



Telecom Costs Order CRTC 2006-11

Ottawa, 4 October 2006

Application for costs by l'Union des consommateurs – *Reconsideration of Regulatory framework for voice communication services using Internet Protocol, Telecom Decision CRTC 2005-28, Telecom Public Notice CRTC 2006-6*

Reference: 8663-C12-200605587 and 4754-272

1. By letter dated 14 July 2006, l'Union des consommateurs (l'Union) applied for costs with respect to its participation in the proceeding initiated by *Reconsideration of Regulatory framework for voice communication services using Internet Protocol, Telecom Decision CRTC 2005-28, Telecom Public Notice CRTC 2006-6*, 10 May 2006 (the Public Notice 2006-6 proceeding).
2. By letter dated 21 July 2006, TELUS Communications Company (TCC) filed comments in response to l'Union's costs application. By letter dated 25 July 2006, Bell Aliant Regional Communications, Limited Partnership, Bell Canada, Saskatchewan Telecommunications, and Société en commandite Télébec (collectively, the Companies) filed comments in response to the application.

The application

3. L'Union submitted that it had met the criteria for a costs award set out in subsection 44(1) of the *CRTC Telecommunications Rules of Procedure* (the Rules), as it represented a group of subscribers who would be materially affected by the outcome of the Public Notice 2006-6 proceeding, it had an interest in the outcome of the Public Notice 2006-6 proceeding, it had participated responsibly and it had contributed to a better understanding of the issues by the Commission through its participation in the Public Notice 2006-6 proceeding.
4. L'Union requested that the Commission fix its costs at \$4,950, consisting of legal fees. L'Union did not claim the Federal Goods and Services Tax on the fees.
5. L'Union did not make any representations with regard to the appropriate costs respondents.

Answer

6. In answer to the application, the Companies submitted that they did not object to l'Union's entitlement to costs, but objected to the amount claimed. The Companies argued that l'Union provided little new argument or evidence in the Public Notice 2006-6 proceeding. Moreover, l'Union, having actively participated in the proceeding leading up to *Regulatory framework for voice communication services using Internet Protocol, Telecom Decision CRTC 2005-28*, 30 June 2005 (the Decision 2005-28 proceeding), would have had a high level of familiarity with the record of the Public Notice 2006-6 proceeding. The Companies therefore submitted that 3 days would be a more reasonable amount of time to review the file, as opposed to the 6.5 days l'Union has claimed in its application.

7. The Companies suggested that the Commission name the same costs respondents and allocate costs in the same manner as it did in the costs awards, such as Telecom Costs Order CRTC 2005-2, 8 August 2005 (Costs Order 2005-2), relating to *Regulatory framework for voice communication services using Internet Protocol*, Telecom Public Notice CRTC 2004-2, 7 April 2004 (Public Notice 2004-2). In Costs Order 2005-2 the Commission named as costs respondents, the Companies, TCC, and MTS Allstream Inc. (MTS Allstream) (collectively, the incumbent local exchange carriers (ILECs)), the Canadian Cable Telecommunications Association (CCTA) on behalf of its members, and Quebecor Média inc. The Companies submitted that since the CCTA did not participate in these proceedings, the equivalent of what would be the CCTA's portion should be allocated evenly among the following cable companies: Cogeco Cable Inc., Quebecor Média inc., Rogers Communications Inc. and Shaw Communications Inc.
8. TCC submitted that it did not oppose l'Union's entitlement to costs or the amount claimed. TCC also suggested that the Commission allocate costs in the same manner as it did in the Costs Orders relating to Public Notice 2004-2.

Reply

9. In reply, l'Union submitted that 6.5 days to review the file was reasonable and justifiable. L'Union noted that while it was represented by the Public Interest Advocacy Centre (PIAC) in the Decision 2005-28 proceeding, it had since employed a new in-house counsel who was tasked to prepare l'Union's comments in the Public Notice 2006-6 proceeding. L'Union noted that this was the first time its counsel had worked on such a proceeding and so its counsel had to review PIAC's position, as well as many other documents relating to the Decision 2005-28 proceeding. In reply to the Companies' submission, that l'Union failed to bring new evidence to the proceeding, l'Union countered that by reviewing the file it was led to the finding that there did not exist any new elements that would guide the Commission to the conclusion that Decision 2005-28 was unfounded.

Commission's analysis and determination

10. The Commission finds that l'Union has satisfied the criteria for a costs award set out in subsection 44(1) of the Rules. Specifically, the Commission finds that l'Union 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.
11. The Commission finds that the total amount claimed by l'Union was necessarily and reasonably incurred and should be allowed.
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.
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 is of the view that Costs Order 2005-2 does not provide a relevant framework for l'Union's application. The Commission notes the relatively small amount claimed by l'Union and the potential administrative burden placed upon it if it were to collect from many respondents. The Commission is of the view that an appropriate framework for l'Union's costs application can be found in Telecom Costs Order CRTC 2005-1, 8 August 2005, which was also issued in relation to the Public Notice 2004-2 proceeding. In that Costs Order, the Commission named the ILECs as sole costs respondents, since the amount claimed was relatively small and naming many costs respondents would pose an administrative burden on the applicant. Consistent with the Commission's approach to costs generally, the Commission considers that it is appropriate in this instance to limit the number of respondents to the ILECs.
15. The Commission notes that it has, in previous decisions, allocated the responsibility for the payment of costs among respondents based on 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 Public Notice 2006-6 proceeding among the respondents in proportion to their TORs, as reported in their most recent audited financial statements. The Commission names the following companies as costs respondents: the Companies, TCC and MTS Allstream. The Commission finds that the responsibility for the payment of costs should be allocated as follows:

the Companies	66%
TCC	24%
MTS Allstream	10%

16. Consistent with its general approach articulated in Telecom Costs Order CRTC 2002-4, 24 April 2002, the Commission makes Bell Canada responsible for payment on behalf of the Companies and leaves it to the Companies to determine the appropriate allocation of the costs among themselves.

Direction as to costs

17. The Commission **approves** the application by l'Union for costs with respect to its participation in the Public Notice 2006-6 proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to l'Union at \$4,950.
19. The Commission directs that the costs award to l'Union be paid forthwith by Bell Canada on behalf of the Companies, TCC and MTS Allstream according to the proportions set out in paragraph 15.

Secretary General

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