



Telecom Order CRTC 2017-18

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Ottawa, 23 January 2017

File numbers: 1011-NOC2016-0103 and 4754-524

Determination of costs award with respect to the participation of l'Union des consommateurs in the proceeding leading to Telecom Regulatory Policy 2016-295

Application

1. By letter dated 20 May 2016, l'Union des consommateurs (l'Union) applied for costs with respect to its participation in the proceeding leading to Telecom Regulatory Policy 2016-295 (the proceeding). In the proceeding, the Commission imposed a condition of service under section 24.1 of the *Telecommunications Act* (the Act) on competitive payphone service providers (CPSPs) to abide by all consumer safeguards regarding the notification of rates for non-cash payphone calls. In addition, the Commission required that incumbent local exchange carriers (ILECs) that operate payphones include all these safeguards in their tariffs and contracts with CPSPs.
2. The Commission did not receive any interventions in response to the application for costs.
3. L'Union 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.
4. In particular, l'Union submitted that it participated in a responsible way by providing a brief intervention, reflecting the limited scope of the proceeding, and by avoiding the duplication of submissions it had made in previous proceedings. It also submitted that it contributed to a better understanding of the matters considered through sharing its expertise about the needs of payphone users and advocating for an efficient regulatory model that took the risks to consumers associated with overly flexible rules into account.
5. With respect to the group or class of subscribers l'Union has submitted that it represents, l'Union explained that as a not-for-profit organization that acts as an umbrella for 12 groups, it works for the protection of consumer rights, mainly in Quebec, and focuses particularly on those in low-income households. L'Union submitted that its status as a consumer group has been recognized at both the federal and provincial levels of government.

6. L'Union considered the outcome of the proceeding to be of interest to the class of subscribers it purports to represent. With respect to the specific method by which L'Union has submitted that it represents this group or class of subscribers, L'Union explained that certain members have specifically raised concerns with it relating to long distance calls made on public payphones.
7. L'Union noted that it did not initiate formal consultations specific to the subject matter of the proceeding, given its narrow scope and status as a follow-up to an earlier, broader proceeding. However, L'Union submitted that it had conducted broad, general consultations with its membership regarding payphones in the Telecom Notice of Consultation 2013-337 proceeding. In its view, the information received in this consultation was still relevant to the follow-up proceeding.
8. L'Union requested that the Commission fix its costs at \$787.50, consisting of \$200 for legal fees and \$587.50 for analyst fees. L'Union filed a bill of costs with its application.
9. L'Union made no submission as to the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents). It did, however, submit that in light of the amount of the costs award being requested, the number of costs respondents should be as low as possible to avoid any undue administrative burden.

Commission's analysis and determinations

10. 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.
11. 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 the present case, L'Union has demonstrated that it meets this requirement. L'Union described itself as representing the interests of consumers, particularly those living in low-income households, and its submissions in the proceeding reflected the information it had received from its members on the issue of long distance charges for payphone calls. Further, while it did not initiate a formal consultation for polling the group that it represented in this proceeding, it was reasonable for it to recognize the efficiency of using a previous and related consultation that took place during the Telecom Notice of Consultation 2013-337 proceeding.

12. L'Union has also satisfied the remaining criteria set out in section 68 of the Rules of Procedure through its participation in the proceeding. In particular, l'Union provided submissions on how the imposition of conditions on ILECs to continue to include safeguards in their tariffs and contracts with CPSPs would provide additional incentive for CPSPs to comply with the safeguards as well as the necessity of reporting requirements for CPSPs. Both submissions assisted the Commission in developing a better understanding of the matters that were considered during the proceeding.
13. 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 l'Union was necessarily and reasonably incurred and should be allowed.
14. 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.
15. 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 all ILECs and CPSPs had a significant interest in the outcome of the proceeding, but that only Bell Canada and TELUS Communications Company participated in the proceeding.
16. 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. Given that the total amount of costs being claimed by l'Union is under this \$1,000 minimum that the Commission has previously set out, and that l'Union itself submitted that the number of costs respondents should be as low as possible to avoid any administrative burden on collection, the Commission finds that the appropriate costs respondent in this case is Bell Canada.

Directions regarding costs

17. The Commission **approves** the application by l'Union for costs with respect to its participation in the proceeding.
18. Pursuant to subsection 56(1) of the Act, the Commission fixes the costs to be paid to l'Union at \$787.50.
19. The Commission **directs** that the award of costs to l'Union be paid forthwith by Bell Canada.

Related documents

- *Application of certain consumer safeguards for payphones directly to competitive payphone service providers*, Telecom Regulatory Policy CRTC 2016-295, 28 July 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

- *Fact-finding process on the role of payphones in the Canadian communications system*, Telecom Notice of Consultation CRTC 2013-337, 16 July 2013, as amended by Telecom Notice of Consultation CRTC 2013-337-1, 11 September 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