



Telecom Order CRTC 2024-249

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Ottawa, 22 October 2024

File numbers: 1011-NOC2023-0056 and 4754-747

Determination of costs award with respect to the participation of the Manitoba Coalition in the proceeding initiated by Telecom Notice of Consultation 2023-56

Application

1. By letter dated 23 May 2024, the Aboriginal Council of Winnipeg, Harvest Manitoba, and the Manitoba Branch of the Consumers' Association of Canada (collectively, the Manitoba Coalition) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2023-56 (the proceeding). In the proceeding, the Commission reviewed the existing framework for wholesale high-speed access services in light of changing market conditions, the significant challenges in implementing the framework, and the importance to Canadians of having access to greater choice and more affordable services.
2. The Commission did not receive any interventions in response to the application for costs.
3. The Manitoba Coalition 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, the Manitoba Coalition submitted that it represents the interests of all consumers in Manitoba, specifically those served by its member organizations, such as Indigenous communities and food-insecure and vulnerable Manitobans.
5. The Manitoba Coalition further submitted that it had assisted the Commission in developing a better understanding of the matters that were considered and raised additional issues in the proceeding. For instance, the Manitoba Coalition's submissions examined the issues raised in the proceeding through an indigenous perspective, and its survey provided information on how the population viewed the current marketplace and its dynamics.
6. The Manitoba Coalition requested that the Commission fix its costs at \$86,006.96, consisting of \$39,287.30 for legal fees, \$26,125.00 for external research (including a

survey and a focus group), \$16,665.00 for consultant fees, and \$3,929.66 for office and travel-related disbursements, including meal allowances.

7. The Manitoba Coalition claimed 15.8 hours at a rate of \$206 per hour for senior external counsel to perform file review, legal research, and case management, to draft replies to questions and interventions/comments, and to prepare for the hearing. It claimed 209.3 hours at a rate of \$165 per hour for external counsel to perform file review, legal research, evidence preparation, client consultations, and case management, as well as draft responses to questions, the intervention, comments, and reply comments, and to prepare for the hearing. It claimed 21.4 hours at a rate of \$70 per hour for an articling student to perform file review and research. The Manitoba Coalition additionally claimed 101 hours at a rate of \$165 per hour for a consultant to perform research, author a report, assist with drafting the intervention, comments, and replies, and to attend the hearing.
8. The Manitoba Coalition submitted that major telecommunications service providers who participated in the proceeding are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).

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, the Manitoba Coalition has demonstrated that it meets this requirement. The Manitoba Coalition represents the interests of consumers across Manitoba, with a particular emphasis on the populations served by its member organizations.
11. The Manitoba Coalition has also satisfied the remaining criteria through its participation in the proceeding. In particular, the Manitoba Coalition's submissions,

especially those that provided information on how the population viewed the current marketplace and its dynamics, assisted the Commission in developing a better understanding of the matters that were considered.

12. Furthermore, the Manitoba Coalition 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 consultant and legal fees and disbursements are in accordance with 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 Manitoba Coalition 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 in question and have participated actively in that proceeding. In the present case, the Commission considers that the appropriate costs respondents are the parties who participated in the hearing, because they demonstrated the most significant interest in the proceeding.
16. The Commission therefore considers that the following parties had a significant interest in the outcome of the proceeding and participated actively in the proceeding: Beanfield Technologies Inc.; Bell Canada; Bragg Communications Incorporated, carrying on business as Eastlink (Eastlink); Cogeco Communications inc., on behalf of Cogeco Connexion Inc. (Cogeco); Competitive Network Operators of Canada (CNOC); Rogers Communications Canada Inc. (RCCI); Saskatchewan Telecommunications (SaskTel); TBayTel; TELUS Communications Inc. (TCI); Transat Télécom inc.; WaveDirect Telecommunications Ltd.; and Xplore Inc.
17. 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
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.

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

19. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:²

Company	Proportion	Amount
RCCI	36.4%	\$31,306.54
TCI	32.5%	\$27,952.26
Bell Canada	22.6%	\$19,437.58
SaskTel	2.9%	\$2,494.20
Cogeco	2.5%	\$2,150.17
CNOC	1.6%	\$1,376.11
Eastlink	1.5%	\$1,290.10

Directions regarding costs

20. The Commission approves the application by the Manitoba Coalition for costs with respect to its participation in the proceeding.
21. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to the Manitoba Coalition at \$86,006.96.
22. The Commission directs that the award of costs to the Manitoba Coalition be paid forthwith by RCCI, TCI, Bell Canada, SaskTel, Cogeco, CNOC, and Eastlink according to the proportions set out in paragraph 19.

Secretary General

Related documents

- *Notice of hearing – Review of the wholesale high-speed access service framework*, Telecom Notice of Consultation CRTC 2023-56, 8 March 2023, as amended by Telecom Notices of Consultation CRTC 2023-56-1, 11 May 2023; 2023-56-2, 4 July 2023; 2023-56-3, 6 November 2023; and 2023-56-4, 8 April 2024
- *Guidance for costs award applicants regarding representation of a group or a class of subscribers*, Telecom Information Bulletin CRTC 2016-188, 17 May 2016

² In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

- *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*