



## **Telecom Costs Order CRTC 2007-12**

Ottawa, 29 October 2007

### **ARCH Disability Law Centre – Application for costs – *Review of proposals to dispose of the funds accumulated in the deferral accounts*, Telecom Public Notice CRTC 2006-15**

Reference: 8678-C12-200615578 and 4754-299

1. By letter dated 13 September 2007, the ARCH Disability Law Centre (ARCH) applied for costs with respect to its participation in the proceeding initiated by Telecom Public Notice 2006-15 (the Public Notice 2006-15 proceeding).
2. TELUS Communications Company (TCC) filed comments noting that it did not object to ARCH's entitlement to costs or to the quantum. ARCH did not file reply comments.

#### **The application**

3. ARCH 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 Public Notice 2006-15 proceeding, had participated responsibly, and had contributed to a better understanding of the issues by the Commission through their participation in the Public Notice 2006-15 proceeding.
4. In particular, ARCH submitted that it had advanced the interests of persons with disabilities, a class of subscribers that is expected to receive a benefit as a result of this proceeding.
5. ARCH requested that the Commission fix its costs at \$2,400 for legal fees for in-house counsel. ARCH filed a bill of costs with its application.
6. ARCH claimed 1 day at a rate of \$600 per day for legal fees for Phyllis Gordon and 3 days at a rate of \$600 per day for legal fees for Lana Kerzner.
7. ARCH made no submissions as to the appropriate costs respondents.

#### **Commission's analysis and determination**

8. The Commission finds that ARCH has satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that ARCH is representative of 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.

9. The Commission notes that the rates claimed in respect of legal fees are in accordance with the rates set out in the Legal Directorate's *Guidelines for the Taxation of Costs*, revised as of 15 May 1998. However, given the further revisions to the *Guidelines for the Taxation of Costs* as of 24 April 2007, the Commission considers it appropriate to fix the fees in accordance with the revised rates of \$800 per day for in-house counsel. The Commission also finds that the total amount claimed by ARCH was necessarily and reasonably incurred and should be allowed.
10. 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 Telecom Public Notice 2002-5.
11. 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. Given that the issue in this proceeding is the incumbent local exchange carriers' (ILECs) deferral accounts, for which the Commission directed the ILECs to file proposals for broadband expansion and initiatives to improve accessibility and that ARCH's submissions related to accessibility initiatives, the Commission considers that the appropriate respondents to ARCH's costs application are the ILECs who have proposed to use deferral account funds for accessibility initiatives, namely Bell Canada, Saskatchewan Telecommunications (SaskTel), TCC, and MTS Allstream Inc. (MTS Allstream).
12. 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 is of the view 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:

Bell Canada	49%
TCC	38%
MTS Allstream	9%
SaskTel	4%

#### **Direction as to costs**

13. The Commission **approves** the application by ARCH for costs with respect to its participation in the Public Notice 2006-15 proceeding.
14. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to ARCH at \$3,200.

15. The Commission **directs** that the award of costs to ARCH be paid forthwith by the ILECs according to the proportions set out in paragraph 12.

Secretary General

### **Related documents**

- *Review of proposals to dispose of the funds accumulated in the deferral accounts*, Telecom Public Notice CRTC 2006-15, 30 November 2006
- *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002

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