ottawa, 27 February 2014

Determination of interim costs award with respect to the participation of the DiversityCanada Foundation in the Telecom Notice of Consultation 2013-337 proceeding

File numbers: 8650-C12-201310060 and 4754-422

1. By letter dated 29 July 2013, the DiversityCanada Foundation (DiversityCanada) applied for interim costs with respect to its participation in the proceeding initiated by *Fact-finding process on the role of payphones in the Canadian communications system*, Telecom Notice of Consultation CRTC 2013-337, 16 July 2013, as amended by Telecom Notice of Consultation CRTC 2013-337-1, 11 September 2013 (the proceeding).
2. TELUS Communications Company (TCC) and Bell Canada filed interventions in response to DiversityCanada's application on 2 and 8 August 2013, respectively. DiversityCanada filed a reply on 9 August 2013.
3. On 1 October 2013, DiversityCanada filed a procedural request to modify its interim costs application and the methodology of its planned participation. On 10 October 2013, Bell Canada and TCC filed interventions with respect to this procedural request. DiversityCanada filed a reply on 11 October 2013.

Application

4. DiversityCanada submitted that it meets the criteria for an award of interim costs set out in section 61 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) because it represents a group or class of subscribers that has an interest in the outcome of the proceeding, it can assist the Commission in developing a better understanding of the matters to be considered, it undertakes to participate in a responsible way, and it lacks the financial resources to participate effectively in the proceeding.
5. In particular, DiversityCanada submitted that its planned participation would assist the Commission in developing a better understanding of the issues. In its modified application, DiversityCanada proposed to conduct telephone studies¹ of rural and remote communities across Canada in order to gather information regarding i) the

¹ DiversityCanada's initial application proposed in-person case studies in several communities in northern Ontario.

role payphones play in the lives of residents of small, rural, and remote communities; and ii) the repercussions of payphone removals or rate increases.

6. DiversityCanada estimated its interim costs at \$7,355, citing estimates ranging from \$6,700 to \$7,500 provided by three survey providers. DiversityCanada filed a summary statement of disbursements with its application.
7. DiversityCanada indicated that it would leave it to the Commission's discretion to designate the parties responsible for payment of interim costs and to allocate these costs between the designated parties.

Answer

8. In response to the application, Bell Canada did not object to DiversityCanada's eligibility for an award of interim costs or the amount claimed, and submitted that any interim award should be deducted from each interim costs respondent's share of a final award.
9. TCC opposed the application, submitting that DiversityCanada had not provided sufficient information on how to address the challenges in reaching rural and remote customers via a remote survey, nor had it provided sufficient details in its statement of disbursements, particularly in light of the identical amounts claimed in both the original and modified statements. TCC argued that a telephone study should cost less in comparison to the in-person study that was originally proposed.

Reply

10. In reply, DiversityCanada reiterated its previous submissions regarding the suitability of telephone surveying for reaching low-income, rural, and remote consumers. DiversityCanada's submissions acknowledged the challenges noted by TCC, but argued that, due to time and resource constraints, telephone surveying methods represent the most practical way of gathering relevant information for this proceeding.

Commission's analysis and determinations

11. The Commission considers that DiversityCanada has undertaken to participate in a responsible way and that it represents a body of telephone subscribers who will be affected by the outcome of the proceeding. The Commission considers that, while the applicant's membership is very small, its focus is on a particular segment of consumers whose interests and concerns might not otherwise be brought to the attention of the Commission. Further, the Commission is of the view that DiversityCanada's participation could assist the Commission in developing a better understanding of the issues to be considered in this proceeding.
12. The Commission notes that interim costs awards are intended to enable organizations to participate in Commission proceedings in circumstances where they would otherwise be prevented from doing so for financial reasons. Further, unlike in the case

of applications for final costs, subsection 63(c) of the Rules of Procedure requires the Commission to consider whether an applicant for interim costs has “sufficient financial resources to participate effectively in the proceeding.” Accordingly, an applicant for interim costs must demonstrate to the Commission, among other things, that it would not be able to participate effectively in a Commission proceeding without interim funding.

13. While the Commission accepts the propositions that a survey could enable DiversityCanada to participate effectively in the proceeding and that DiversityCanada does not have the financial resources to undertake the proposed survey, the Commission is not persuaded that the absence of interim funding would prevent the applicant from participating effectively in the proceeding.
14. In the circumstances of this case, the test for interim funding with respect to subsection 63(c) of the Rules of Procedure is whether a survey is the only means by which the applicant could effectively participate. The Commission considers that DiversityCanada provided no basis upon which the Commission could reach this conclusion. The Commission notes that this finding is not intended to reflect any particular preference as to how a party may participate effectively in a Commission proceeding; such a choice is for the party in question to make.
15. In light of the above, the Commission finds that DiversityCanada’s application fails to meet the criteria for an award of interim costs set out in section 61 of the Rules of Procedure.
16. Therefore, the Commission **denies** the application by DiversityCanada for interim costs with respect to its participation in the proceeding. However, the Commission notes that DiversityCanada may apply for final costs at the end of the proceeding, and that the Commission’s determination in this order should not be interpreted as reflecting any prejudice on the part of the Commission should DiversityCanada choose to file a final costs application.

Secretary General