



## Telecom Order CRTC 2020-82

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Ottawa, 3 March 2020

*File numbers: 8661-P8-201804295 and 4754-600*

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre and the National Pensioners Federation in the proceeding that led to Telecom Decision 2020-80**

#### **Application**

1. By letter dated 14 August 2018, the Public Interest Advocacy Centre (PIAC) applied for costs on its own behalf and on behalf of the National Pensioners Federation (NPF) [collectively, PIAC-NPF] with respect to their participation in the proceeding that led to Telecom Decision 2020-80 (the proceeding). In the proceeding, the Commission considered the paper billing practices of Koodo Mobile (Koodo).
2. The Commission did not receive any interventions in response to the application for costs.
3. PIAC-NPF 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, PIAC submitted that it represents the interests of consumers across Canada, with a particular focus on vulnerable consumers. PIAC argued that it represents these consumers through its corporate objective of making representations to governing authorities on behalf of the public at large or on behalf of public interest groups with respect to matters of public concern and interest. PIAC further submitted that it represents a number of individuals (through its board of directors) and organizational members including the Alberta Council on Aging, Dying with Dignity Canada, the Federation of Metro Tenants' Associations, the Ontario Society of Senior Citizens' Organizations, the PEI Council of People with Disabilities, Pensioners Concerned, and Rural Dignity of Canada. PIAC noted that it is also engaged in ongoing research related to choice in telecommunications and broadcasting service providers.
5. NPF submitted that it is a national, not-for-profit, non-partisan, and non-sectarian organization composed of 350 seniors' chapters, clubs, groups, and organizations, as well as individual supporters. NPF submitted that it has a collective membership of

**Canada**

1 million seniors and retirees devoted entirely to the welfare and best interests of aging Canadians.

6. With respect to the specific methods by which PIAC-NPF have submitted that they represent these groups, they explained that they ascertained the interests of their respective groups through filing the application that initiated the proceeding and through consultations with other consumer groups and citizens' groups. PIAC in particular explained that it also reviewed public submissions made to the Commission expressing Canadian consumers' opposition to the removal of paper billing.
7. PIAC-NPF requested that the Commission fix their costs at \$2,437.91, consisting entirely of legal fees. PIAC-NPF's claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which PIAC-NPF are entitled in connection with the HST. PIAC-NPF filed a bill of costs with their application.
8. PIAC-NPF submitted that TELUS Communications Inc. (TCI) should be required to pay any costs awarded by the Commission (the costs respondent).<sup>1</sup>

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

9. 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.
10. 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, PIAC-NPF have demonstrated that they meet this requirement. PIAC's corporate objective, board of directors, and organizational members demonstrate that PIAC represents the interests of Canadian consumers and, in particular, vulnerable consumers. NPF's

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<sup>1</sup> TCI offers retail mobile wireless services through its Koodo brand.

membership of seniors and retirees demonstrates that NPF represents the interests of aging Canadians.

11. PIAC-NPF have also satisfied the remaining criteria through their participation in the proceeding. In particular, PIAC-NPF's submissions, especially those regarding section 27.2 of the *Telecommunications Act* (the Act), assisted the Commission in developing a better understanding of the matters that were considered.
12. The rates claimed in respect of legal 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 PIAC-NPF was necessarily and reasonably incurred and should be allowed.
13. 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.
14. 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. Since the outcome of the proceeding has broad implications for paper billing in the provision of telecommunications services, the Commission considers that Bell Canada and Bell Mobility Inc. (collectively, the Bell companies), the Canadian Network Operators Consortium Inc., and TCI had a significant interest in the outcome of the proceeding, and that they participated actively throughout the proceeding. Therefore, these parties are the appropriate costs respondents to PIAC-NPF's application for costs.
15. The Commission notes that its general practice is 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> The Commission further notes that, as set out in Telecom Order 2015-160, it generally 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.
16. The Commission considers each application for costs on its own merits and with respect to the particular circumstances of the proceeding associated with the application. While in most cases the general practice of allocating the responsibility for payment of costs among costs respondents in accordance with their TORs is appropriate, the Commission retains the discretion to take alternative approaches to allocating costs when it is determined to be appropriate in the circumstances.

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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.

17. In this case, a strict application of the Commission's practice of allocating the responsibility for payment of costs based on TORs would result in the Bell companies being responsible for the entire costs award. The Commission finds that making the Bell companies responsible for paying the entire costs award would not appropriately reflect TCI's interest and participation in the proceeding.
18. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:<sup>3</sup>

<b>Company</b>	<b>Proportion</b>	<b>Amount</b>
Bell companies	50%	\$1,218.95
TCI	50%	\$1,218.96

19. 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**

20. The Commission **approves** the application by PIAC-NPF for costs with respect to their participation in the proceeding.
21. Pursuant to subsection 56(1) of the Act, the Commission fixes the costs to be paid to PIAC-NPF at \$2,437.91.
22. The Commission **directs** that the award of costs to PIAC, on behalf of PIAC-NPF, be paid forthwith by Bell Canada on behalf of the Bell companies and by TCI, according to the proportions set out in paragraph 18.

Secretary General

### **Related documents**

- *Public Interest Advocacy Centre and National Pensioners Federation – Application regarding paper billing by Koodo Mobile*, Telecom Decision CRTC 2020-80, 3 March 2020
- *Guidance for costs award applicants regarding representation of a group or a class of subscribers*, Telecom Information Bulletin CRTC 2016-188, 17 May 2016

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<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. In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

- *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*
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