



Telecom Order CRTC 2015-160

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Determination of costs award with respect to the participation of the Ontario Video Relay Service Committee in the proceeding initiated by Telecom Notice of Consultation 2014-188

1. By letter dated 5 November 2014, the Ontario Video Relay Service Committee (OVRSC) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2014-188 regarding the structure and mandate of the video relay service (VRS) administrator (the proceeding). That proceeding was a follow-up to Telecom Regulatory Policy 2014-187, in which the Commission determined that VRS must be offered in Canada.
2. By letter dated 14 January 2015, Commission staff requested, from the costs respondents¹ identified in Telecom Order 2014-244, comments on the appropriate costs respondents to the OVRSC's present application.²
3. On 26 January 2015, interventions were filed in response to the OVRSC's application and the Commission staff letter by MTS Inc. (MTS) and Allstream Inc. (collectively, MTS Allstream), as well as TELUS Communications Company (TCC). On 29 January 2015, Bell Canada also filed an intervention in response to the OVRSC's application and the Commission staff letter.

Application

4. The OVRSC 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.

¹ "Costs respondents" are defined as any parties required to pay costs awarded by the Commission.

² In Telecom Order 2014-244, the OVRSC was awarded costs for its participation in the proceeding initiated by Telecom Notice of Consultation 2013-155, which called for comments on issues related to the feasibility of establishing VRS. The costs respondents in Telecom Order 2014-244 were Bell Aliant Regional Communications, Limited Partnership; Bell Canada; Bell Mobility Inc.; KMTS; NorthernTel, Limited Partnership; and Télébec, Limited Partnership (collectively, Bell Canada et al.); Bragg Communications Incorporated, operating as Eastlink; Cogeco Cable Inc.; MTS Inc. and Allstream Inc.; Northwestel Inc.; Quebecor Media Inc., on behalf of its affiliate Videotron G.P.; Rogers Communications Inc.; Saskatchewan Telecommunications; Shaw Communications Inc.; and TELUS Communications Company.

5. In particular, the OVRSC submitted that it is a grassroots movement that focuses solely on outreach, empowerment, and the transparency of the VRS process for the Deaf community in Ontario. The OVRSC also submitted that it had assisted the Commission by ensuring that the Deaf community in Ontario was kept abreast of the VRS implementation process by providing support in American Sign Language (ASL) during the proceeding. The OVRSC further submitted that it had assisted the Commission by hosting a town hall meeting, during which it provided live stream access in ASL to its Deaf viewers, to discuss the proposal made by the Interim Board of Directors of the VRS Administrator (the Interim Board) regarding the structure, mandate, and governance of the VRS administrator. By gathering feedback from its members at the town hall meeting, the OVRSC submitted that it was able to provide the Commission with the unique viewpoint of the Deaf community in Ontario.
6. The OVRSC requested that the Commission fix its costs at \$9,020, consisting entirely of consultant fees. The OVRSC filed a bill of costs with its application.
7. The OVRSC made no submission as to the appropriate costs respondents to its application.
8. The OVRSC indicated that if it were awarded costs, one costs respondent should be designated as the payor on behalf of all costs respondents to maximize the administrative efficiency with which the organization may collect any such award.

Commission staff's request for comments

9. As noted above, in a letter dated 14 January 2015 to the costs respondents identified in Telecom Order 2014-244, Commission staff requested comments regarding the appropriate costs respondents to the OVRSC's present application.

Answer

10. In response to the application and the Commission staff letter, MTS Allstream and TCC submitted that the costs respondents set out in Telecom Order 2014-244 should also be the costs respondents to the present application, and that the number of costs respondents in the present application should be limited to six parties. Bell Canada did not object to the apportionment of costs among the respondents to Telecom Order 2014-244, but submitted that the number of costs respondents should be limited only where it would be unduly burdensome for a costs applicant to collect any cost award granted.

Commission's analysis and determinations

11. The criteria for an award of costs are set out in section 68 of the Rules of Procedure, which reads as follows:
 68. The Commission must determine whether to award final costs and the maximum percentage of costs that is to be awarded on the basis of the following criteria:

- (a) whether the applicant had, or was the representative of a group or a class of subscribers that had, an interest in the outcome of the proceeding;
 - (b) the extent to which the applicant assisted the Commission in developing a better understanding of the matters that were considered; and
 - (c) whether the applicant participated in the proceeding in a responsible way.
- 12. The Commission finds that the OVRSC has satisfied these criteria through its participation in the proceeding. Specifically, the OVRSC represented a group of subscribers that had an interest in the outcome of the proceeding, namely members of the Deaf community in Ontario. The OVRSC advocated for VRS access and collected the views from the Deaf community in Ontario and represented these views to the Commission. The Commission finds that this group of subscribers will be directly affected by the determinations resulting from the proceeding given the consumer considerations related to VRS technology and delivery of the service. Finally, the Commission considers that the OVRSC's submissions, along with its liaising with the community it represents through a town hall meeting, assisted the Commission in developing a better understanding of the issues.
- 13. This proceeding called for interested parties to submit written proposals on the structure, mandate, and governance of the VRS administrator. Due to the OVRSC's participation in the proceeding, the Commission was able to better understand the issues that affected members of the Deaf community from which the OVRSC received feedback at the town hall meeting. Specifically, the OVRSC assisted the Commission by providing feedback regarding various aspects of the structure, mandate, and governance of the VRS administrator, such as its funding and the appointment of its directors. Without the OVRSC's participation, the Commission would not have had as comprehensive an understanding of the issues with respect to the structure, mandate, and governance of the VRS administrator.
- 14. The Commission notes that the rates claimed in respect of consultant fees are in accordance with the rates established in the *Guidelines for the Assessment of Costs*, as set out in Telecom Regulatory Policy 2010-963. The Commission finds that the total amount claimed by the OVRSC was necessarily and reasonably incurred and should be allowed.
- 15. 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.
- 16. 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. In this case, the Commission received interventions from MTS Allstream and TCC. Their participation was limited to a one-page submission each, in which both parties agreed with the proposal filed by the Interim Board for the structure, mandate, and governance of the

VRS administrator. Further, the Interim Board stated that it had held a consultation with the largest telecommunications service provider (TSP) stakeholders to receive feedback on its proposal.

17. Therefore, with respect to the OVRSC's current application, the Commission considers that the strict apportionment of costs between MTS Allstream and TCC on the basis that they were the only TSPs that submitted formal interventions in the proceeding would not be appropriate.
18. The proceeding was a follow-up to Telecom Regulatory Policy 2014-187, which was initiated by Telecom Notice of Consultation 2013-155. In orders issued by the Commission regarding costs applications related to that notice, the Commission found that the following parties actively participated in the Telecom Notice of Consultation 2013-155 proceeding by appearing at the public hearing, and had a significant interest in the outcome of that proceeding: 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 Incorporated, operating as Eastlink; Cogeco Cable Inc.; MTS Allstream; Northwestel Inc.; Quebecor Media Inc., on behalf of its affiliate Videotron G.P.; Rogers Communications Inc. (RCI); Saskatchewan Telecommunications; Shaw Communications Inc.; and TCC. Costs were allocated among these parties based on their telecommunications operating revenues (TORs).³
19. Given the similarities between the issues under examination in the Telecom Notice of Consultation 2013-155 proceeding and those addressed in the regulatory policy arising from the Telecom Notice of Consultation 2014-188 proceeding, the Commission considers that the same TSPs will be affected by the latter proceeding.
20. The Commission notes, however, that in apportioning 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.
21. In light of the relatively small size of the costs award and the large number of potential costs respondents, the Commission considers that it is appropriate to exclude any potential costs respondents that, according to the apportionment of costs formula, would be responsible for paying less than \$1,000. Based on the administrative burden that small costs awards impose on both the applicant and costs respondents, the Commission considers \$1,000 to be the minimum amount a costs respondent should be required to pay. Therefore, the Commission considers that the appropriate costs respondents to the OVRSC's costs application are Bell Canada et al., RCI, and TCC.
22. The Commission notes the OVRSC's submission that only one payor should be designated among the costs respondents. The Commission has balanced the interests of the OVRSC and

³ TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

the costs respondents by naming three costs respondents. The Commission expects that these costs respondents will disperse the funds awarded according to the allocation set out below in a prompt and efficient manner, minimizing the burden on the OVRSC to collect its costs award.

23. The Commission notes that it generally allocates the responsibility for payment of costs among costs respondents based on their TORs 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:

Company	Percentage	Amount
Bell Canada et al.	43.8%	\$3,950.76
TCC	29.1%	\$2,624.82
RCI	27.1%	\$2,444.42

24. The Commission notes that Bell Aliant filed submissions in the proceeding initiated by Telecom Notice of Consultation 2013-155 on behalf of Bell Canada et al. 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. and leaves it to the members of Bell Canada et al. to determine the appropriate allocation of the costs among themselves.

Directions regarding costs

25. The Commission **approves** the application by the OVRSC for costs with respect to its participation in the proceeding.
26. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to the OVRSC at \$9,020.
27. The Commission **directs** that the award of costs to the OVRSC be paid forthwith by Bell Aliant on behalf of Bell Canada et al., by TCC, and by RCI according to the proportions set out in paragraph 23.

Secretary General

Related documents

- *Determination of costs award with respect to the participation of the Ontario Video Relay Service Committee in the proceeding initiated by Telecom Notice of Consultation 2013-155, Telecom Order CRTC 2014-244, 20 May 2014*

- *Establishing the structure and mandate of the video relay service administrator*, Telecom Notice of Consultation CRTC 2014-188, 22 April 2014; as amended by Telecom Notices of Consultation CRTC 2014-188-1, 21 May 2014; and 2014-188-2, 22 August 2014
- *Video relay service*, Telecom Regulatory Policy CRTC 2014-187, 22 April 2014
- *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