



Telecom Order CRTC 2022-303

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Determination of costs award with respect to the participation of the Canadian Association of the Deaf-Association des Sourds du Canada in the proceeding that led to Telecom Regulatory Policy 2022-234

Application

1. By letter dated 30 October 2021, the Canadian Association of the Deaf-Association des Sourds du Canada (CAD-ASC) applied for costs with respect to its participation in the proceeding that led to Telecom Regulatory Policy 2022-234 (the proceeding). In the proceeding, the Commission sought comments to determine the need to implement a national three-digit code for mental health crisis and suicide prevention services, to identify existing barriers to the establishment of such a code and, if necessary, to determine how these barriers could be overcome.
2. TELUS Communications Inc. (TCI) filed an intervention, dated 10 November 2021, in response to CAD-ASC's application for costs. CAD-ASC did not file a reply.
3. CAD-ASC 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 assisted the Commission in developing a better understanding of the matters that were considered, and it participated in a responsible way.
4. In particular, CAD-ASC submitted that it is composed of, and represents the interests of, Deaf Canadians. CAD-ASC indicated that broadcasting and telecommunications services are generally inaccessible for those who cannot hear. Therefore, Deaf Canadians have a particular interest in sharing their perspective to inform solutions and recommendations on accessibility issues in relation to the introduction of a three-digit abbreviated dialing code for mental health crisis and suicide prevention services.
5. CAD-ASC requested that the Commission fix its costs at \$6,820.00, consisting entirely of consultant fees. CAD-ASC filed a bill of costs with its application.
6. CAD-ASC submitted that the appropriate costs respondents to its application are all the telecommunications service providers that participated in the proceeding.

Answer

7. TCI did not object to CAD-ASC's eligibility for costs and took no positions regarding the amount of costs claimed. However, TCI submitted that any costs awarded in this proceeding should be allocated on the basis of telecommunications operating revenues (TORs)¹ and that all telecommunications service providers who participated in the proceeding should be named as costs respondents.

Commission's analysis

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, CAD-ASC has demonstrated that it meets this requirement. In particular, CAD-ASC is a charitable organization that advocates for Deaf Canadians, who have unique needs in accessing telecommunications services.
10. CAD-ASC has also satisfied the remaining criteria through its participation in the proceeding. In particular, CAD-ASC assisted the Commission in developing a better understanding of the matters that were considered by providing recommendations related to accessibility issues that the Deaf community in Canada may face in accessing the three-digit abbreviated dialing code for mental health crisis and suicide prevention services.

¹ TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

11. Further, CAD-ASC participated in the proceeding in a responsible way. Accordingly, the Commission finds that the applicant meets the criteria for an award of costs under section 68 of the Rules of Procedure.
12. The rates claimed with respect to consultant 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 CAD-ASC 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. 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, carrying on business as Eastlink; Distributel Communications Limited; Iristel Inc.; Quebecor Media Inc., on behalf of Videotron Ltd.; Rogers Communications Canada Inc. (RCCI); Saskatchewan Telecommunications; TBayTel; TekSavvy Solutions Inc.; and 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 TORs as an indicator of the relative size and interest of the parties involved in the proceeding. 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.
16. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:²

Company	Proportion	Amount
Bell Canada	43.7%	\$2,980.07
TCI	28.64%	\$1,953.25
RCCI	27.66%	\$1,886.68

² In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

2019 Policy Direction

17. The Governor in Council issued a policy direction in which it directed the Commission to consider how its decisions can promote competition, affordability, consumer interests, and innovation (the 2019 Policy Direction).³ The Commission considers that the awarding of costs in this instance is consistent with subparagraph 1(a)(iv) of the 2019 Policy Direction.
18. By facilitating the participation of a group that represents consumer interests, this order contributes to enhancing and protecting the rights of consumers in their relationships with telecommunications service providers. Since consumer groups often require financial assistance to effectively participate in Commission proceedings, the Commission is of the view that its practice of awarding costs, as exercised in this instance, enables such groups to provide their perspectives on how consumer interests may be affected by the outcomes of the proceedings. In light of the above, the Commission considers that its determination to award costs to CAD-ASC promotes consumer interests.

Directions regarding costs

19. The Commission **approves** the application by CAD-ASC 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 CAD-ASC at \$6,820.00\$.
21. The Commission **directs** that the award of costs to CAD-ASC be paid forthwith by Bell Canada, TCI and RCCI according to the proportions set out in paragraph 16.

Secretary General

Related documents

- *Introduction of 9-8-8 as the three-digit abbreviated dialing code for mental health crisis and suicide prevention services and Northwestel Inc.'s application for modified implementation of ten-digit local dialing*, Telecom Regulatory Policy CRTC 2022-234, 31 August 2022
- *Call for comments – Introduction of a three-digit abbreviated dialing code for mental health crisis and suicide prevention services*, Telecom Notice of Consultation CRTC 2021-191, 3 June 2021; as amended by Telecom Notice of Consultation CRTC 2021-191-1, 30 November 2021

³ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*, SOR/2019-227, 17 June 2019

- *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