



Telecom Order CRTC 2024-337

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File numbers: 8662-V3-202306729 and 4754-755

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

Application

1. By letter dated 12 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. (QMI) [the proceeding]. The application related to Bell Canada's access rates for its disaggregated wholesale high-speed access (HSA) services provided over its fibre-to-the-premises (FTTP) facilities.
2. The Commission did not receive any interventions in response to the application for costs.
3. 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.
4. PIAC submitted that it represents the interests of all Canadian consumers, particularly those of low-income and vulnerable consumers. With respect to the specific methods by which PIAC has submitted that it represents this group or class, PIAC explained that it is held accountable of its representation of the public interest through a volunteer board of directors drawn from across Canada.
5. PIAC requested that the Commission fix its costs at \$1,767.67, 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.
6. PIAC claimed 4.5 hours at a rate of \$290 per hour for external legal counsel to review the application and intervention (\$1,356.42 with the HST), and 1.75 days for an articling student at a rate of \$235 per day to conduct research and write a draft of the submission (\$411.25).

7. PIAC submitted that, given the particular circumstances of QMI's application and the parties participating in the proceeding, it would be appropriate for the Commission to apportion 50% of costs to QMI and the remainder to all other parties based on their most recent reported annual revenues from telecommunications services (the costs respondents).

Commission's analysis

8. 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.
9. 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 represented the interests of Canadian consumers, including those of vulnerable and low-income consumers, who are potentially affected by the outcome of the proceeding because it could result in reduced competition among Internet service providers, possibly forcing consumers to pay higher rates for Internet services.
10. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's submission proposed that aggregated FTTP wholesale HSA was the way forward and the distinction between aggregated, disaggregated, and copper-completed fibre access was no longer significant. Accordingly, the Commission finds that the applicant meets the criteria for an award of costs under section 68 of the Rules of Procedure.
11. 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.

12. 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.
13. 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 Canada, Execulink Telecom Inc., QMI, Rogers Communications Canada Inc. (including Shaw Group and Shaw Telecom G.P.) [RCCI], and TekSavvy Solutions Inc. had a significant interest in the outcome of the proceeding and participated actively throughout the proceeding. Therefore, these parties are the appropriate costs respondents to PIAC's application for costs.
14. 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
15. 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.
16. Accordingly, the Commission finds that RCCI is the appropriate costs respondent to PIAC's application for costs.²

Directions regarding costs

17. The Commission approves the application by PIAC for costs with respect to its participation in the proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$1,767.67.
19. The Commission directs that the award of costs to PIAC be paid forthwith by RCCI.

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

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.

- *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*