



Telecom Order CRTC 2023-364

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Ottawa, 9 November 2023

File numbers: 8662-B2-202209973 and 4754-708

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding in which the Commission considered Bell Canada's application to review and vary Telecom Regulatory Policy 2018-377 and Telecom Decision 2022-341

Application

1. By letter dated 8 March 2023, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by Bell Canada in which the Commission considered Bell Canada's application to review and vary Telecom Regulatory Policy 2018-377 and Telecom Decision 2022-341.
2. TELUS Communications Inc. (TCI) filed an intervention, dated 16 March 2023, in response to PIAC's application. PIAC did not reply.
3. PIAC 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, PIAC submitted that it represents the interests of all consumers across Canada as a class who have an interest in the availability and affordability of retail service offerings. PIAC also submitted that it represents all customers of telecommunications services and essential services more broadly and represents several individual and organizational members.¹ PIAC stated that it is held accountable to the groups it represents through a volunteer board of directors drawn from across Canada. PIAC explained that all telecommunications consumers are affected by broadband funding and deployment and have an interest in the effective use of contributions funding to improve both affordability and availability of telecommunications services. With respect to the specific method by which PIAC has submitted that it represents this group or class, PIAC explained that it conducted

¹ PIAC's current group members are Alberta Council on Aging, Canadian Pensioners Concerned, Dying with Dignity Canada, Federation of Metro Tenants Association, Ontario Society of Senior Citizens Organizations, PEI Council of the Disabled, and Rural Dignity of Canada.

extensive research related to consumer interests by consulting recent reports on affordability and ongoing research related to choice in telecommunications and broadcasting providers.

5. PIAC requested that the Commission fix its costs at \$3,783.71, consisting entirely of legal fees. PIAC's claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which its external counsel is entitled in connection with the HST. PIAC filed a bill of costs with its application.
6. PIAC claimed 2.6 hours for senior external counsel at a rate of \$290.00 per hour (\$783.71 with the HST and the associated rebate), and 5 days for in-house counsel at a rate of \$600.00 per day (\$3,000.00) for work preparing the intervention.
7. PIAC submitted that all potential costs respondents are the appropriate parties to be required to pay any costs awarded by the Commission.

Answer

8. TCI submitted that it had no contentions with PIAC's application for costs.

Commission's analysis

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 has demonstrated that it meets this requirement. PIAC specifically identified that it represents all consumers across Canada as a class who have an interest in the availability and affordability of retail service offerings. PIAC explained that it conducted extensive research related to consumer interests by consulting recent

reports on affordability and ongoing research related to choice in telecommunications and broadcasting providers.

11. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's submissions, especially regarding its well-researched and consumer-focused position on Bell Canada's review and vary application, 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 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 Bell Canada; Bragg Communications Incorporated, carrying on business as Eastlink; Cogeco Communications inc.; members of the Independent Telecommunications Providers Association; Saskatchewan Telecommunications; SSi Micro Ltd., doing business as SSi Canada; and TCI had a significant interest in the outcome of the proceeding and participated actively throughout the proceeding.
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.² 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.

Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:³

Company	Proportion	Amount
TCI	58.18%	\$2,201.36

² TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

³ In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

Bell Canada	41.82%	\$1,582.35
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Directions regarding costs

16. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
17. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$3,783.71.
18. The Commission **directs** that the award of costs to PIAC be paid forthwith by TCI and Bell Canada according to the proportions set out in paragraph 15.

Secretary General

Related documents

- *Final 2022 revenue-percent charge and related matters*, Telecom Decision CRTC 2022-341, 15 December 2022
- *Development of the Commission's Broadband Fund*, Telecom Regulatory Policy CRTC 2018-377, 27 September 2018
- *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