



Telecom Order CRTC 2014-408

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Ottawa, 5 August 2014

File numbers: 8650-C12-201310078 and 4754-453

Determination of costs award with respect to the participation of the Consumers Council of Canada in the proceeding initiated by Telecom Notice of Consultation 2013-338

1. By letter dated 15 October 2013, the Consumers Council of Canada (CCC) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2013-338 regarding the removal of the last payphone in a community (the proceeding).
2. The Commission did not receive any interventions in response to the application.

Application

3. CCC 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. CCC requested that the Commission fix its costs at \$1,752.37, consisting entirely of external consultant fees. CCC's claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which CCC is entitled in connection with the HST. CCC filed a bill of costs with its application.
5. CCC 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. The Commission finds that CCC has satisfied the criteria for an award of costs set out in section 68 of the Rules of Procedure. Specifically, the Commission finds that CCC represented a group of subscribers that had an interest in the outcome of the proceeding, especially Canadian consumers, including those in rural and remote communities; it assisted the Commission in developing a better understanding of the matters that were considered, especially with respect to its submissions regarding the importance of payphones compared to wireless telecommunications services in such communities; and it participated in a responsible way.

7. The Commission notes that the rates claimed in respect of consultant 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 CCC was necessarily and reasonably incurred and should be allowed.
8. 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.
9. 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 following incumbent local exchange carriers (ILECs) and small ILECs filed submissions in the proceeding: Amtelecom Limited Partnership and People's Tel Limited Partnership, carrying on business as Eastlink; Bell Aliant Regional Communications, Limited Partnership, Bell Canada, DMTS, KMTS, NorthernTel, Limited Partnership, Northwestel Inc., and Télébec, Limited Partnership (collectively, Bell Canada et al.); MTS Inc. (MTS) and Allstream Inc. (collectively, MTS Allstream); Saskatchewan Telecommunications; TBayTel; and TELUS Communications Company (TCC).
10. 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 for the applicant.
11. In light of the above, and given the small amount of the costs award, 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, and TCC.
12. The Commission notes that it generally allocates responsibility for the 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:

Bell Canada et al.:	48.6%
TCC:	44.0%
MTS Allstream:	7.4%

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

13. The Commission notes that Bell Canada filed submissions in the proceeding on behalf of Bell Canada et al., and MTS filed submissions on behalf of MTS Allstream. 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 MTS responsible for payment on behalf of MTS Allstream. The Commission leaves it to the members of Bell Canada et al. and of MTS Allstream to determine the appropriate allocation of the costs among themselves.

Directions regarding costs

14. The Commission **approves** the application by CCC for costs with respect to its participation in the proceeding.
15. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to CCC at \$1,752.37.
16. The Commission **directs** Bell Canada, on behalf of Bell Canada et al.; TCC; and MTS, on behalf of MTS Allstream, to pay forthwith the award of costs to CCC according to the proportions set out in paragraph 12.

Secretary General

Related documents

- *Removal of the last payphone in a community*, Telecom Notice of Consultation CRTC 2013-338, 16 July 2013, as amended by Telecom Notice of Consultation CRTC 2013-338-1, 2 August 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