



Telecom Order CRTC 2024-211

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Ottawa, 17 September 2024

File numbers: 8665-C209-202304814 and 4754-720

Determination of costs award with respect to the participation of the Canada Deaf Grassroots Movement in the proceeding initiated by the filing of the Canadian Administrator of VRS (CAV), Inc. proposed 2024 annual budget

Application

1. By letter dated 11 October 2023, the Canada Deaf Grassroots Movement (CDGM) applied for costs with respect to its participation in the proceeding initiated by the filing of the Canadian Administrator of VRS (CAV), Inc. (CAV) proposed 2024 budget (the proceeding). As part of that budget, CAV had requested \$33,793,452 in funds from the National Contribution Fund (NCF) to operate video relay service (VRS) in Canada in 2024 and acknowledged that the requested amount exceeded the established funding cap of \$30 million.
2. The Commission did not receive any interventions in response to the application for costs.
3. The CDGM 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. With respect to the group or class of subscribers that the CDGM submitted it represents, the CDGM explained that it represents Deaf sign language users who use VRS administered by CAV. With respect to the specific method by which the CDGM submitted that it represents this group or class, the CDGM explained that it provided the Commission with a fulsome record of how CAV's proposed 2024 budget could affect Deaf sign language users.
5. The CDGM requested that the Commission fix its costs at \$2,200, consisting entirely of consultant fees. The CDGM filed a bill of costs with its application.
6. The CDGM claimed 21 hours at a rate of \$110 per hour for consultant fees.
7. The CDGM submitted that wireless service providers are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).

Request for information

8. No telecommunications service providers (TSPs) actively participated in the proceeding. Therefore, the Commission's general approach of naming companies who actively participated in the proceeding as the potential costs respondents does not apply in this case.
9. Consequently, by letter dated 12 December 2023, Commission staff asked Bell Canada, Rogers Communications Canada Inc. (RCCI) and TELUS Communications Inc. (TCI) to provide comments on a proposed costs allocation that would see them named as costs respondents with an interest in the outcome of the proceeding and the Commission's established approach of allocating costs based on relative telecommunications operating revenues (TORs) applied.¹
10. In response, all three companies accepted that all TSPs that fund VRS have an interest in the outcome of the proceeding and did not object to the allocation of costs among the three largest providers based on TORs. Bell Canada, however, objected to the list of Bell Canada affiliates that were referenced in the request for information being included in the calculations, arguing that some of the affiliates would not normally participate in Commission proceedings.

Commission's analysis

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, the CDGM has demonstrated that it meets this requirement. The CDGM assisted the Commission in developing a better understanding of the matters in this proceeding by advocating on behalf of Deaf, hard-of-hearing, and deaf-blind (DHHDB) consumers. The CDGM intervened on behalf of this group by reviewing CAV's proposed 2024 budget to ensure that DHHDB consumers have access to a world-class VRS.

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

13. The CDGM has also satisfied the remaining criteria through its participation in the proceeding. The CDGM's submissions, especially regarding the merit of exceeding the funding cap to best serve all VRS consumers in light of the current inflationary environment and issues with the supply of video interpreters, assisted the Commission in developing a better understanding of the matters that were considered.
14. The rates claimed in respect of 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 the CDGM was necessarily and reasonably incurred and should be allowed.
15. 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. Even though no TSPs participated in the proceeding, the Commission considers that all TSPs that pay contributions to fund VRS had a significant interest in the outcome of the proceeding² and that Bell Canada and its affiliates (collectively, Bell Canada et al.),³ RCCI,⁴ and TCI are the potential costs respondents.
16. 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.
17. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated entirely to Bell Canada et al.⁵

Directions regarding costs

18. The Commission approves the application by the CDGM for costs with respect to its participation in the proceeding.
19. Pursuant to subsection 56(1) of the Telecommunications Act, the Commission fixes the costs to be paid to the CDGM at \$2,200.

²Considering the low amount of costs, the Commission limited its analysis to the largest players in the industry.

³The following TSPs have been included as part of Bell Canada et al.: Bell Canada; Bell Mobility Inc.; Distributel Communications Limited; KMTS, a division of Bell Canada; NorthernTel, Limited Partnership; Northwestel Inc.; Ontera, a division of NorthernTel; Primus Telecommunications Canada Inc.; and Télébec, Société en commandite.

⁴The TORs of Shaw Group, Shaw Telecom G.P., and RCCI have been combined for the allocation of costs.

⁵In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

20. The Commission directs that the award of costs to the CDGM be paid forthwith by Bell Canada on behalf of Bell Canada et al.

Secretary General

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