



Telecom Order CRTC 2016-254

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Ottawa, 6 July 2016

File numbers: 8633-R28-201501586 and 4754-520

Determination of costs award with respect to the participation of the Consumers' Association of Canada and the Public Interest Advocacy Centre in the proceeding initiated by Rogers Communications Partnership's request for clarification of Telecom Regulatory Policy 2013-271

Application

1. By letter dated 17 June 2015, the Consumers' Association of Canada (CAC) and the Public Interest Advocacy Centre (PIAC) [collectively, CAC/PIAC] applied for costs with respect to their participation in the proceeding initiated by Rogers Communications Partnership's (RCP) request for clarification of the Wireless Code set out in Telecom Regulatory Policy 2013-271 (the proceeding).
2. The Commission did not receive any interventions in response to the application for costs.
3. CAC/PIAC submitted that they 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 they represented a group or class of subscribers that had an interest in the outcome of the proceeding, they had assisted the Commission in developing a better understanding of the matters that were considered, and they had participated in a responsible way.
4. In particular, CAC/PIAC submitted that they represented the interests of a significant group of consumers given their nature as non-profit organizations with mandates that focus on informing, educating, and representing consumers. CAC/PIAC also submitted that they had assisted the Commission in developing a better understanding of the issues raised in the proceeding by providing detailed comments and raising a number of concerns related to the interpretation of the Wireless Code put forward by RCP. CAC/PIAC submitted that they provided an alternative interpretation of the Wireless Code.
5. CAC/PIAC requested that the Commission fix their costs at \$8,828.71, consisting of \$8,711.21 for legal fees and \$117.50 for analyst fees. CAC/PIAC's claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which CAC/PIAC are entitled in connection with the HST. CAC/PIAC filed a bill of costs with their application.

6. CAC/PIAC submitted that RCP, as the applicant that initiated the proceeding, is the appropriate party to be required to pay any costs awarded by the Commission (the costs respondent).

Commission's analysis and determinations

7. Although CAC/PIAC's application was filed after the deadline set out in section 65 of the Rules of Procedure, the Commission considers that the late filing did not prejudice any party. Further, RCP was given notice of the application for costs and had the opportunity to file an answer to the application. In the circumstances, it is appropriate to consider the costs application.
8. 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.
9. CAC/PIAC have satisfied these criteria through their participation in the proceeding. In particular, they provided helpful submissions on why the disconnection rules under the Wireless Code should apply to suspensions for non-payment. CAC/PIAC described the lack of distinction between the effect of disconnections and carrier-initiated suspensions, and the serious consequences that could arise for consumers from the latter. These submissions directly opposed those offered by RCP. The Commission was thus assisted in developing a better understanding of the matters that were considered.
10. The rates claimed in respect of legal and analyst fees are in accordance with the rates established in the Commission's *Guidelines for the Assessment of Costs*, as set out in Telecom Regulatory Policy 2010-963. The Commission finds that the total amount claimed by CAC/PIAC was necessarily and reasonably incurred and should be allowed.
11. 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.
12. The Commission has generally determined that the appropriate costs respondents to an award of costs are the parties that have a significant interest in the outcome of the proceeding in question and have participated actively in that proceeding. RCP's participation in the proceeding was the most extensive, given its initiation of the proceeding and elaborate submissions and reply comments.

13. In light of the above, RCP is the appropriate costs respondent to CAC/PIAC's costs application. However, RCP ceased to exist as of 1 January 2016. All of RCP's business activities, including its assets and liabilities, are now held by Rogers Communications Canada Inc. (RCCI). Therefore, the Commission considers that the appropriate costs respondent to CAC/PIAC's costs application is RCCI.

Directions regarding costs

14. The Commission **approves** the application by CAC/PIAC for costs with respect to their participation in the proceeding.
15. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to CAC/PIAC at \$8,828.71.
16. The Commission **directs** that the award of costs to CAC/PIAC be paid forthwith by RCCI.

Secretary General

Related documents

- *The Wireless Code*, Telecom Regulatory Policy CRTC 2013-271, 3 June 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