



Telecom Order CRTC 2017-125

PDF version

Ottawa, 1 May 2017

File numbers: 1011-NOC2016-0115 and 4754-538

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Telecom Notice of Consultation 2016-115

Application

1. By letter dated 11 August 2016, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2016-115 (the proceeding). In the proceeding, the Commission sought comments on whether to require wireless service providers to participate in Canada's National Public Alerting System.
2. The Commission did not receive any interventions in response to the application for costs.
3. PIAC 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 Canadian wireless consumers who would be affected by the implementation of a national wireless public alerting system, it had assisted the Commission in developing a better understanding of the matters that were considered from the perspective of Canadian consumers, and it had participated in a responsible way by complying with deadlines and directions.
4. In particular, PIAC submitted that it had provided a distinct point of view as an organization that represents the interests of Canadian wireless consumers. PIAC also submitted that its focused participation viewed through the lens of public safety, consumer choice, and privacy provided the Commission with a better understanding of the matters that were considered.
5. PIAC requested that the Commission fix its costs at \$2,250, consisting entirely of in-house legal fees. PIAC filed a bill of costs with its application.
6. PIAC submitted that the wireless service providers that participated in the proceeding are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).

Commission's analysis and determinations

7. 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.
8. In Telecom Information Bulletin 2016-188, the Commission provided guidance regarding how an applicant may demonstrate that it satisfies the first criterion with respect to its representation of interested subscribers. In particular, applicants are required to both identify the specific group of subscriber represented, and describe the methods by which they verified that the views put forward reflect the interests of the group, whether by directly consulting the represented group or by other means, such as research.
9. PIAC did not directly address the information bulletin in its submissions. However, it did identify the group of subscribers it represented, being Canadian wireless consumers in general and vulnerable consumers in particular. Although PIAC did not explain how it determined that the positions it presented reflected the interests of these consumers, the Commission considers that since consumer issues occupied a relatively limited portion of the proceeding, which occurred only in writing over a relatively short period of time, direct consultation or research would not necessarily have been practical in the circumstances of this file. Therefore, it was reasonable for PIAC to develop its position based on its internal expertise. The Commission reminds PIAC that the Commission's *Guidelines for the Assessment of Costs* (the Guidelines), as set out in Telecom Regulatory Policy 2010-963, require an explanation as to how the organization represented a group of subscribers, even in circumstances where direct consultation or research were not undertaken.
10. PIAC has satisfied the criteria through its participation in the proceeding. Specifically, PIAC provided the Commission with a distinct point of view by representing the interests of Canadian wireless consumers. PIAC also participated in a responsible manner by focusing its submissions on the effect that wireless public alerting implementation would have on the consumers PIAC represents, rather than on technical issues.

11. The rates claimed in respect of legal fees are in accordance with the rates established in the Guidelines. The Commission finds that the total amount claimed by PIAC was necessarily and reasonably incurred and should be allowed.
12. 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 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. The Commission considers that the following parties had a significant interest in the outcome of the proceeding and participated actively in the proceeding: Bell Mobility Inc.; Bragg Communications Incorporated, operating as Eastlink; Quebecor Media Inc., on behalf of Videotron G.P.; Rogers Communications Canada Inc. (RCCI); Saskatchewan Telecommunications; TELUS Communications Company (TCC); and WIND Mobile Corp.¹
14. 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.
15. However, as set out in Telecom Order 2015-160, the Commission considers \$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.
16. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

Company	Percentage	Amount
TCC	52%	\$1,170
RCCI	48%	\$1,080

Directions regarding costs

17. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.

¹ WIND Mobile Corp. is now known as Freedom Mobile Inc.

² TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services. In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$2,250.
19. The Commission **directs** that the award of costs to PIAC be paid forthwith by TCC and RCCI according to the proportions set out in paragraph 16.

Secretary General

Related documents

- *Participation by wireless service providers in the National Public Alerting System*, Telecom Notice of Consultation CRTC 2016-115, 29 March 2016
- *Guidance for costs award applicants regarding representation of a group or a class of subscribers*, Telecom Information Bulletin CRTC 2016-188, 17 May 2016
- *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
- *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