



## Telecom Order CRTC 2009-475

Ottawa, 6 August 2009

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the follow-up proceeding to Telecom Decision 2008-105**

File number: 8638-C12-200817471 and 4754-348

1. In a letter dated 23 February 2009, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation, on behalf of the Consumers' Association of Canada and the National Anti-Poverty Organization, in the follow-up proceeding to Telecom Decision 2008-105 (the Telecom Decision 2008-105 follow-up proceeding).
2. On 4 March 2009, Bell Aliant Regional Communications, Limited Partnership; Bell Canada; Saskatchewan Telecommunications; and Télébec, Limited Partnership (collectively, Bell Canada et al.), filed joint comments in response to PIAC's application. On 5 March 2009, TELUS Communications Company (TCC) filed comments. PIAC did not file reply comments.

### **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 Telecom Decision 2008-105 follow-up proceeding, it had participated responsibly, and it had contributed to a better understanding of the issues by the Commission through its participation in the proceeding.
4. PIAC requested that the Commission fix its costs at \$5,213.14, consisting of \$1,753.77 for legal fees and \$3,459.37 for consultant fees. 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.

### **Answer**

5. In response to the application, Bell Canada et al. and TCC did not object to PIAC's entitlement to costs or the amount claimed. Bell Canada et al. and TCC submitted that all participating telecommunications service providers (TSPs) should share responsibility for costs and that costs should be apportioned among participating TSPs in proportion to their share of telecommunications operating revenues (TORs).

## Commission's analysis and determinations

6. 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.
7. The Commission notes that the rates claimed in respect of consultant 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.
8. 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.
9. 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, in this regard, that the following incumbent local exchange carriers actively participated in the proceeding and had a significant interest in its outcome: Bell Canada et al., TCC, MTS Allstream Inc. (MTS Allstream), and Northwestel Inc. The Commission further 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 many respondents, resulting in a significant administrative burden to the applicant. In light of the above and given 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 Bell Canada et al., TCC, and MTS Allstream.
10. 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:

Bell Canada et al.	55%
TCC	37%
MTS Allstream	8%

11. The Commission notes that Bell Canada filed submissions in the Telecom Decision 2008-105 follow-up proceeding on behalf of Bell Canada et al. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for payment on behalf of Bell Canada et al. and leaves it to the members of Bell Canada et al. to determine the appropriate allocation of the costs among themselves.

### **Direction as to costs**

12. The Commission **approves** PIAC's application for costs with respect to its participation in the Telecom Decision 2008-105 follow-up proceeding.
13. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$5,213.14.
14. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Canada on behalf of Bell Canada et al., TCC, and MTS Allstream, according to the proportions set out in paragraph 10.

Secretary General

### **Related documents**

- *Retail quality of service regime in non-forborne markets*, Telecom Decision CRTC 2008-105, 6 November 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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