



## Telecom Order CRTC 2024-243

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Ottawa, 17 October 2024

*File numbers: 1011-NOC2022-0147 and 4754-734*

### **Determination of final costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Telecom Notice of Consultation 2022-147**

#### **Application**

1. By letter dated 21 February 2024, the Public Interest Advocacy Centre (PIAC) applied for final costs incurred after 31 May 2023 with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2022-147 (the proceeding). In the proceeding, the Commission considered the actions it should take to improve telecommunications services in the Far North.
2. The Commission did not receive any interventions in response to the application for final costs.
3. The Commission notes that, by letter dated 2 August 2023, PIAC applied for interim costs incurred up to 31 May 2023. In Telecom Order 2023-365 (the interim costs order), the Commission approved, on an interim basis, PIAC's interim costs application for \$48,884.91. The Commission also noted its expectation that PIAC would file a supplemental final costs application, including any costs incurred after 31 May 2023, upon which a final costs order would be issued.
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 consumers in the Far North, particularly low-income and vulnerable consumers who are less likely than those in southern Canada to be able to afford reliable telecommunications services. PIAC noted that it has a long history of representing consumers in Commission proceedings, particularly low-income and other vulnerable consumers, and that it has participated in various Commission proceedings involving the Far North and Northwestel Inc. (Northwestel).
6. PIAC further submitted that it had assisted the Commission in developing a better understanding of the matters that were considered by submitting information on the affordability of telecommunications services, advancing reconciliation with Indigenous

peoples, and promoting reliability and quality of telecommunications services, competition, and wholesale services.

7. PIAC requested that the Commission fix its additional costs incurred after 31 May 2023 at \$9,268.23, 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.
8. PIAC claimed 19.8 hours for the work of senior counsel at a rate of \$290 per hour and 5.5 days for the work of in-house counsel at a rate of \$600 per day.
9. Regarding the responsibility and allocation of costs, PIAC noted the Commission's determinations at paragraphs 21–22 of the interim costs order that apportioned 70% of the costs to Northwestel, and 30% to TELUS Communications Inc. (TCI). PIAC submitted that because there was no sharp distinction between its work following the interim costs order, this apportionment method remains appropriate for the final costs it is claiming.

### **Commission's analysis**

10. 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.
11. 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. Specifically, PIAC represents the interests of consumers in the Far North, particularly low-income and vulnerable consumers who are less likely to be able to afford reliable telecommunications services than those in southern Canada. PIAC indicated that the positions it put forward reflected the interests of consumers in the Far North given its experience representing these consumers in recent Commission proceedings related to the Far North and Northwestel.
12. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's submissions, especially regarding subsidies, assisted the Commission in developing a better understanding of the matters that were considered. PIAC also participated in the proceeding in a responsible way by complying with the Rules of Procedure and by respecting the deadlines and processes set out in the proceeding.

13. 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.
14. 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.
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 and have participated actively in that proceeding.
16. In the interim costs order, the Commission recognized that while Northwestel had a significant interest in the outcome of the proceeding and had actively participated in it, TCI and other telecommunications service providers (TSPs) also had a significant interest and had actively participated. The Commission considers that this continues to be the case such that the appropriate costs respondents to PIAC's application for costs are Competitive Network Operators of Canada; Iristel Inc., on its own behalf and on behalf of its affiliate Ice Wireless Inc.; Northwestel; SSi Micro Ltd., doing business as SSi Canada; and TCI.
17. In the interim costs order, the Commission further considered that it was appropriate to allocate 70% of the costs to Northwestel and the remaining 30% to the other costs respondents based on their telecommunications operating revenues (TORs).<sup>1</sup> The Commission considers that this continues to be the appropriate allocation for PIAC's costs to ensure fairness among costs respondents and consistency with the Commission's existing determinations on costs in the context of the proceeding.<sup>2</sup>
18. 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.

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

<sup>2</sup> In Telecom Orders 2023-14, 2023-15, and 2024-91, the Commission also apportioned costs between Northwestel at 70% and other TSPs at 30%.

19. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:<sup>3</sup>

Company	Proportion	Amount
Northwestel	70%	\$6,487.76
TCI	30%	\$2,780.47

### Directions regarding costs

20. The Commission approves the final costs application by PIAC with respect to its participation in the proceeding, including making final the costs approved on an interim basis in Telecom Order 2023-365.
21. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC for its participation in the proceeding after 31 May 2023 at \$9,268.23.
22. The Commission directs that the award of costs to PIAC be paid forthwith by Northwestel and TCI according to the proportions set out in paragraph 19.

Secretary General

### Related documents

- *Determination of costs award with respect to the participation of the First Mile Connectivity Consortium in the proceeding initiated by Telecom Notice of Consultation 2022-147*, Telecom Order CRTC 2024-91, 1 May 2024
- *Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Telecom Notice of Consultation 2022-147*, Telecom Order CRTC 2023-365, 10 November 2023
- *Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Telecom Notice of Consultation 2020-367*, Telecom Order CRTC 2023-15, 23 January 2023
- *Determination of costs award with respect to the participation of the First Mile Connectivity Consortium in the proceeding initiated by Telecom Notice of Consultation 2020-367*, Telecom Order CRTC 2023-14, 23 January 2023
- *Call for comments – Telecommunications in the Far North, Phase II*, Telecom Notice of Consultation CRTC 2022-147, 8 June 2022, as amended by Telecom Notices of Consultation CRTC 2022-147-1, 14 July 2022; 2022-147-2, 24 October 2022; 2022-147-3, 13 October 2023; and 2022-147-4, 24 November 2023

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

- *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