



## Telecom Costs Order CRTC 2006-10

Ottawa, 21 September 2006

### **Application for costs by Mr. Mark Obermeyer on behalf of "97% of the People of Canada" – *Proceeding to establish a national do not call list framework and to review the telemarketing rules,* Telecom Public Notice CRTC 2006-4**

Reference: 8665-C12-200601626 and 4754-267

1. By letter received 10 May 2006 and amended on 30 May 2006, Mr. Mark Obermeyer (Mr. Obermeyer) on behalf of "97% of the People of Canada" (the Applicant) applied for costs with respect to its participation in the proceeding initiated by *Proceeding to establish a national do not call list framework and to review the telemarketing rules*, Telecom Public Notice CRTC 2006-4, 20 February 2006 (the Public Notice 2006-4 proceeding).
2. By letters dated 30 May 2006, Bell Canada on behalf of itself, Aliant Telecom Inc., NorthernTel, Limited Partnership, Saskatchewan Telecommunications and Société en commandite Télébec (collectively the Companies) and TELUS Communications Company (TCC) filed their respective responses to the application.
3. The Applicant responded to the submissions of the Companies and TCC in its 5 June 2006 submissions in the main proceeding.

#### **The application**

4. The Applicant submitted that it has 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 has a clear interest in the outcome of the Public Notice 2006-4 proceeding, it has participated responsibly in the Public Notice 2006-4 proceeding, and it has contributed to a better understanding of the issues.
5. In particular, the Applicant submitted that it represents a large constituency and that its participation has contributed to a better understanding of the subscriber concerns associated with a national do not call list.
6. The Applicant submitted a bill of costs with its application, claiming a total amount of \$1,289.26. This amount represents disbursements associated with attending the proceeding.
7. The Applicant took no position as to the appropriate respondents for its costs application.

## Answers

8. In answer to the application, TCC stated that it did not object to the Applicant's request for costs, but did question its actual constituency. TCC recommended that the respondents to the costs application include the incumbent local exchange carriers (ILECs), Rogers Communications Inc. and Shaw Communications Inc. In TCC's view, this is because these parties have a significant interest in the outcome of the proceeding and actively participated in the proceeding.
9. TCC further recommended that the costs be apportioned in the same manner adopted by the Commission in *Application for Costs by ARCH: A Legal Resource Centre for Persons with Disabilities – Regulatory framework for voice communication services using Internet Protocol*, Telecom Public Notice CRTC 2004-2, Telecom Cost Order CRTC 2005-2, 8 August 2005, arising from *Regulatory framework for voice communication services using Internet Protocol*, Telecom Public Notice CRTC 2004-2, 7 April 2004, namely that the ILECs be responsible for 75% of the costs further allocated by their telecommunications operating revenues (TORs) and the cable companies be responsible for the remaining 25%.
10. The Companies submitted that they did not object to the amount claimed by the Applicant, but stated that it was ineligible for costs since it only represented the views of Mr. Obermeyer.

## Commission analysis and determination

11. The Commission notes that both TCC and the Companies questioned the constituency of the Applicant. The Companies claimed that the Applicant only represented the views of Mr. Obermeyer. The Applicant responded that it has a large and growing membership. The Commission finds that the Applicant represents the interests of a group of subscribers that includes Mr. Obermeyer who wish to restrict the activities of telemarketing companies through a national do not call list system.
12. The Commission finds that the Applicant has satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that the Applicant is representative of a group that has an interest in the outcome of the Public Notice 2006-4 proceeding, has participated in a responsible way, and has contributed to a better understanding of the issues.
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 rates claimed in respect of the disbursements 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 the Applicant was necessarily and reasonably incurred and should be allowed.
15. With respect to the issue of appropriate respondents in this case, the Commission notes that there are a number of potential respondents who participated actively in the proceeding and are affected by the outcome of the proceeding. The Commission also notes, however, that

the amount being claimed is relatively small and the administrative burden on the Applicant of collecting small amounts from many respondents and on a large number of respondents in paying small amounts to the Applicant would result in ineffective and inefficient regulation.

16. In light of the foregoing, the Commission is of the view that the most appropriate approach in the circumstances of this case is to limit the respondents to Bell Canada and TCC. The Commission further decides that the costs be allocated based on their current TORs as follows: Bell Canada for 63% and TCC for 37%.

Bell Canada's portion of costs shall be \$812.23.

TCC's portion of costs shall be \$477.03.

### **Direction as to costs**

17. The Commission **approves** the application for costs with respect to the Applicant's participation in the Public Notice 2006-4 proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to the Applicant at \$1,289.26.
19. The Commission directs that the award of costs to the Applicant be paid forthwith by Bell Canada and TCC according to the proportions set out in paragraph 16, with the cheques made payable to Mr. Obermeyer.

Secretary General

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