



## Telecom Order CRTC 2016-19

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Ottawa, 20 January 2016

*File numbers: 8662-N1-201505629 and 4754-500*

### **Determination of costs award with respect to the participation of the Consumers' Association of Canada and the Public Interest Advocacy Centre in the proceeding initiated by Northwestel Inc.'s application to review and vary Telecom Decision 2015-78 or to approve an exogenous adjustment for retail Internet services**

#### **Application**

1. By letter dated 13 August 2015, the Consumers' Association of Canada (CAC) and the Public Interest Advocacy Centre (PIAC) [collectively, CAC/PIAC] applied for costs with respect to their participation in the proceeding initiated by Northwestel Inc.'s (Northwestel) application to review and vary Telecom Decision 2015-78 or to approve an exogenous adjustment for retail Internet services (the proceeding).
2. The Commission did not receive any interventions in response to the application for costs.
3. CAC/PIAC submitted that they 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 they represented a group or class of subscribers that had an interest in the outcome of the proceeding, they had assisted the Commission in developing a better understanding of the matters that were considered, and they had participated in a responsible way.
4. In particular, regarding their interest in the proceeding, CAC/PIAC submitted that CAC is a volunteer-based charitable organization with a mandate to advocate for consumers with government and industry, and PIAC is a non-profit and charitable organization that provides legal and research services to represent consumer interests concerning public services. CAC/PIAC also submitted that their contribution provided detailed comments from consumers' perspective and identified a range of relevant policy considerations for the Commission to assess as it evaluated Northwestel's application.
5. CAC/PIAC requested that the Commission fix their costs at \$9,979.92, consisting entirely of external legal fees. CAC/PIAC's claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which CAC/PIAC are entitled in connection with the HST. CAC/PIAC filed a bill of costs with their application.

6. CAC/PIAC submitted that Northwestel, as the applicant in the proceeding, is the appropriate party to be required to pay any costs awarded by the Commission (the costs respondent).

### **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:

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.

8. CAC/PIAC have satisfied these criteria through their participation in the proceeding. In particular, CAC/PIAC made constructive submissions with respect to Northwestel's Modernization Plan, as well as the impact of Northwestel's proposed relief on stand-alone Internet service subscribers and on competition in the company's operating territory.
9. The rates claimed in respect of external 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 total amount claimed by CAC/PIAC was necessarily and reasonably incurred and should be allowed. In this regard, CAC/PIAC's participation in the proceeding addressed both Northwestel's request for a review and variance of certain determinations set out in Telecom Decision 2015-78 and the company's alternative request for the approval of an exogenous adjustment for retail Internet services.
10. 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 proceeding related to an application by Northwestel directly concerning the company's retail Internet services. Therefore, the appropriate costs respondent to CAC/PIAC's costs application is Northwestel.

### **Directions regarding costs**

12. The Commission **approves** the application by CAC/PIAC for costs with respect to their participation in the proceeding.

13. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to CAC/PIAC at \$9,979.92.
14. The Commission **directs** that the award of costs to CAC/PIAC be paid forthwith by Northwestel.

Secretary General

### **Related documents**

- *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