



Telecom Order CRTC 2019-170

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Ottawa, 23 May 2019

File numbers: 8620-P8-201711630 and 4754-591

Determination of costs award with respect to the participation of l'Union des consommateurs in the proceeding that led to Telecom Decision 2019-169

Application

1. By letter dated 5 March 2018, l'Union des consommateurs (l'Union) applied for costs with respect to its participation in the proceeding that led to Telecom Decision 2019-169 (the proceeding). The proceeding was initiated by the Public Interest Advocacy Centre's application concerning the unlocking of mobile devices and the associated requirements set out in the Wireless Code. In the proceeding, the Commission considered, in particular, whether any additional regulatory measures were required with respect to the unlocking of mobile devices.
2. The record of the proceeding initially closed on 12 February 2018; however, it was subsequently reopened for supplementary representations, including a request for information and associated responses. By letter dated 20 September 2018, l'Union applied for supplementary costs with respect to its participation in this additional phase.
3. The Commission did not receive any interventions in response to the application for costs.
4. 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.
5. Specifically, l'Union submitted that it represented the interests of consumers, mainly in Quebec and particularly those from households with modest incomes, and that during the proceeding it had provided several concrete examples of the mobile device unlocking practices of wireless service providers (WSPs).
6. L'Union requested that the Commission fix its costs at \$2,762.50, which included its initial costs application and its application for supplementary costs. L'Union claimed 3.75 days for an internal analyst at a rate of \$470 per day and 1.25 days for internal

legal counsel at a rate of \$800 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).

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. L'Union has satisfied these criteria through its participation in the proceeding. In particular, l'Union's intervention, especially the examples it provided with respect to WSPs' current practices, assisted the Commission in developing a better understanding of the matters that were considered.
10. The rates claimed in respect of internal analyst and legal fees are in accordance with the rates established in the *Guidelines for the Assessment of Costs* (the Guidelines), 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.
11. 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.
12. 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 WSPs had a significant interest in the outcome of the proceeding and participated actively in the proceeding, particularly in the request for information phase.

13. However, the Commission is sensitive to the significant administrative burden that could result if an applicant had to collect small amounts from several costs respondents.
14. Given the relatively small size of the costs claimed by l'Union and the large number of potential costs respondents, the Commission considers that, consistent with section 48 of the Guidelines, it is appropriate to limit the costs respondents to the largest WSPs, namely Bell Mobility Inc. (Bell Mobility), Rogers Communications Canada Inc. (RCCI), and TELUS Communications Inc. (TCI).
15. 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.¹
16. 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.
17. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

Company	Proportion	Amount
TCI	51.4%	\$1,419.97
RCCI	48.6%	\$1,342.53

Directions regarding costs

18. The Commission **approves** the application by l'Union for costs with respect to its participation in the proceeding.
19. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to l'Union at \$2,762.50.
20. The Commission **directs** that the award of costs to l'Union be paid forthwith by TCI and RCCI according to the proportions indicated in paragraph 17.

Secretary General

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.

Related documents

- *Wireless Code – Request to clarify the device unlocking rules*, Telecom Decision CRTC 2019-169, 23 May 2019
- *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