



Telecom Order CRTC 2018-41

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Determination of costs award with respect to the participation of the Canadian National Society of the Deaf-Blind, Inc. in the proceeding that led to Telecom Regulatory Policy 2017-182

Application

1. By letter dated 8 March 2017, the Canadian National Society of the Deaf-Blind, Inc. (CNSDB) applied for costs with respect to its participation in the proceeding that led to Telecom Regulatory Policy 2017-182 (the proceeding). In the proceeding, the Commission set out determinations on the implementation and provision of new, enhanced, and innovative 9-1-1 services and networks in Canada with Internet Protocol (IP)-based capabilities, referred to as next-generation 9-1-1.
2. The Commission did not receive any interventions in response to the application for costs.
3. The CNSDB requested that the Commission fix its costs at \$3,822.15, consisting of \$3,300 for analyst fees and \$522.15 for disbursements. The CNSDB filed a bill of costs with its application.
4. The CNSDB claimed 30 hours at a rate of \$110 per hour for external analyst fees, 10 hours of which were claimed for work by the Deaf Wireless Canada Committee (DWCC) [for completing the CNSDB's costs application].

Subsequent process

5. By letter dated 23 June 2017, Commission staff requested that the CNSDB explain in detail how it has satisfied the Commission's criteria for an award of costs, as set out in section 68 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure). The CNSDB was also asked to make submissions on the appropriate costs respondents.
6. The CNSDB submitted that it had met the criteria for an award of costs 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.
7. In particular, the CNSDB submitted that it represented a class of subscribers that uniquely experience the dual disabilities of deafness and blindness. The CNSDB

explained that individuals who are deaf-blind face challenges and extensive barriers to getting help and communicating with emergency services, resulting in tremendous vulnerability. The CNSDB argued that the deaf-blind community is in desperate need of a 9-1-1 system that is fully accessible.

8. The CNSDB noted that it is a consumer-run association that advocates for new and improved services for people who are deaf-blind, it promotes public awareness of issues associated with such disabilities, and it gathers information to help people who are deaf-blind.
9. The CNSDB submitted that wireless and Internet service providers are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).
10. By letter dated 6 September 2017, Commission staff requested additional information regarding the amount of costs claimed for time spent on the costs application. Specifically, the CNSDB was requested to indicate whether it was billed for the DWCC's services and explain the breakdown of time spent by the CNSDB's individual analyst and the DWCC.
11. In response, the CNSDB provided an invoice for the DWCC's work, with supporting documentation. The invoice indicated a \$1,000 bill charged to the CNSDB for the DWCC's work on the costs application. The CNSDB clarified that the 10 hours claimed for completing the costs application were entirely spent by two members of the DWCC.

Commission's analysis and determinations

12. 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.
13. 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, the CNSDB has demonstrated that it met this requirement. In particular, the CNSDB is a national consumer-run advocacy association focused on assisting deaf-blind Canadians. For

example, it assisted deaf-blind Canadians in answering a survey that examined the 9-1-1-related accessibility issues faced by Deaf, deaf-blind, and hard-of-hearing Canadians.

14. The CNSDB has also satisfied the remaining criteria through its participation in the proceeding. In particular, the CNSDB's submissions regarding the unique challenges that deaf-blind individuals face when using 9-1-1 services in emergency situations, especially accessibility barriers and the improvements needed to ensure accessibility given the importance of emergency services, assisted the Commission in developing a better understanding of the matters that were considered.
15. The rates claimed in respect of the 20 hours for the individual analyst fees are in accordance with the rates established in the *Guidelines for the Assessment of Costs* (the Guidelines), as set out in Telecom Regulatory Policy 2010-963. The Commission finds that the costs claimed for these hours were necessarily and reasonably incurred and should be allowed.
16. With regard to the 10 hours claimed for the DWCC's work in completing the costs application, the Commission considers it appropriate to award costs for these hours to the CNSDB at the rate reflected in the invoice, which is lower than the rate claimed. Therefore, the Commission reduces the costs for this claim from \$1,100 to \$1,000, consistent with the invoice. Accordingly, the total analyst fees are reduced from \$3,300 to \$3,200.
17. Regarding the costs claimed for disbursements, these costs are in accordance with the Guidelines. Accordingly, the Commission finds that total costs in the amount of \$3,722.15 were necessarily and reasonably incurred and should be allowed.
18. 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.
19. 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 the service providers that intervened in the proceeding had a significant interest in its outcome and participated actively throughout. As such, the following parties are the appropriate costs respondents to the CNSDB's application for costs: Bell Canada, on its own behalf and on behalf of Bell Aliant Regional Communications, Limited Partnership, Bell Mobility Inc., DMTS, KMTS, NorthernTel, Limited Partnership, Northwestel Inc., Ontera, and Télébec, Limited Partnership; Bragg Communications Incorporated, operating as Eastlink; Freedom Mobile Inc.; MTS Inc.;¹ Quebecor Media Inc., on behalf of

¹ In February 2017, Bell Canada received approval by federal regulators to purchase MTS Inc. However, Bell Canada and MTS Inc. participated throughout the proceeding as separate entities.

Videotron Ltd.;² Rogers Communications Canada Inc.; Saskatchewan Telecommunications; Shaw Telecom G.P.; TELUS Communications Inc. (TCI);³ and Zayo Canada Inc.

20. 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) as an indicator of the relative size and interest of the parties involved in the proceeding.⁴
21. 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.
22. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

Company	Percentage	Amount
Bell Canada	59%	\$2,196.07
TCI	41%	\$1,526.08

23. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for payment on behalf of the Bell companies. The Commission leaves it to the members of the Bell companies to determine the appropriate allocation of the costs among themselves.

Directions regarding costs

24. The Commission **approves with changes** the application by the CNSDB for costs with respect to its participation in the proceeding.
25. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to the CNSDB at \$3,722.15.

² In the proceeding, submissions were received from Videotron G.P. However, effective 29 December 2017, all of Videotron G.P.'s assets and operations were transferred to its affiliate, Videotron Ltd., and Videotron G.P. was subsequently dissolved. For ease of reference, "Videotron Ltd." is used in this order.

³ In the proceeding, submissions were received from TELUS Communications Company (TCC). However, effective 1 October 2017, TCC's assets were legally transferred to TCI and TCC ceased to exist. For ease of reference, "TCI" is used in this order.

⁴ 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.

26. The Commission **directs** that the award of costs to the CNSDB be paid forthwith by Bell Canada and TCI according to the proportions set out in paragraph 22.

Secretary General

Related documents

- *Next-generation 9-1-1 – Modernizing 9-1-1 networks to meet the public safety needs of Canadians*, Telecom Regulatory Policy CRTC 2017-182, 1 June 2017
- *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
- *Action Réseau Consommateur, the Consumers' Association of Canada, Fédération des associations coopératives d'économie familiale and the National Anti-Poverty Organization application for costs – Public Notice CRTC 2001-60*, Telecom Costs Order CRTC 2002-4, 24 April 2002