



## Telecom Order CRTC 2016-378

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Ottawa, 19 September 2016

*File numbers:* 8620-C12-201513656 and 4754-513

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Telecom Notice of Consultation 2015-554**

#### **Application**

1. By letter dated 24 February 2016, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2015-554 (the proceeding). In the proceeding, the Commission called for comments on whether it should forbear with respect to off-tariff negotiated agreements for domestic Global System for Mobile communications (GSM)-based wholesale mobile wireless roaming services.
2. The Commission did not receive any interventions in response to the application for costs.
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. In particular, PIAC submitted that it represented Canadian consumers and users of telecommunications services, as well as the public interest at large, by advocating for equitable access, affordability, and protection for telecommunications users. It also submitted that it had assisted the Commission in developing a better understanding of the matters that were considered in the proceeding by offering a distinct point of view as the only intervening party that represented consumer interests. PIAC further submitted that it had participated in a responsible way.
5. PIAC requested that the Commission fix its costs at \$3,806.33, consisting entirely of 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.
6. PIAC submitted that all wireless service providers are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).

## 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. PIAC has satisfied these criteria through its participation in the proceeding. In particular, PIAC's submissions assisted the Commission in developing a better understanding of the matters that were considered by providing a consumer-focused perspective on the issue of off-tariff negotiated agreements.
9. 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.
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 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 in the proceeding: Bell Canada; Bragg Communications Incorporated, operating as Eastlink; the Canadian Network Operators Consortium Inc.; MTS Inc.; Quebecor Media Inc., on behalf of Videotron G.P.; Rogers Communications Canada Inc. (RCCI); Saskatchewan Telecommunications; TBayTel; TELUS Communications Company (TCC); and WIND Mobile Corp.

12. The Commission considers that, consistent with its practice, it is appropriate to allocate the responsibility for payment of costs among costs respondents based on their telecommunications operating revenues (TORs)<sup>1</sup> as an indicator of the relative size and interest of the parties involved in the proceeding. However, as set out in paragraph 21 of 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.
13. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

Company	Percentage	Amount
TCC	52%	\$1,979.29
RCCI	48%	\$1,827.04

#### Directions regarding costs

14. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
15. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$3,806.33.
16. The Commission **directs** that the award of costs to PIAC be paid forthwith by TCC and RCCI according to the proportions set out in paragraph 13.

Secretary General

#### Related documents

- *Consideration of whether the Commission should forbear with respect to off-tariff negotiated agreements for domestic GSM-based wholesale mobile wireless roaming services*, Telecom Notice of Consultation CRTC 2015-554, 16 December 2015
- *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

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<sup>1</sup> 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.

- *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