



## Telecom Order CRTC 2018-67

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Ottawa, 16 February 2018

*File numbers: 1011-NOC2016-0116 and 4754-565*

### **Determination of costs award with respect to the participation of the Canadian Association of the Deaf in the proceeding that led to Telecom Regulatory Policy 2017-182**

#### **Application**

1. By letter dated 2 March 2017, the Canadian Association of the Deaf (CAD) 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. CAD 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, CAD submitted that it represented the interests of Deaf Canadians and provided a fuller understanding of the issues surrounding access by Deaf Canadians to emergency services.
5. CAD requested that the Commission fix its costs at \$22,087.77, consisting of \$16,500 for consultant and analyst fees, and \$5,587.77 for disbursements. CAD filed a bill of costs with its application.
6. CAD submitted that the telecommunications service providers that participated in the proceeding were the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents), but made no submission as to the allocation of responsibility for payment of costs among 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 the present case, CAD has demonstrated that it meets this requirement. Specifically, CAD represents and is made up of Deaf people across Canada who have an interest in the operation and accessibility of the 9-1-1 system, and has represented them in the proceeding through consultations with its constituents that were documented in its submission.
9. CAD has also satisfied the remaining criteria through its participation in the proceeding. In particular, CAD made valuable suggestions from the perspective of Deaf Canadians regarding potential accessibility-related inclusions in the next-generation 9-1-1 system, thereby assisting the Commission in developing a better understanding of the matters that were considered.
10. The rates claimed in respect of consultant and analyst fees, as well as the costs claimed for disbursements, 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 total amount claimed by CAD was necessarily and reasonably incurred and should be allowed.
11. 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.
12. 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 telecommunications 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 CAD'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.;<sup>1</sup> Quebecor Media Inc., on behalf of Videotron Ltd. (Videotron);<sup>2</sup> Rogers Communications Canada Inc. (RCCI); Saskatchewan Telecommunications; Shaw Telecom G.P.; TELUS Communications Inc. (TCI);<sup>3</sup> and Zayo Canada Inc.

13. 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.<sup>4</sup>
14. 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.
15. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

<b>Company</b>	<b>Percentage</b>	<b>Amount</b>
Bell Canada	41.1%	\$9,087.01
TCI	28.2%	\$6,229.05
RCCI	25.7%	\$5,666.93
Videotron	5.0%	\$1,104.77

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

16. 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**

17. The Commission **approves** the application by CAD for costs with respect to its participation in the proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to CAD at \$22,087.77.
19. The Commission **directs** that the award of costs to CAD be paid forthwith by Bell Canada on behalf of the Bell companies, TCI, RCCI, and Videotron according to the proportions set out in paragraph 15.

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