



Telecom Order CRTC 2018-126

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Ottawa, 13 April 2018

File numbers: 1011-NOC2017-0092 and 4754-575

Determination of costs award with respect to the participation of l'Union des consommateurs in the proceeding initiated by Telecom Notice of Consultation 2017-92

Application

1. By letter dated 17 November 2017, l'Union des consommateurs (l'Union) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2017-92 (the proceeding). In the proceeding, the Commission examined the approach it should take to phase out the local service subsidy regime, as well as associated policies that could have an impact on the subsidy amounts.
2. The Commission did not receive any interventions in response to the application for costs.
3. L'Union requested that the Commission accept its application for costs even though the application was filed after the deadline of 30 days following the filing date of final representations, as set out in the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure). L'Union explained that (i) the delay was due to the fact that its analyst had left their position and it had to hire a new analyst, (ii) it respected the other costs award criteria, (iii) costs awards ensure its participation in Commission proceedings and the quality of its interventions, and (iv) the delay does not prejudice any parties that will be responsible for the payment of costs.
4. L'Union submitted that it had met the criteria for an award of costs set out in section 68 of 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.
5. In particular, l'Union indicated that it represented the interests of consumers, particularly those from moderate-income households. L'Union noted that the consumers it represented had a particular interest in the outcome of the proceeding and that access to affordable and high-quality telecommunications services in rural regions is an important issue for l'Union and its members.

6. L'Union also submitted that it comprises 12 consumer advocacy groups, the majority of which are in Quebec.¹ L'Union indicated that its structure enables it to maintain a broad vision of consumer issues while developing particular expertise in certain areas of intervention, notably through its research work. L'Union added that the positions it put forward to the Commission were discussed by its telecommunications committee, which is made up of an analyst and L'Union member representatives, furthering L'Union's representation of the consumers for whom it advocates.
7. L'Union requested that the Commission fix its costs at \$1,540, consisting of \$600 for legal fees and \$940 for analyst fees. Specifically, L'Union claimed 0.75 days in senior internal legal fees at the daily rate of \$800 and 2 days in internal analyst fees at the daily rate of \$470. L'Union filed a bill of costs with its application.
8. L'Union made no submission as to the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents). However, L'Union indicated that it would be preferable to have as few costs respondents as possible to avoid an undue administrative burden.

Commission's analysis and determinations

9. L'Union's application was filed after the deadline set out in the Rules of Procedure. Nonetheless, the Commission considers that the delay did not prejudice any party to the proceeding because the parties were informed of the application and had the opportunity to intervene. As a result, in the circumstances, it is appropriate to examine L'Union's costs application.
10. 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.
11. In Telecom Information Bulletin 2016-188, the Commission provided guidance regarding how an applicant may demonstrate that it satisfies the first criterion with

¹ These groups are l'Association coopérative d'économie familiale (ACEF) in 10 regions, l'Association des consommateurs pour la qualité dans la construction, and the EBO Financial Education Centre (formerly Entraide budgétaire Ottawa).

respect to its representation of interested subscribers. In the present case, l'Union has demonstrated that it meets this requirement. In particular, l'Union submitted that it represented the interests of consumers, primarily those from moderate-income households, and the interests of its member organizations. L'Union also described how the positions it put forward reflected the interests of the member organizations it claimed to represent.

12. L'Union has also satisfied the remaining criteria through its participation in the proceeding. In particular, l'Union assisted the Commission in developing a better understanding of the matters that were considered by highlighting the needs of consumers, as well as the risks associated with the phase-out of the local service subsidy regime. In addition, l'Union participated in the proceeding in a responsible way.
13. The rates claimed in respect of legal and analyst fees are in accordance with the rates established in the *Guidelines for the Assessment of Costs*, as set out in Telecom Regulatory Policy 2010-963. The Commission finds that the total amount claimed by l'Union was necessarily and reasonably incurred and should be allowed.
14. 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.
15. 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 (on behalf of itself and DMTS; KMTS; NorthernTel, Limited Partnership; Ontera; and Télébec, Limited Partnership); Bragg Communications Incorporated, carrying on business as Eastlink (on behalf of itself, Amtelecom Telco GP Inc., and People's Tel Limited Partnership); Cogeco Communications Inc.; the Canadian Network Operators Consortium Inc.; the Independent Telecommunications Providers Association; Northwestel Inc.; Quebecor Media Inc., on behalf of Videotron Ltd.;² Rogers Communications Canada Inc.; Saskatchewan Telecommunications; Shaw Communications Inc.; SSi Micro Ltd.; and TELUS Communications Inc. (TCI).³
16. The Commission considers that, consistent with its practice, it is appropriate to allocate the responsibility for payment of costs among costs respondents based on

² In the proceeding, submissions were received from Videotron G.P. However, effective 29 December 2017, all of Videotron G.P.'s assets and operations were transferred to Videotron Ltd., and Videotron G.P. was subsequently dissolved. For ease of reference, "Videotron Ltd." is used in this order.

³ In the proceeding, submissions were received from TELUS Communications Company (TCC). However, effective 1 October 2017, TCC's assets were legally transferred to TCI and TCC ceased to exist. For ease of reference, "TCI" is used in this order.

their telecommunications operating revenues (TORs) as an indicator of the relative size and interest of the parties involved in the proceeding.⁴

17. 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.
18. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated to TCI.

Directions regarding costs

19. The Commission **approves** the application by l'Union for costs with respect to its participation in the proceeding.
20. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to l'Union at \$1,540.
21. The Commission **directs** that the award of costs to l'Union be paid forthwith by TCI.

Secretary General

Related documents

- *Phase-out of the local service subsidy regime*, Telecom Notice of Consultation CRTC 2017-92, 6 April 2017; as amended by Telecom Notice of Consultation CRTC 2017-92-1, 16 May 2017
- *Guidance for costs award applicants regarding representation of a group or a class of subscribers*, Telecom Information Bulletin CRTC 2016-188, 17 May 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

⁴ TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services. In this case, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.