



Telecom Order CRTC 2022-38

PDF version

Ottawa, 17 February 2022

File numbers: 1011-NOC2020-0081 and 4754-643

Determination of costs award with respect to the participation of the Deafness Advocacy Association Nova Scotia in the proceeding that led to Telecom and Broadcasting Decision 2022-28

Application

1. By letter dated 28 August 2020, the Deafness Advocacy Association Nova Scotia (DAANS) applied for costs with respect to its participation in the proceeding that led to Telecom and Broadcasting Decision 2022-28 (the proceeding). In the proceeding, the Commission considered (i) whether there is a need for Canadians or certain groups of Canadians to continue to receive paper bills; (ii) whether Commission intervention is appropriate and warranted with respect to the paper billing practices of communications service providers;¹ (iii) what measures, if any, the Commission should impose with respect to paper billing practices if Commission intervention is appropriate and warranted; and (iv) how and to whom any new obligations should apply.
2. The Commission did not receive any interventions in response to DAANS's application for costs.
3. DAANS 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, DAANS submitted that it represented the interests of Nova Scotians who are Deaf, Deaf-Blind, hard of hearing and late-deafened (DDBHH) in a variety of areas, including telecommunications issues. In the proceeding, DAANS sought to represent DDBHH Nova Scotians facing language, cultural, and hearing barriers inherent to billing practices.
5. DAANS highlighted that it collaborated with other interveners to file joint interventions that would provide a distinct and unique point of view without duplicating the submissions of other parties.

¹ Communications service providers include telecommunications service providers and broadcasting distribution undertakings.

6. DAANS requested that the Commission fix its costs at \$1,527.50, consisting of in-house consultant fees for one consultant at the rate of \$470 per day for 3.25 days. DAANS filed a bill of costs with its application.
7. DAANS submitted that the appropriate costs respondents to its application are all the telecommunications service providers that participated in the proceeding.

Request for information concerning time spent on telecommunications matters

8. In a letter dated 6 January 2021, Commission staff noted that the proceeding was related to both telecommunications and broadcasting issues, and that the Commission may award costs related only to telecommunications issues under the *Telecommunications Act*. Commission staff also indicated that parties claiming costs for broadcasting matters were free to apply to the Broadcasting Participation Fund for the portion of their time in the proceeding that was dedicated to broadcasting matters.
9. In the letter, Commission staff noted that the individual costs applicants had the best knowledge of the amount of time allocated to particular issues and whether these issues related to telecommunications or broadcasting matters. Accordingly, Commission staff requested that DAANS provide the percentage of time spent on telecommunications matters during the proceeding, including supporting information as to how it determined the time allocated to telecommunications matters, as opposed to broadcasting ones.
10. In its response dated 14 January 2021, DAANS submitted that its full costs should be awarded since, along with those of its joint interveners, its submissions focused on paper billing in the telecommunications sector and responded to submissions made by telecommunications service providers. DAANS also highlighted that its submissions made no references to specific broadcasters.

Commission's analysis and determinations

11. 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.
12. 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, DAANS has demonstrated that it

meets this requirement because it is a non-profit organization that advocates for DDBHH Nova Scotians in accessing telecommunications services.

13. DAANS has also satisfied the remaining criteria through its participation in the proceeding. In particular, its submissions were coordinated with its joint interveners, which provided the Commission with a focused and unique perspective. This assisted the Commission in developing a better understanding of the matters that were considered from the perspective of the broader DDBHH community in Canada, including in Nova Scotia.
14. Accordingly, the Commission finds that DAANS meets the criteria for an award of costs under section 68 of the Rules of Procedure.
15. 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 DAANS was necessarily and reasonably incurred and should be allowed.
16. 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.
17. The Commission accepts DAANS's submissions as they relate to the allocation of costs between telecommunications and broadcasting matters. Accordingly, the Commission determines that DAANS is entitled to the full costs related to its participation in the proceeding.
18. 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, and are therefore the appropriate costs respondents to DAANS's application for costs: Bell Canada; Bragg Communications Incorporated, carrying on business as Eastlink; Distributel Communications Limited; Quebecor Media Inc., on behalf of Videotron Ltd.; Rogers Communications Canada Inc. (RCCI); Saskatchewan Telecommunications; Shaw Communications Inc.²; TekSavvy Solutions Inc.; TELUS Communications Inc.; and Xplornet Communications Inc.
19. It is also the Commission's general practice to allocate the responsibility for the payment of costs among costs respondents based on their telecommunications operating revenues (TORs).³ In general, the Commission considers that TORs are indicators of the relative size and interest of the parties involved in proceedings.
20. 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

² Shaw Communications Inc. intervened on behalf of: Freedom Mobile Inc.; Shaw Cablesystems G.P.; Shaw Cablesystems Limited; Shaw Cablesystems (VCI) Limited; and Star Choice Television Network Incorporated.

³ TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

administrative burden that small costs awards impose on both the applicant and costs respondents.

21. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated to RCCI.⁴

2019 Policy Direction

22. 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).⁵ The Commission considers that the awarding of costs in this instance is consistent with subparagraph 1(a)(iv) of the 2019 Policy Direction.
23. By facilitating the participation of a group that represents consumer interests relating to accessibility, 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 relating to accessibility may be affected by the outcomes of the proceedings. In light of the above, the Commission considers that its determination to award costs to DAANS promotes consumer interests relating to accessibility.

Directions regarding costs

24. The Commission **approves** the application by DAANS for costs with respect to its participation in the proceeding.
25. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to DAANS at \$1,527.50.
26. The Commission **directs** that the award of costs to DAANS be paid forthwith by RCCI.

Secretary General

Related documents

- *When and how communications service providers must provide paper bills*, Telecom and Broadcasting Decision CRTC 2022-28, 10 February 2022
- *Guidance for costs award applicants regarding representation of a group or a class of subscribers*, Telecom Information Bulletin CRTC 2016-188, 17 May 2016

⁴ In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

⁵ *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

- *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*