



Telecom Costs Order CRTC 2006-4

Ottawa, 8 March 2006

Application for costs by the Public Interest Advocacy Centre on behalf of Union des Consommateurs - *Review of regulatory framework for the small incumbent local exchange carriers*, Telecom Public Notice CRTC 2005-10

Reference: 8663-C12-200509846 and 4754-260

1. By letter dated 16 December 2005, the Public Interest Advocacy Centre (PIAC), on behalf of l'Union des consommateurs (UC), applied for costs with respect to their joint intervention in the proceeding initiated by *Review of regulatory framework for the small incumbent local exchange carriers*, Telecom Public Notice CRTC 2005-10, 19 August 2005 (the Public Notice 2005-10 proceeding).
2. By letters dated 21 December 2005, Bell Canada and Saskatchewan Telecommunications (SaskTel) filed separate comments in response to PIAC's application for costs. PIAC did not file reply comments.

The application

3. PIAC submitted that UC 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 represented a group of subscribers that had an interest in the outcome of the Public Notice 2005-10 proceeding, had participated responsibly and had contributed to a better understanding of the issues by the Commission through its participation in the Public Notice 2005-10 proceeding.
4. PIAC requested that the Commission fix its costs at \$3,832.76, consisting entirely of legal 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 GST. PIAC filed a bill of costs with its application.
5. PIAC made no submission as to the appropriate respondents in this case.

Answer

6. In answer to the application, Bell Canada and SaskTel both stated that they did not object to PIAC's entitlement to costs or the amount claimed therein.
7. Bell Canada submitted that the costs should be borne by the small incumbent local exchange carriers (the SILECs), as it was their interests that were most directly affected by the Public Notice 2005-10 proceeding and their participation was the most extensive. In the alternative, Bell Canada submitted that the costs should be allocated 75% to the SILECs and 25% to Bell Canada and Shaw Communications Inc. equally.

8. SaskTel also submitted that the costs should be borne by the SILECs, as it was their interests that were most directly affected by the outcome of the Public Notice 2005-10 proceeding. In the alternative, SaskTel submitted that it would be appropriate to include those other parties who actively participated in the Public Notice 2005-10 proceeding in addition to the SILECs.

Commission analysis and determination

9. 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 UC represents a group or class of subscribers that has an interest in the outcome of the proceeding, has participated in a responsible way, and has contributed to a better understanding of the issues by the Commission.
10. The Commission notes that although the rate claimed in respect of external legal counsel fees is in accordance with the rates set out in the Legal Directorate's *Guidelines for the Taxation of Costs*, revised as of 15 May 1998 (the Guidelines), the rate claimed regarding in-house legal counsel fees is not. In particular, PIAC has claimed a total of ten hours for the work of two in-house legal counsel at an hourly rate of \$85.71, rather than claiming the daily rate of \$600 (or quarter-day increments) as set out in the Guidelines. The Commission notes however, that these in-house legal counsel fees would likely be greater had PIAC used the proper daily rate. Given this, the Commission finds that an adjustment to these in-house legal counsel fees is not warranted. The Commission also finds that the total amount claimed by PIAC was necessarily and reasonably incurred and should be allowed.
11. The Commission is of the view 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 *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002.
12. 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 has, however, also considered the potential administrative burden on applicants if they were required to collect small amounts from many respondents. The Commission notes that the Association des Compagnies de Téléphone du Québec (ACTQ), Canadian Alliance of Publicly-owned Telecommunications Systems (CAPTS), Ontario Telecommunications Association (OTA), Société d'administration des tarifs d'accès des télécommunicateurs (SATAT) and NorthernTel, Limited Partnership (NorthernTel) made unified representations on behalf of the SILECs during the Public Notice 2005-10 proceeding. Given the small size of the costs award in this case, the Commission finds that it would impose an unnecessary administrative burden on PIAC to require the collection of small amounts from many respondents. The Commission therefore concludes that the appropriate respondents to PIAC's costs application are ACTQ, CAPTS, OTA, SATAT, on behalf of their respective members, and NorthernTel.
13. Turning to the issue of the proper method of apportioning the costs awarded among the respondents, the Commission notes that it has often allocated the responsibility for the payment of costs among respondents based on the respondents' telecommunications operating revenues (TORs), as reported in their most recent audited financial statements. However, the Commission also notes that it has departed from this approach to make collection of an award

easier for applicants or to reflect situations where issues may be of greater importance to certain respondents. With regard to the present application, the Commission finds that the approach of dividing responsibility for a costs award on the basis of TORs would require PIAC to collect negligible sums of money from some respondents. The Commission therefore concludes that ACTQ, CAPTS, OTA, SATAT and NorthernTel should each be responsible for 20% of the costs. Furthermore, the Commission leaves it to the members of ACTQ, CAPTS, OTA and SATAT to determine the appropriate allocation of the costs among themselves.

Direction as to costs

14. The Commission **approves** the application by PIAC for costs with respect to its participation in the Public Notice 2005-10 proceeding.
15. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$3,832.76.
16. The Commission directs that the award of costs to PIAC be paid forthwith by ACTQ, CAPTS, OTA and SATAT, on behalf of their respective members, and by NorthernTel, according to the proportions set out in paragraph 13.

Secretary General

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