



Telecom Order CRTC 2016-361

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Determination of costs award with respect to the participation of the Consumers' Association of Canada, the Council of Senior Citizens' Organizations of British Columbia, and the Public Interest Advocacy Centre in the proceeding leading to Telecom Decision 2016-345

Application

1. By letter dated 21 July 2015, the Consumers' Association of Canada, the Council of Senior Citizens' Organizations of British Columbia, and the Public Interest Advocacy Centre (collectively, the Consumer Groups) applied for costs with respect to their participation in the proceeding leading to Telecom Decision 2016-345 (the proceeding). The proceeding was initiated by TELUS Communications Company's (TCC) application regarding the creation of a location porting zone within the Metro Vancouver area.
2. TCC filed an intervention, dated 30 July 2015, in response to the Consumer Groups' application. The Consumer Groups did not file a reply.
3. The Consumer Groups 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, the Consumer Groups submitted that they had provided a unique perspective and identified relevant considerations for the Commission regarding TCC's application to expand the geographic boundaries within which consumers can keep their telephone numbers when moving to a new address within the Metro Vancouver area. The Consumer Groups also submitted that their consumer-focused comments were developed efficiently by competent and experienced legal counsel.
5. The Consumer Groups requested that the Commission fix their costs at \$4,973.53, consisting entirely of external legal fees. The Consumer Groups' claim included the Harmonized Sales Tax (HST) on fees less the rebate to which they are entitled in

connection with the HST. The Consumer Groups filed a bill of costs with their application.

6. The Consumer Groups submitted that TCC, as the applicant in the proceeding, is the appropriate party to be required to pay any costs awarded by the Commission (the costs respondent).

Answer

7. TCC noted that the Consumer Groups initiated their own application for expanded location portability, dated 15 June 2015, which was the same date that the Consumer Groups filed their intervention in the proceeding initiated by TCC. TCC submitted that the subject matter of the two applications was the same and that the preparation period for the Consumer Groups' own application would have been coincidental with that for their intervention in the proceeding initiated by TCC's application. Accordingly, TCC questioned whether some of the time claimed by the Consumer Groups should be properly attributed to their own application.
8. TCC added that allocating costs solely to it would not reflect the interests of other parties to the proceeding, namely Bell Canada, the Canadian Network Operators Consortium Inc. (CNOc), MTS Inc. and Allstream Inc. (collectively, MTS Allstream), Rogers Communications Partnership (RCP), and Shaw Telecom G.P. (Shaw). TCC argued that all consumers and wireline local exchange carriers within the Metro Vancouver area stand to benefit from the implementation of location portability in that area, and that consequently, TCC should not bear the full costs simply because it took the initiative to file its application. TCC submitted that local exchange carriers have an interest in the proceeding with respect to the potential implementation of location portability in their own operating territories.
9. TCC stated that costs should be allocated proportionately to the parties to the proceeding according to their respective telecommunications operating revenues (TORs).¹
10. Finally, TCC submitted that it may have a more significant interest in the outcome of the proceeding than its share of the total TORs represents. Therefore, given that the interested parties' revenues for the Metro Vancouver area alone are unavailable, TCC suggested that it be allocated the responsibility for payment of 50% of the total costs awarded, with the remainder allocated to Bell Canada, CNOc, MTS Allstream, RCP, and Shaw according to their respective TORs, subject to the Commission's usual adjustment to account for very small allocations.

¹ TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services. In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

Commission's analysis and determinations

11. 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.
12. The Consumer Groups have satisfied these criteria through their participation in the proceeding. Specifically, the Consumer Groups represented a group of subscribers that had an interest in the outcome of the proceeding, and through their consumer-oriented submissions, they identified unique and relevant considerations for the Commission, which assisted it in developing a better understanding of the issues raised.
13. 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 the Consumer Groups was necessarily and reasonably incurred and should be allowed.
14. Specifically, the Commission is satisfied that the time claimed by the Consumer Groups is attributable to their intervention regarding TCC's application and does not duplicate their own related application. Specifically, in their intervention in the proceeding, the Consumer Groups focused on TCC's application regarding the Metro Vancouver area and only briefly suggested that the Commission consider TCC's application in the context of expanding the geographic boundaries associated with number portability elsewhere in Canada.
15. 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.
16. The Commission has generally determined that the appropriate costs respondents to an award of costs are the parties that have a significant interest in the outcome of the proceeding in question and have participated actively in that proceeding. The Commission considers that the following parties had a significant interest in the outcome of the proceeding and participated actively throughout the proceeding: Bell Canada, CNOC, MTS Allstream, RCP, Shaw, and TCC.

17. The Commission agrees that TCC had a more significant interest in the outcome of the proceeding than its share of the total TORs represents. Therefore, as suggested by TCC, it is appropriate to allocate 50% of the total costs to TCC and allocate the remaining amount to the parties identified in the preceding paragraph, based on their respective TORs.
18. However, as set out in Telecom Order 2015-160, the Commission considers \$1,000 to be the minimum amount that a costs respondent should be required to pay due to the administrative burden that small costs awards impose on both the applicant and costs respondents.
19. In light of the above, the Commission considers that Bell Canada, RCP, and TCC are the appropriate costs respondents to the Consumer Groups' costs application. However, RCP ceased to exist as of 1 January 2016. All of RCP's business activities, including its assets and liabilities, are now held by Rogers Communications Canada Inc. (RCCI). Therefore, the appropriate costs respondents to the Consumer Groups' costs application are Bell Canada, RCCI, and TCC.
20. The Commission finds that the responsibility for payment of costs should be allocated as follows:

Company	Percentage	Amount
TCC	50.0%	\$2,486.77
RCCI	29.5%	\$1,467.19
Bell Canada	20.5%	\$1,019.57

Directions regarding costs

21. The Commission **approves** the application by the Consumer Groups for costs with respect to their participation in the proceeding.
22. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to the Consumer Groups at \$4,973.53.
23. The Commission **directs** that the award of costs to the Consumer Groups be paid forthwith by TCC, RCCI, and Bell Canada according to the proportions set out in paragraph 20.

Secretary General

Related documents

- *TELUS Communications Company – Application to establish a special location porting zone within the Metro Vancouver area*, Telecom Decision CRTC 2016-345, 26 August 2016

- *Determination of costs award with respect to the participation of the Ontario Video Relay Service Committee in the proceeding initiated by Telecom Notice of Consultation 2014-188, Telecom Order CRTC 2015-160, 23 April 2015*
- *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*