



Telecom Order CRTC 2024-199

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Ottawa, 5 September 2024

File numbers: 8622-V3-202306878 and 4754-738

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Quebecor Media Inc.

Application

1. By letter dated 7 March 2024, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by an application from Quebecor Media Inc. (Quebecor) [the proceeding] requesting that the Commission make a number of determinations related to Quebecor's access to Bell Mobility Inc.'s (Bell Mobility) Mobile Virtual Network Operators (MVNO) access service, and to the application of the MVNO access service rates established in Telecom Decision 2023-335.
2. The Commission did not receive any interventions in response to the application for costs.
3. In its application, PIAC noted that its filing was late, and its cost application should have been filed on 28 February 2024. PIAC noted that this late filing was due to the expedited nature of the proceeding and key personnel absences among their small team.
4. 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.
5. In particular, PIAC submitted that it represents the interests of all consumers across Canada, who have an interest in the availability and affordability of retail service offerings. PIAC also represents a number of other member individuals and organizations. With respect to the specific methods by which PIAC has submitted that it represents this group or class, PIAC explained that it conducted extensive research related to choice in telecommunications and broadcasting providers.
6. PIAC requested that the Commission fix its costs at \$2,290.84, 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.

7. PIAC claimed 7.6 hours for senior external counsel at a rate of \$290 per hour for work preparing for the proceeding.
8. PIAC submitted that Quebecor and all other potential costs respondents are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).
9. PIAC suggested that the responsibility for payment of costs should be divided among the costs respondents based on the most recent data provided to the Commission by the telecommunications service providers.

Commission's analysis

10. The Commission considers that PIAC has provided sufficient justification for the late filing of its cost application and that all potential costs respondents were not prejudiced by this short delay and were copied on PIAC's application.
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, PIAC has demonstrated that it meets this requirement. PIAC's submission clearly explained that it represents the interests of all retail customers of telecommunication services and in particular, the retail wireless customers of the applicants who are potential wholesale MVNO customers.
13. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's submissions assisted the Commission in developing a better understanding of the matters that were considered, especially regarding the nature of the CRTC's direction to enter into an MVNO access agreement after the final offer arbitration process between Bell Mobility and Quebecor.
14. The rates claimed in respect of legal fees are in accordance with the rates established in the *Guidelines for the Assessment of Costs* (the Guidelines), 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.

15. 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.
16. 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 Mobility and Quebecor both had a significant interest in the outcome of the proceeding and participated actively throughout the proceeding. Therefore, the Commission considers that the appropriate costs respondents to PIAC's application for costs are Bell Mobility and Quebecor.
17. The Guidelines set out the key principles that the Commission seeks to implement through its cost regime. These include ensuring that the process gives sufficient flexibility to take into account particular circumstances where relevant, and that the approach taken is fair, efficient, and effective. Accordingly, given that the focus of the proceeding was related to a dispute between two parties, the Commission considers it appropriate to depart from its practice of allocating the responsibility for payment of costs between costs respondents based on their telecommunications operating revenues¹ or, if appropriate, on their wireless operating revenues, and to allocate costs equally between the two parties involved in the proceeding.
18. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

Company	Proportion	Amount
Bell Mobility	50%	\$1,145.42
Quebecor	50%	\$1,145.42

Directions regarding costs

19. The Commission approves the application by PIAC 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 PIAC at \$2,290.84.
21. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Mobility and Quebecor according to the proportions set out in paragraph 18.

Secretary General

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

Related documents

- *Final offer arbitration between Bell Mobility Inc. and Quebecor Media Inc. regarding wholesale mobile virtual network operator access rates*, Telecom Decision CRTC 2023-335, 10 October 2023
- *Guidance for costs award applicants regarding representation of a group or a class of subscribers*, Telecom Information Bulletin CRTC 2016-188, 17 May 2016
- *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