



Telecom Order CRTC 2012-328

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Ottawa, 11 June 2012

Determination of costs award with respect to the participation of the World Broadband Foundation in the Telecom Notice of Consultation 2011-77 proceeding

File numbers: 8661-C12-201102350 and 4754-400

1. By letter dated 9 September 2011, the World Broadband Foundation (the Foundation) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2011-77.
2. The Commission did not receive any interventions in response to the application.

Application

3. The Foundation 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* (the Rules of Procedure) because it represented a group or class 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. The Foundation requested that the Commission fix its costs at \$710.68, consisting entirely of disbursements. The Foundation filed a bill of costs with its application.
5. The Foundation made no submission as to the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).

Commission's analysis and determinations

6. As a preliminary matter, while the Commission notes that the Foundation filed its application for costs outside the set deadline of 30 days following the close of record, the Commission is of the opinion that considerations of public interest and fairness outweigh any potential prejudice that may be caused by accepting the Foundation's application for an award of costs. Accordingly, the Commission considers the Foundation's application for an award of costs in this decision.
7. The Commission finds that the Foundation has satisfied the criteria for an award of costs set out in section 68 of the Rules of Procedure. Specifically, the Commission finds that the Foundation 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.

8. The Commission notes that the amounts claimed for disbursements are in accordance with 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 the Foundation 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 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 Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies); Cogeco Cable Inc.; Distributel Communications Limited; MTS Allstream Inc.; Primus Telecommunications Canada Inc.; Quebecor Media Inc., on behalf of its affiliate Videotron G.P.; Rogers Communications Partnership (RCP); Saskatchewan Telecommunications; Shaw Cablesystems G.P.; and TELUS Communications Company (TCC).
11. 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.
12. 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 Commission's *Guidelines for the Assessment of Costs*, it is appropriate to limit the costs respondents to the Bell companies, RCP, and TCC.
13. The Commission notes that it generally allocates the responsibility for payment of costs among costs respondents based on their telecommunications operating revenues (TORs)¹ 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:

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

Bell companies	36%
RCP	32%
TCC	32%

14. The Commission notes that Bell Canada filed a submission in the proceeding on behalf of the Bell companies. Consistent with its general approach set out 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 costs among themselves.

Directions regarding costs

15. The Commission **approves** the application by the Foundation for costs with respect to its participation in the proceeding.
16. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to the Foundation at \$710.68.
17. The Commission directs that the award of costs to the Foundation be paid forthwith by Bell Canada on behalf of the Bell companies, RCP, and TCC according to the proportions set out in paragraph 13.

Secretary General

Related documents

- *Review of billing practices for wholesale residential high-speed access services*, Telecom Notice of Consultation CRTC 2011-77, 8 February 2011, as amended by Telecom Notices of Consultation CRTC 2011-77-1, 17 March 2011, and 2011-77-2, 8 April 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