



Telecom Costs Order CRTC 2005-10

Ottawa, 26 October 2005

ARCH: A Legal Resource Centre for Persons with Disabilities - Application for costs - Telecom Public Notice 2004-1

Reference: 8678-C12-200402313 and 4754-253

1. By letter dated 27 July 2005, ARCH: A Legal Resource Centre for Persons with Disabilities (ARCH) applied for costs with respect to its intervention in the proceeding initiated by *Review and disposition of deferral accounts for the second price cap period*, Telecom Public Notice CRTC 2004-1, 24 March 2004 (the PN 2004-1 proceeding).
2. By letters dated 5 August 2005 and 8 August 2005, Aliant Telecom Inc. (Aliant Telecom), Bell Canada and Saskatchewan Telecommunications (SaskTel) (collectively, the Companies), Canadian Cable Telecommunications Association (CCTA), and TELUS Communications Inc. (TELUS) filed comments in response to ARCH's application for costs. By letter dated 18 August 2005, Telesat Canada filed comments in response to comments filed by TELUS. ARCH did not file reply comments.

The application

3. ARCH submitted that it had met the criteria for an award of costs set out in subsection 44(1) of the *CRTC Telecommunications Rules of Procedure* (the Rules) as it represents a group of subscribers that had an interest in the outcome of the PN 2004-1 proceeding, it had participated responsibly in the PN 2004-1 proceeding, and it had contributed to a better understanding of the issues by the Commission through its participation in the PN 2004-1 proceeding.
4. In particular, ARCH submitted that it represents the interests of Canadians with disabilities and had provided a fuller understanding of the significant potential of the deferral accounts to impact persons with disabilities. ARCH also submitted that its contribution did not duplicate that of the other public interest parties as it is the only party that raised issues and provided evidence of the diversity of concerns of persons with disabilities.
5. ARCH requested that the Commission fix its costs at \$10,200.00, consisting entirely of in-house legal fees. ARCH's claim did not include the Federal Goods and Services Tax (GST) on fees. ARCH filed a bill of costs with its application.
6. ARCH claimed 7 days at a rate of \$600 per day for in-house legal fees for Phyllis Gordon and 10 days at a rate of \$600 per day for in-house legal fees for Lana Kerzner.
7. ARCH made no submission as to the appropriate respondents in this case; however, Public Notice 2004-1 made TELUS and TELUS Communications (Québec) Inc. (collectively TELUS), Aliant Telecom, Bell Canada, MTS Communications Inc. (now MTS Allstream) (MTS), SaskTel and Société en commandite Télébec (Télébec) (collectively, the incumbent local exchange carriers or ILECs) parties to the PN 2004-1 proceeding.

Answer

8. In answer to the application, the Companies, CCTA and TELUS all stated that they did not object to ARCH's application. The Companies submitted that any costs award should be allocated based on the level of interest and participation, not based on each respondent's share of telecommunications revenues.
9. The Companies and TELUS submitted that, in addition to the ILECs, the appropriate costs respondents were Call-Net Enterprises Inc. (Rogers Communications Inc.), CCTA and Microcell Telecommunications Inc. as they had actively participated in the proceeding and would directly or indirectly benefit from the outcome. TELUS also submitted that Telesat Canada and Xit telecom inc. were also appropriate respondents.
10. CCTA submitted that the ILECs were the appropriate costs respondents.
11. Telesat Canada submitted that it was not a proper costs respondent as suggested by TELUS.

Commission analysis and determination

12. The Commission finds that ARCH has satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that ARCH is representative of a group or class of subscribers that has an interest in the outcome of the proceeding, has participated in a responsible way, and has contributed to a better understanding of the issues by the Commission.
13. The Commission notes that the rates claimed in respect of in-house legal fees are in accordance with the rates set out in the Legal Directorate's *Guidelines for the Taxation of Costs*, revised as of 15 May 1998. The Commission also finds that the total amount claimed by ARCH was necessarily and reasonably incurred and should be allowed.
14. The Commission is of the view that this is an appropriate case in which to fix the costs and dispense with taxation, in accordance with the streamlined procedure set out in *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002.
15. The Commission notes that the PN 2004-1 proceeding related to the review and disposition of the deferral accounts associated with the ILECs. The Commission therefore concludes that the appropriate costs respondents to ARCH's costs application are the ILECs.
16. The Commission notes that it has, in previous decisions, allocated the responsibility for the payment of costs among respondents on the basis of the respondents' telecommunications operating revenues (TORs), as an indicator of the relative size and interest of the parties involved in the proceeding. The Commission is of the view that, in the present circumstances, it is appropriate to apportion the costs relating to the PN 2004-1 proceeding among the respondents in proportion to their TORs, as reported in their most recent audited financial statements. Accordingly, the Commission finds that the responsibility for the payment of costs should be allocated as follows:

Bell Canada	51%
TELUS	32%
Aliant Telecom	8%
MTS	4%
SaskTel	4%
Télébec	1%

Direction as to costs

17. The Commission **approves** the application by ARCH for costs with respect to its participation in the PN 2004-1 proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to ARCH at \$10,200.00.
19. The Commission directs that the award of costs to ARCH be paid forthwith according to the proportions set out in paragraph 16.

Secretary General

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