



## Telecom Order CRTC 2014-243

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### **Determination of costs award with respect to the participation of Sonny Access Consulting in the proceeding initiated by Telecom Notice of Consultation 2013-155**

1. By letter dated 6 December 2013, Sonny Access Consulting (SAC) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2013-155 (the proceeding). In an email message to the Commission dated 10 December 2013, SAC noted that it was filing updated information with respect to its costs application. SAC further noted that it was serving this updated information on all companies and organizations that participated in the proceeding.
2. The Commission did not receive any interventions in response to the application.

#### **Application**

3. SAC 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. In particular, SAC submitted that its representative at the public hearing, Mr. Alfred Sonnenstrahl, was involved in the implementation of video relay service (VRS) in the United States. SAC indicated that since Mr. Sonnenstrahl had already been involved in the development of a VRS system, he provided the Commission with a unique perspective in the proceeding. SAC also submitted that several leading Deaf organizations in Canada had invited Mr. Sonnenstrahl to participate in the public hearing. Further, SAC stated that its submissions on the financial aspects of the American VRS system enabled the Commission to understand how a Canadian VRS system might adopt the most cost-effective model possible.
5. SAC requested that the Commission fix its costs at \$9,256.72, consisting of \$8,100.00 for in-house consultant fees and \$1,156.72 for disbursements. SAC filed a bill of costs with its application.
6. SAC 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

7. The Commission finds that SAC has satisfied the criteria for an award of costs set out in section 68 of the Rules of Procedure. For the reasons set out below, the Commission finds that SAC 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 the proceeding in a responsible way.
8. The Commission considers that although SAC is an American organization, it represented a group of Canadian subscribers with an interest in the outcome of the proceeding. Specifically, SAC represented the Deaf Canadians who contacted it to request that it participate in the proceeding and share its expertise with the Commission. These Deaf Canadians will be directly affected by the Commission's determinations in the proceeding. Furthermore, the Commission agrees that Mr. Sonnenstrahl's appearance at the public hearing provided a unique perspective on the American experience in developing and implementing VRS. This perspective was clearly valuable in determining the feasibility of establishing VRS in Canada, especially regarding financial issues. In light of the foregoing, the Commission considers that SAC participated in the proceeding in a responsible way.
9. The Commission notes that the rates claimed in respect of disbursements 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 further notes that the rates claimed in respect of consultant fees are at a level below that established in the Guidelines. The Commission finds that the total amount claimed by SAC was necessarily and reasonably incurred and should be allowed.
10. 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.
11. 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 by appearing at the public hearing and had a significant interest in its outcome: Bell Aliant Regional Communications, Limited Partnership (Bell Aliant); Bell Canada; Bell Mobility Inc.; KMTS; NorthernTel, Limited Partnership; and Télébec, Limited Partnership (collectively, Bell Canada et al.); Bragg Communications Inc., operating as Eastlink; Cogeco Cable Inc.; MTS Inc. (MTS) and Allstream Inc. (collectively, MTS Allstream); Northwestel Inc.; Quebecor Media Inc., on behalf of its affiliate Videotron G.P. (Videotron); Rogers Communications Inc. (RCI); Saskatchewan Telecommunications; Shaw Communications Inc. (Shaw); and TELUS Communications Company (TCC).

12. 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.
13. 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, RCI, Shaw, TCC, and Videotron.
14. The Commission notes that it generally allocates the responsibility for payment of costs among costs respondents based on their telecommunications operating revenues (TORs)<sup>1</sup> 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.:	39.8%
TCC:	24.2%
RCI:	23.8%
Shaw:	4.2%
MTS Allstream:	4.1%
Videotron:	3.9%

15. The Commission notes that Bell Aliant filed submissions in the proceeding on behalf of Bell Canada et al., and that MTS Allstream filed joint submissions. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Aliant responsible for payment on behalf of Bell Canada et al., makes MTS responsible for payment on behalf of MTS Allstream, and leaves it to the respective members of Bell Canada et al. and MTS Allstream to determine the appropriate allocation of the costs among themselves.

### **Directions regarding costs**

16. The Commission **approves** the application by SAC for costs with respect to its participation in the proceeding.
17. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to SAC at \$9,256.72.

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

18. The Commission **directs** that the award of costs to SAC be paid forthwith by Bell Aliant on behalf of Bell Canada et al., by TCC, by RCI, by Shaw, by MTS on behalf of MTS Allstream, and by Videotron, according to the proportions set out in paragraph 14.

Secretary General

### **Related documents**

- *Issues related to the feasibility of establishing a video relay service*, Telecom Notice of Consultation CRTC 2013-155, 27 March 2013, as amended by Telecom Notice of Consultation CRTC 2013-155-1, 16 May 2013
- *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