



Telecom Costs Order CRTC 2008-7

Ottawa, 30 May 2008

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the Telecom Public Notice 2007-16 proceeding

Reference: 8665-C12-200711748 and 4754-311

1. By letter dated 2 January 2008, the Public Interest Advocacy Centre (PIAC), as counsel for the Consumers Council of Canada (CCC) and the National Anti-Poverty Organization (NAPO) [collectively, the "Consumer Groups"], applied for costs with respect to its participation in the proceeding initiated by Telecom Public Notice 2007-16 (the Public Notice 2007-16 proceeding).
2. On 14 January 2008, Bell Aliant Regional Communications, Limited Partnership, Bell Canada and Saskatchewan Telecommunications (collectively, the Companies) filed comments in response to PIAC's application. On 5 March 2008, TELUS Communications Company (TCC) filed comments in response to PIAC's application.

Application

3. 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 2007-16 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 2007-16 proceeding.
4. PIAC requested that the Commission fix its costs at \$44,435.90, consisting of \$44,400.21 for legal fees, and \$35.69 for disbursements. PIAC's claim included the federal Goods and Services Tax (GST) on fees, less the rebate to which PIAC is entitled in connection with the GST. PIAC filed a bill of costs with its application.
5. PIAC submitted that the appropriate respondents in this case were the members of the Commissioner for Complaints for Telecommunications Services Inc. (CCTS) or, in the alternative, all telecommunications service providers (TSPs) that participated in the Public Notice 2007-16 proceeding. PIAC also submitted that the respondents should bear the costs in proportion to their latest calculated telecommunications operating revenues (TORs).

Answer

6. In their responses to the application, neither the Companies nor TCC objected to PIAC's entitlement to costs or to the quantum. The Companies submitted that all participating TSPs should be named as costs respondents, including those represented by industry associations. TCC submitted that all larger TSPs required by Telecom Decision 2007-130 to be CCTS members should be named respondents, including those represented by industry associations, whether or not such parties had participated in the proceeding. The Companies and TCC submitted that responsibility for costs should be apportioned among the relevant TSPs in proportion to their share of TORs.

Commission's analysis and determinations

7. 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 proceeding, it has participated in a responsible way, and it has contributed to a better understanding of the issues by the Commission.
8. The Commission notes that the rates claimed in respect of disbursements and 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.
9. 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.
10. In determining the appropriate respondents to an award of costs, the Commission has generally looked at which parties are affected by the issues and have actively participated in the proceeding. The Commission notes, however, that in allocating costs among respondents, it has also been sensitive to the fact that if too large a number of respondents are named, the applicant may have to collect small amounts from certain respondents, resulting in a significant administrative burden to the applicant.
11. In light of the above and given the size of the costs award in this case, the large number of potential costs respondents, and the result that if all potential costs respondents were retained, PIAC would be required to collect small amounts from certain respondents, the Commission considers that it is appropriate, in the present circumstances, to limit the respondents to the Companies, TCC, Rogers Communications Inc. (Rogers), MTS Allstream Inc. (MTS Allstream), Shaw Communications Company (Shaw), Quebecor Media Inc. (on behalf of Videotron Ltd.) [Videotron], Primus Telecommunications Canada Inc. (Primus), and Télébec, Société en commandite (Télébec).
12. 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 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	43%
TCC	26%
Rogers	19%
MTS Allstream	6%

Shaw	2%
Videotron	2%
Primus	1%
Télébec	1%

13. 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

14. The Commission **approves** the application by PIAC for costs with respect to its participation in the Public Notice 2007-16 proceeding.
15. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$44,435.90.
16. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Canada on behalf of the Companies, TCC, Rogers, MTS Allstream, Shaw, Videotron, Primus, and Télébec according to the proportions set out in paragraph 12.

Secretary General

Related documents

- *Establishment of an independent telecommunications consumer agency*, Telecom Decision CRTC 2007-130, 20 December 2007
- *Proceeding to consider the organization and mandate of the Commissioner for Complaints for Telecommunications Services*, Telecom Public Notice CRTC 2007-16, 22 August 2007
- *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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