



Telecom Costs Order CRTC 2005-11

Ottawa, 26 October 2005

Canadian Association of the Deaf - Application for costs – Telecom Public Notice 2004-1

Reference: 8678-C12-200402313 and 4754-256

1. By letter dated 12 August 2005, the Canadian Association of the Deaf (CAD) applied for costs with respect to its participation 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 19 August 2005 and 29 August 2005, respectively, the Canadian Cable Telecommunications Association (CCTA) and Aliant Telecom Inc. (Aliant Telecom), Bell Canada, and Saskatchewan Telecommunications (SaskTel) (collectively, the Companies) filed comments in answer to CAD's application. By letter dated 3 October 2005, TELUS Communications Inc. (TELUS) filed comments in answer to CAD's application. By letter dated 13 October 2005, Telesat Canada filed comments in response to comments filed by TELUS. CAD did not file reply comments.

The application

3. CAD 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 their participation in the PN 2004-1 proceeding.
4. In particular, CAD submitted that its participation had assisted the Commission in understanding the telecommunication needs of the Deaf.
5. CAD requested that the Commission fix its costs at \$13,904.65, consisting entirely of legal fees. The amount requested for legal fees represented 56.5 hours of work for Henry Vlug at a rate of \$230 per hour. CAD's claim included the Federal Goods and Services Tax (GST) on fees. CAD filed a bill of costs with its application.
6. CAD made no submission as to the appropriate respondents in this case; however, Public Notice 2004-1 made TELUS Communications Inc. 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

7. In answer to the application, the Companies, CCTA and TELUS stated that they did not object to CAD'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.
8. 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 costs respondents.
9. CCTA submitted that the ILECs were the appropriate costs respondents.
10. Telesat Canada submitted that it was not a proper costs respondent as suggested by TELUS.

Commission analysis and determination

11. The Commission finds that CAD has satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that CAD 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.
12. The Commission notes that the rates claimed in respect of 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 CAD was necessarily and reasonably incurred and should be allowed.
13. 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.
14. 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 finds that the appropriate respondents to CAD's application for costs are the ILECs.
15. 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 among the respondents in proportion to their TORs, as reported in their most recent audited financial statements. The Commission finds that the responsibility for the payment of costs should be allocated as follows:

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

Direction as to costs

16. The Commission **approves** the application by CAD for costs with respect to its participation in the PN 2004-1 proceeding.
17. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to CAD at \$13,904.65.
18. The Commission directs that the award of costs to CAD be paid forthwith by the ILECs according to the proportions set out in paragraph 15.

Secretary General

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