



Telecom Order CRTC 2015-194

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Determination of costs award with respect to the participation of the Consumers' Association of Canada and the Public Interest Advocacy Centre in the proceeding leading to Telecom Decision 2015-70 regarding the expiry of certain time-limited exogenous factors

1. By letter dated 14 November 2014, the Consumers' Association of Canada and the Public Interest Advocacy Centre (collectively, CAC/PIAC) applied for costs with respect to their participation in the proceeding leading to Telecom Decision 2015-70 (the proceeding). That proceeding was initiated by an application from Bell Aliant Regional Communications, Limited Partnership (Bell Aliant); Bell Canada; and Télébec, Limited Partnership (Télébec) [collectively, Bell Canada et al.] regarding proposed rate reductions and customer rebates resulting from the expiry of certain time-limited exogenous factors.
2. The Commission did not receive any interventions in response to CAC/PIAC's application.

Application

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 argued that they had assisted the Commission in developing a better understanding of the issues raised in the proceeding, by being the only parties to provide counter-arguments in response to Bell Canada et al.'s proposal. CAC/PIAC requested that the Commission fix their costs at \$10,670.48, consisting entirely of external legal 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.
5. CAC/PIAC submitted that Bell Aliant and Bell Canada are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).

Commission's analysis and determinations

6. 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.
7. The Commission finds that CAC/PIAC have satisfied the criteria for an award of costs. The Commission considers that CAC/PIAC raised reasonable concerns with respect to Bell Canada et al.'s application, including, in particular, the issue of whether rebates should include compound interest.
8. However, the Commission considers that the amount of time claimed by CAC/PIAC of 35.4 hours is excessive in light of the nature of the proceeding and the degree of the costs applicants' participation in it. The proceeding initiated by Bell Canada et al.'s application was narrowly focused and was not unduly complex. CAC/PIAC's written intervention was similarly narrowly focused. Further, CAC/PIAC used the services of senior legal counsel at the highest allowable rate. Costs applicants should rely on articling students or junior counsel to the extent possible to avoid incurring excessive costs, as stated in the Commission's *Guidelines for the Assessment of Costs*.¹
9. In light of the above, the Commission finds that the time claimed by CAC/PIAC should be reduced by 40%. Consequently, the Commission finds that legal fees of \$6,402.29 for external counsel was necessarily and reasonably incurred, and should be the total amount of costs allowed.
10. 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.
11. 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

¹ See paragraph 36 of Telecom Regulatory Policy 2010-963.

proceeding in question and have participated actively in that proceeding. The Commission finds that Bell Aliant, Bell Canada, and Télébec had a significant interest in the outcome of the proceeding and participated actively throughout the proceeding.

12. The Commission considers that, consistent with its practice, it is appropriate to allocate the responsibility for payment of costs among costs respondents based on their telecommunications operating revenues (TORs)² as an indicator of the relative size and interest of the parties involved in the proceeding. However, the Commission notes that, in Telecom Order 2015-160,³ it considered \$1,000 to be the minimum amount that a costs respondent should be required to pay due to the administrative burden that small costs awards impose on both the applicant and costs respondents. Accordingly, the Commission finds that, in this case, the appropriate costs respondents are Bell Aliant and Bell Canada, and that responsibility for payment of costs should be allocated as follows:

Company	Percentage	Amount
Bell Canada	75.6%	\$4,840.13
Bell Aliant	24.4%	\$1,562.16

Directions regarding costs

13. The Commission **approves in part** the application by CAC/PIAC for costs with respect to their participation in the proceeding.
14. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to CAC/PIAC at \$6,402.29.
15. The Commission **directs** that the award of costs to CAC/PIAC be paid forthwith by Bell Canada and Bell Aliant according to the proportions set out in paragraph 12 above.

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 2014-188*, Telecom Order CRTC 2015-160, 23 April 2015
- *Bell Aliant Regional Communications, Limited Partnership; Bell Canada; and Télébec, Limited Partnership – Proposed rate reductions and customer rebates resulting from the expiry of certain time-limited exogenous factors*, Telecom Decision CRTC 2015-70, 27 February 2015

² TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

³ See paragraph 21 of Telecom Order 2015-160.

- *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