



## Telecom Order CRTC 2014-512

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Ottawa, 2 October 2014

*File numbers: 8678-T66-201402891 and 4754-463*

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre and the Consumers' Association of Canada in the proceeding leading to Telecom Decision 2014-419**

1. By letter dated 16 July 2014, the Public Interest Advocacy Centre (PIAC) and the Consumers' Association of Canada (CAC) [collectively, PIAC/CAC] applied for costs with respect to their participation in the proceeding leading to Telecom Decision 2014-419, which was initiated by TELUS Communications Company's (TCC) Part 1 application to add a replacement deferral account community and extend the deadline for the completion of TCC's broadband service rollout (the proceeding).
2. On 25 July 2014, TCC filed an intervention in response to PIAC/CAC's application for costs. MTS Inc. (MTS) filed a reply on 29 July 2014.

#### **Application**

3. PIAC/CAC 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, PIAC submitted that it is a non-profit organization that provides legal and research services on behalf of consumer interests, with a focus on vulnerable consumers' interests, regarding the provision of important public services. CAC submitted that it is a non-profit charitable organization that represents the interests of a significant group of consumers, and has a mandate to, among other things, inform and educate consumers on marketplace issues. Both organizations submitted that they had provided detailed comments and identified many important concerns relating to TCC's missed deadlines, and had proposed constructive potential outcomes for the proceeding. They submitted that because their submissions were developed efficiently by competent and experienced counsel, both organizations participated in the proceeding in a responsible way.
5. PIAC/CAC requested that the Commission fix their costs at \$8,801.64, consisting entirely of legal fees. PIAC/CAC's claim included the Ontario Harmonized Sales

Tax (HST) on fees less the rebate to which PIAC/CAC are entitled in connection with the HST. PIAC/CAC filed a bill of costs with their application.

6. PIAC/CAC submitted that TCC is the appropriate party to be required to pay any costs awarded by the Commission (the costs respondent).

### **Answer**

7. Relying on the fact that Bell Canada and MTS are referred to in the Commission's 5 June 2014 show cause letter and in PIAC/CAC's 16 June 2014 intervention on the record of the proceeding, TCC submitted that if the Commission were to award costs, Bell Canada and MTS should also be included as costs respondents.
8. MTS submitted that because it had met the required deadlines, unlike TCC, it would not be appropriate to include MTS as a cost respondent.

### **Commission's analysis and determinations**

9. 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.

10. The Commission finds that PIAC/CAC have satisfied these criteria through their participation in the proceeding. In particular, the Commission considers that their submissions, especially with respect to the impact on consumers of the broadband service rollout and to potential regulatory measures if deadlines are missed, contributed to a better understanding of the issues that were considered by the Commission.
11. The Commission notes that the rates claimed in respect of legal 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 PIAC/CAC was necessarily and reasonably incurred and should be allowed.

12. 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.
13. The Commission notes that it 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. Given the limited level of participation by Bell Canada and MTS in the proceeding, and their statements that they would meet the required deadline of 31 August 2014 for their respective broadband service rollouts, the Commission is not persuaded that Bell Canada and MTS should be included as costs respondents. By contrast, TCC initiated the proceeding by seeking an extension to its broadband service rollout deadline for a number of communities and was, by far, the most active participant in the proceeding. The Commission therefore finds that the appropriate costs respondent to PIAC/CAC's application for costs is TCC.

### **Directions regarding costs**

14. The Commission **approves** the application by PIAC/CAC 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 PIAC/CAC at \$8,801.64.
16. The Commission **directs** that the award of costs to PIAC/CAC be paid forthwith by TCC.

Secretary General

### **Related documents**

- *TELUS Communications Company – Application to revise the company's deferral-account-funded broadband service expansion plan*, Telecom Decision CRTC 2014-419, 7 August 2014
- *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