



Telecom Order CRTC 2011-504

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Ottawa, 17 August 2011

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the Telecom Notice of Consultation 2011-161 proceeding

File numbers: 8663-C12-201104281 and 4754-387

1. By letter dated 6 June 2011, the Public Interest Advocacy Centre (PIAC), as counsel for Option consommateurs and Canada Without Poverty, applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2011-161 (the proceeding).
2. On 15 June 2011, Bell Canada filed an intervention in response to PIAC's application, on behalf of itself; Bell Aliant Regional Communications, Limited Partnership (Bell Aliant); KMTS; NorthernTel, Limited Partnership (NorthernTel); Saskatchewan Telecommunications (SaskTel); and Télébec, Limited Partnership (Télébec) (collectively, Bell Canada et al.). PIAC did not file any reply comments.

Application

3. PIAC submitted that it had met the criteria for an award of costs set out in section 68 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* SOR/2010-277 (the Rules of Procedure) because it represented a group of subscribers that had an interest in the outcome of the proceeding, it had assisted the Commission in developing a better understanding of the matters that were considered, and it had participated in a responsible way.
4. PIAC requested that the Commission fix its costs at \$4,792.67, consisting entirely of legal fees. PIAC's claim included the Ontario Harmonized Sales Tax (HST) on fees, less the rebate to which PIAC is entitled in connection with the HST. PIAC filed a bill of costs with its application.
5. PIAC claimed 11 hours at a rate of \$250 per hour for legal fees associated with outside legal counsel, and 27 hours at a rate of \$70 per hour for legal fees associated with an articling student.
6. PIAC submitted that the following are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents): Bell Canada et al., MTS Allstream Inc. (MTS Allstream), Rogers Communications Partnership (RCP), TBayTel, and TELUS Communications Company (TCC).

Answer

7. Bell Canada et al. did not object to PIAC's entitlement to costs or to the amount claimed.
8. With respect to the allocation of costs, Bell Canada et al. submitted that all telecommunications service providers that were parties to the proceeding should be named as costs respondents, with responsibility for costs allocated in proportion to their respective share of telecommunications operating revenues (TORs).¹

Commission's analysis and determinations

9. The Commission finds that PIAC has satisfied the criteria for an award of costs set out in section 68 of the Rules of Procedure. Specifically, the Commission finds that PIAC represented a group or class of subscribers that had an interest in the outcome of the proceeding, it assisted the Commission in developing a better understanding of the matters that were considered, and it participated in a responsible way.
10. The Commission notes that the rates claimed in respect of legal fees are in accordance with the rates established in the Commission's *Guidelines for the Assessment of Costs* (the Guidelines), as set out in Telecom Regulatory Policy 2010-963. The Commission 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. In determining the appropriate costs respondents, the Commission has generally considered 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: Bell Canada et al.; Bragg Communications Inc., operating as EastLink; the Canadian Network Operators Consortium Inc.; the Government of the Northwest Territories; MTS Allstream; RCP; TCC; and the small incumbent local exchange carriers (including TBayTel) represented in the proceeding by the Canadian Independent Telephone Company Joint Task Force.²

¹ TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

² These carriers are: TBayTel, CityWest Cable and Telephone Corp., the carriers represented by the Association des Compagnies de téléphone du Québec inc. (ACTQ) (CoopTel, La Cie de Téléphone de Courcelles Inc., Téléphone Guèvremont inc., La Compagnie de Téléphone de Lambton Inc., Téléphone Milot inc., Le Téléphone de St-Éphrem inc., La Compagnie de Téléphone de St-Victor, Sogetel inc., and La Compagnie de Téléphone Upton Inc.), and the member companies of the Ontario Telecommunications Association (OTA) (Brooke Telecom Co-operative Ltd., Bruce Telecom, Cochrane Telecom Services, Dryden Municipal Telephone System, Execulink Telecom Inc., Gosfield North Communications

13. The Commission further notes, however, that in allocating costs among costs respondents, it has also been sensitive to the fact that if numerous costs respondents are named, the applicant may have to collect small amounts from many costs respondents, resulting in a significant administrative burden to the applicant.
14. In light of the above, and given the relatively small size of the costs award and the large number of potential costs respondents in this case, the Commission considers that, consistent with section 48 of the Guidelines, it is appropriate to limit the costs respondents to Bell Canada et al., MTS Allstream, RCP, and TCC.
15. The Commission notes that it generally allocates the responsibility for payment of costs among costs respondents based on their 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, based on their most recent audited financial statements. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

Bell Canada et al.	37.8%
TCC	29.1%
RCP	27.6%
MTS Allstream	5.5%

16. The Commission notes that Bell Canada filed submissions in the 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.

Directions regarding costs

17. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$4,792.67.

Co-operative Limited, Hay Communications Co-operative Limited, Huron Telecommunications Co-operative Limited, Lansdowne Rural Telephone Co. Ltd., Mornington Communications Co-operative Limited, Nexicom Telecommunications Inc., Nexicom Telephones Inc., North Frontenac Telephone Corporation Ltd., NRTC Communications, Ontera, Quadro Communications Co-operative Inc., Roxborough Telephone Company Limited, Tuckersmith Communications Co-operative Limited, WTC Communications, and Wightman Telecom Ltd.)

19. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Canada on behalf of Bell Canada et al., by TCC, by RCP, and by MTS Allstream, according to the proportions set out in paragraph 15.

Secretary General

Related documents

- *Review of the regulatory measure associated with the provision of detailed monthly billing statements to customers*, Telecom Notice of Consultation CRTC 2011-161, 7 March 2011
- *Revision of CRTC costs award practices and procedures*, Telecom Regulatory Policy CRTC 2010-963, 23 December 2010
- *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