



## Telecom Order CRTC 2018-346

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Ottawa, 4 September 2018

*File numbers: 1011-NOC2017-0112 and 4754-581*

### **Determination of costs award with respect to the participation of l'Union des consommateurs in the proceeding initiated by Telecom Notice of Consultation 2017-112**

#### **Application**

1. By letter dated 12 January 2018, l'Union des consommateurs (l'Union) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2017-112 (the proceeding). In the proceeding, the Commission examined matters related to the establishment of the broadband funding regime, including its governance, operating, and accountability frameworks, as well as eligibility and assessment criteria for proposed projects.
2. The Commission did not receive any interventions in response to the application for costs.
3. L'Union 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, 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.
5. L'Union submitted that it comprises 13 consumer advocacy groups, the majority of which are in Quebec.<sup>1</sup> L'Union indicated that its structure enables it to maintain a broad vision of consumer issues while developing particular expertise in certain areas, notably through its research work on new issues faced by consumers. In particular,

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<sup>1</sup> These groups are l'Association coopérative d'économie familiale (ACEF) in 10 regions, l'Association des consommateurs pour la qualité dans la construction, the EBO Financial Education Centre (formerly Entraide budgétaire Ottawa), and le Centre d'intervention budgétaire et sociale de la Mauricie.

l'Union indicated that its representation of consumer interests is shaped by its work on the ground and the establishment of member associations in their communities.

6. L'Union requested that the Commission fix its costs at \$1,657.50, consisting of \$600 in legal fees and \$1,057.50 in analyst fees. Specifically, l'Union claimed 0.75 days in senior internal legal fees at a rate of \$800 per day and 2.25 days for internal analyst fees at a rate of \$470 per day. L'Union filed a bill of costs with its application.
7. 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, it submitted that it would prefer that the number of costs respondents be as low as possible to avoid undue administrative burden.

### **Commission's analysis and determinations**

8. 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.
9. In Telecom Information Bulletin 2016-188, the Commission provided guidance regarding how an applicant may demonstrate that it satisfies the first criterion with respect to its representation of interested subscribers. In the present case, l'Union has demonstrated that it meets this criterion. L'Union submitted that it represented the interests of consumers, primarily those from moderate-income households, and identified its member organizations. L'Union also described how it established that the positions it submitted to the Commission reflected the interests of the members it claimed to represent.
  10. L'Union satisfied the other criteria through its participation in the proceeding. In particular, by bringing forward a focused and structured contribution, as well as highlighting its points of view on certain eligibility criteria and on project evaluation, l'Union assisted the Commission in developing a better understanding of the matters that were considered. In addition, l'Union participated in the proceeding in a responsible way.

11. The rates claimed in respect of internal 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.
12. 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.
13. 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 all the telecommunications service providers that participated in the proceeding had a significant interest in the outcome of the proceeding and participated actively in the proceeding.
14. 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) as an indicator of the relative size and interest of the parties involved in the proceeding.<sup>2</sup> 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.
15. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated to Bell Canada,<sup>3</sup> on its own behalf and on behalf of Bell Mobility Inc.; NorthernTel, Limited Partnership; Northwestel Inc.; and Télébec, Limited Partnership (collectively, the Bell companies).
16. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for payment on behalf of the Bell companies. The Commission leaves it to the members of the Bell companies to determine the appropriate allocation of the costs among themselves.

### **Directions regarding costs**

17. The Commission **approves** the application by l'Union for costs with respect to its participation in the proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to l'Union at \$1,657.50.

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<sup>2</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.

<sup>3</sup> Bell Canada's TORs include those of MTS Inc. On 1 April 2017, Bell Canada amalgamated with MTS Inc., which is now operating as Bell MTS, a division of Bell Canada.

19. The Commission **directs** that the award of costs to l'Union be paid forthwith by Bell Canada, on behalf of the Bell companies.

Secretary General

### **Related documents**

- *Development of the Commission's broadband funding regime*, Telecom Notice of Consultation CRTC 2017-112, 25 April 2017; as amended by Telecom Notice of Consultation CRTC 2017-112-1, 24 July 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
- *Action Réseau Consommateur, the Consumers' Association of Canada, Fédération des associations coopératives d'économie familiale and the National Anti-Poverty Organization application for costs – Public Notice CRTC 2001-60*, Telecom Costs Order CRTC 2002-4, 24 April 2002