



Telecom Costs Order CRTC 2008-27

Ottawa, 22 December 2008

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the Telecom Public Notice 2008-5 proceeding

Reference: 8661-C12-200807779 and 4754-329

1. By letter dated 10 September 2008, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by Telecom Public Notice 2008-5 (the Public Notice 2008-5 proceeding).
2. On 19 September 2008, TELUS Communications Company (TCC) filed comments in response to PIAC's application. On 22 September 2008, the Commission received comments from Bell Aliant Regional Communications, Limited Partnership, Bell Canada, and Saskatchewan Telecommunications (collectively, the Companies). PIAC did not file any reply comments.

Application

3. In its application, PIAC 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 Public Notice 2008-5 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 2008-5 proceeding.
4. PIAC requested that the Commission fix its costs at \$4,161.50 for 14 hours of legal fees at a rate of \$290.00 per hour. PIAC's claim included the federal Goods and Services Tax (GST) on fees less the 50 percent rebate to which PIAC is entitled in connection with the GST. PIAC filed a bill of costs with its application.
5. PIAC made no submissions as to the appropriate costs respondents.

Answer

6. In response to the application, TCC took no position with respect to PIAC's entitlement to costs or the amounts being claimed. However, TCC submitted that the incumbent telephone companies and Primus Telecommunications Canada Inc. (Primus) should be named as costs respondents.
7. The Companies stated that they did not object to the claimant's entitlement to costs nor to the amount claimed. The Companies submitted that the appropriate costs respondents were the Companies, MTS Allstream Inc. (MTS Allstream), Primus, Rogers Communications Inc. (RCI), and TCC, as those parties participated in the Public Notice 2008-5 proceeding and have a significant interest in its outcome. Furthermore, the Companies submitted that costs should be allocated among the costs respondents in proportion to their respective share of telecommunications operating revenues (TORs).

Reply

8. PIAC provided no reply to the submissions of TCC and the Companies.

Commission's analysis and determinations

9. The Commission finds that PIAC has satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that PIAC is representative of a group or class of subscribers that has an interest in the outcome of the Public Notice 2008-5 proceeding, it has participated in a responsible way, and it has contributed to a better understanding of the issues by the Commission.
10. 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 24 April 2007. The Commission also finds that the total amount claimed by PIAC was necessarily and reasonably incurred and should be allowed.
11. The Commission considers 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 Telecom Public Notice 2002-5.
12. The Commission finds that the appropriate costs respondents in this instance are the Companies, TCC, and MTS Allstream (collectively, the Costs Respondents).
13. The Commission notes that it has generally determined that the appropriate respondents to an award of costs are the parties who have a significant interest in the outcome of the proceeding and have participated actively in that proceeding. In this case, RCI's participation in the Public Notice 2008-5 proceeding was limited relative to that of the Costs Respondents. Therefore, the Commission is of the view that RCI should be excluded from the list of costs respondents in this instance.
14. With respect to Primus, the Commission notes that in allocating costs among respondents, it has been sensitive to the fact that if too large a number of respondents are named, the applicant may have to collect small amounts from many respondents, resulting in a significant administrative burden to the applicant. Given the relatively small size of the costs award in this case, the Commission considers that it is appropriate, in the present circumstances, to exclude Primus as a costs respondent.
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' TORs, as an indicator of the relative size and interest of the parties involved in the proceeding. The Commission considers that, in the present circumstances, it is appropriate to apportion the costs among the Costs 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:

The Companies	54.9%
TCC	37.5%
MTS Allstream	7.6%

16. The Commission notes that Bell Canada filed submissions in the Public Notice 2008-5 proceeding on behalf of the Companies. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for payment on behalf of the Companies and leaves it to the members of the Companies to determine the appropriate allocation of the costs among themselves.

Direction as to costs

17. The Commission **approves** the application by PIAC for costs with respect to its participation in the Public Notice 2008-5 proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$4,161.50.
19. The Commission directs that the award of costs to PIAC 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

Related documents

- *Review of regulatory requirements pertaining to the imputation test for retail services and to costing methodologies for wholesale services*, Telecom Public Notice CRTC 2008-5, 5 June 2008
- *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002
- *Action Réseau Consommateur, the Consumers' Association of Canada, Fédération des associations coopératives d'économie familiale and the National Anti-Poverty Organization application for costs – Public Notice CRTC 2001-60*, Telecom Costs Order CRTC 2002-4, 24 April 2002

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