



Telecom Order CRTC 2024-302

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Ottawa, 27 November 2024

File numbers: 1011-NOC2023-0039 and 4754-750

Determination of costs award with respect to the participation of the Deaf and Hard of Hearing Coalition in the proceeding initiated by Telecom Notice of Consultation 2023-39

Application

1. By letter dated 18 January 2024, the Deafness Advocacy Association Nova Scotia, the Newfoundland and Labrador Association of the Deaf, and the Ontario Association of the Deaf (collectively, the Deaf and Hard of Hearing Coalition [DHH Coalition]) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2023-39 (the proceeding). In the proceeding, the Commission invited comments on a proposal that all Canadian carriers be required to notify the Commission, Innovation, Science and Economic Development Canada, and any other relevant authorities of major service outages and to submit a comprehensive post-outage report to the Commission. Going forward, these proposed measures would be applied as a condition of service pursuant to section 24 of the *Telecommunications Act* (the Act).
2. The Commission did not receive any interventions in response to the application for costs.
3. The DHH 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. Specifically, the DHH Coalition submitted that it represents the interests of deaf and hard of hearing (DHH) Canadians who would benefit from a DHH-accessible outage notification and reporting framework.
5. With respect to the group or class of subscribers that the DHH Coalition has submitted it represents, the DHH Coalition explained that this group or class includes three associations: the Deafness Advocacy Association Nova Scotia, the Newfoundland and Labrador Association of the Deaf, and the Ontario Association of the Deaf. Together, these groups represent DHH consumers in the provinces of Nova Scotia, Newfoundland and Labrador, and Ontario.

6. The DHH Coalition requested that the Commission fix its costs at \$14,937.80, consisting of \$3,290.00 for in-house consultant fees, \$11,605.00 for external consultant fees, and \$42.80 for disbursements. The DHH Coalition filed a bill of costs with its application.
7. The DHH Coalition claimed 7 days at a rate of \$470 per day for an in-house consultant to prepare the DHH Coalition's intervention, draft comments, and reply to comments and procedural requests. The DHH Coalition also claimed 105.5 hours at a rate of \$110 per hour for an external consultant to prepare its intervention, draft comments, and reply to comments and procedural requests.
8. The DHH Coalition submitted that major carriers that participated in the proceeding are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).
9. The DHH Coalition suggested that the responsibility for payment of costs should be divided among the costs respondents on the basis of their gross revenues or another similar factor.

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, the DHH Coalition has demonstrated that it meets this requirement. The DHH Coalition represented the interests of DHH Canadians who would benefit from a DHH-accessible outage notification and reporting framework.
12. The DHH Coalition has also satisfied the remaining criteria through its participation in the proceeding. Specifically, the DHH Coalition's submissions assisted the

Commission in developing a better understanding of the matters that were considered by explaining how DHH consumers are affected by outages, and how subsequent notifications and reports need to detail their impacts on DHH consumers.

13. The rates claimed in respect of consultant fees and disbursements 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 DHH 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. The Commission considers that the following parties had a significant interest in the outcome of the proceeding and participated actively in the proceeding: Bell Canada; Bragg Communications Incorporated, carrying on business as Eastlink; Cogeco Communications inc., on behalf of Cogeco Connexion Inc.; Quebecor Media Inc., on behalf of Videotron Ltd. (QMI); Rogers Communications Canada Inc., including Shaw Group and Shaw Telecom G.P. (RCCI); Saskatchewan Telecommunications; TBayTel; TekSavvy Solutions Inc.; Telesat Corporation; and TELUS Communications Inc. (TCI).
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 telecommunications operating revenues (TORs) as an indicator of the relative size and interest of the parties involved in the proceeding.¹
17. 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.
18. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:²

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

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

Company	Proportion	Amount
RCCI	38.54%	\$5,757.53
TCI	32.56%	\$4,863.37
Bell Canada	21.66%	\$3,236.16
QMI	7.23%	\$1,080.74

Directions regarding costs

19. The Commission approves the application by the DHH Coalition for costs with respect to its participation in the proceeding.
20. Pursuant to subsection 56(1) of the Act, the Commission fixes the costs to be paid to the DHH Coalition at \$14,937.80.
21. The Commission directs that the award of costs to the DHH Coalition be paid forthwith by RCCI, TCI, Bell Canada, and QMI according to the proportions set out in paragraph 18.

Secretary General

Related documents

- *Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Beanfield Technologies Inc.'s application regarding the multiple dwelling unit bulk agreements practices of Rogers Communications Canada Inc.*, Telecom Order CRTC 2024-184, 22 August 2024
- *Call for comments – development of a regulatory framework to improve network reliability and resiliency – mandatory notification and reporting about major telecommunications service outages*, Telecom Notice of Consultation CRTC 2023-39, 22 February 2023, as amended by Telecom Notice of Consultation CRTC 2023-39-1, 11 September 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
- *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