



Telecom Order CRTC 2009-585

Ottawa, 18 September 2009

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the Telecom Decision 2009-538 proceeding

File number: 8657-B54-200903478 and 4754-351

1. By letter dated 19 May 2009, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by the application filed by Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies) that led to Telecom Decision 2009-538 (the Telecom Decision 2009-538 proceeding).
2. On 29 May 2009, the Bell companies filed comments in response to PIAC's application. 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 2009-538 proceeding, it had participated responsibly, and it had contributed to a better understanding of the issues by the Commission through its participation in the Telecom Decision 2009-538 proceeding.
4. PIAC requested that the Commission fix its costs at \$15,456.99, consisting entirely of legal fees for external counsel. PIAC filed a bill of costs with its application.
5. PIAC submitted that the Bell companies should be responsible for 90 percent of the costs. PIAC also submitted that Rogers Communications Inc. (RCI) should be responsible for 10 percent of the costs given its out-of-scope reply and the subsequent enlargement of the proceeding, as well as its general support of the Bell companies' position.

Answer

6. The Bell companies did not object to the claimant's entitlement to costs or the amounts claimed. They submitted that the Bell companies, Bragg Communications Inc. (Bragg Communications), Cogeco Cable Inc. (Cogeco), Distributel Communications Limited (Distributel), Execulink Telecom Inc. (Execulink Telecom), MTS Allstream Inc. (MTS Allstream), Quebecor Media Inc. (Quebecor), RCI, and Shaw Communications Inc. (Shaw) should be named cost respondents. The Bell companies also submitted that costs should be allocated among the costs respondents in proportion to their respective share of telecommunications operating revenues (TORs), in accordance with the Commission's general practice.

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 external legal counsel 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, in this regard, that the following parties actively participated in the proceeding and had a significant interest in its outcome: the Bell companies, Bragg Communications, Cogeco, Distributel, Execulink Telecom, MTS Allstream, Quebecor, RCI, and Shaw.
11. 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.
12. In light of 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. Accordingly, the Commission considers that it is appropriate, in the present circumstances, to limit the respondents to the Bell companies, Cogeco, MTS Allstream, Quebecor, RCI, and Shaw.
13. 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 Bell companies	70%
MTS Allstream	11%
RCI	11%

Quebecor	5%
Cogeco	2%
Shaw	1%

14. The Commission notes that Bell Canada filed submissions in the Telecom Decision 2009-538 proceeding on behalf of the Bell 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 Bell companies and leaves it to the members of the Bell companies to determine the appropriate allocation of the costs among themselves.

Direction as to costs

15. The Commission **approves** the application by PIAC for costs with respect to its participation in the Telecom Decision 2009-538 proceeding.
16. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$15,456.99.
17. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Canada on behalf of the Bell companies; Cogeco; MTS Allstream; Quebecor; RCI; and Shaw, according to the proportions set out in paragraph 13.

Secretary General

Related documents

- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application to remove authority to act from the customer transfer process, Telecom Decision CRTC 2009-538, 28 August 2009*
- *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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