



Telecom Order CRTC 2023-388

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Ottawa, 20 November 2023

File numbers: 8657-T117-202201888 and 4754-715

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by TekSavvy Solutions Inc. to seek updates to the approval processes of competitor tariff filings

Application

1. By letter dated 14 July 2022, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the application by TekSavvy Solutions Inc. (TekSavvy) seeking updates to the approval processes of competitor tariff filings (the proceeding). In this proceeding, the Commission considered an application from TekSavvy requesting a Commission determination regarding the efficacy of the approval processes of competitor tariff filings within the current high-speed access wholesale regime.
2. The Commission did not receive any interventions in response to the application for costs.
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 consumers, with a particular focus on customers of wholesale-based Internet providers, who depend or will depend on expedient and fair access to wholesale high-speed access services across Canada, and therefore advanced the interests of Canadian consumers with respect to the issues that were discussed in the proceeding.
5. PIAC requested that the Commission fix its costs at \$1,945.18, consisting entirely of legal fees. PIAC's claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which PIAC is entitled in connection with the HST. PIAC filed a bill of costs with its application.
6. PIAC claimed 1 hour for senior external counsel at a rate of \$290 per hour for work preparing for the proceeding (\$301.43 with the HST and the associated rebate), 2.25 days for in-house counsel at a rate of \$600 per day (\$1,350 with the HST and

the associated rebate), and 1.25 days for articling students at a rate of \$235 per day (\$293.75 with the HST and the associated rebate).

7. PIAC suggested that the responsibility for payment of costs be allocated among all potential costs respondents based on the most recent data provided to the Commission by the telecommunications service providers.

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, PIAC has demonstrated that it meets this requirement. PIAC represents the interests of all customers of telecommunication services, as a class, with a particular focus on low-income consumers, and is held accountable for its representation of the public interest through a volunteer board of directors drawn across Canada.
10. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's submissions, especially regarding procedural delays and the impact of the absence of timelines within the tariff approval process on competitors, assisted the Commission in developing a better understanding of the matters that were considered.
11. 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.
12. 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.

13. 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 throughout the proceeding: Distributel Communications Limited, Rogers Communications Canada Inc. (RCCI), TekSavvy, and TELUS Communications Inc. Therefore, the parties are the appropriate costs respondents to PIAC's application for costs.
14. 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
15. 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 entirely to RCCI.

Directions regarding costs

17. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$1,945.18.
19. The Commission **directs** that the award of costs to PIAC be paid forthwith by RCCI.

Related documents

- *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

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