



Telecom Order CRTC 2019-29

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Ottawa, 1 February 2019

File numbers: 8665-R28-201710442 and 4754-610

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Rogers Communications Canada Inc.'s request for an extension to implement certain aspects of Telecom Regulatory Policy 2017-200

Application

1. By letter dated 6 December 2017, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by Rogers Communications Canada Inc.'s (RCCI) request for an extension to implement certain aspects of Telecom Regulatory Policy 2017-200, in which the Commission established the revised Wireless Code (the proceeding).
2. The Commission did not receive any interventions in response to the application for costs.
3. Through inadvertence, PIAC's application was posted on the Commission's website only on 10 December 2018; consequently, expedited timelines were established.
4. 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 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.
5. In particular, PIAC submitted that it represents the interests of all Canadian consumers, with a focus on low-income consumers. PIAC submitted that it advanced distinct positions in the proceeding that were intended to further these interests, in part as a result of the extensive research it conducts in relation to telecommunications matters.
6. PIAC requested that the Commission award costs for one in-house and one external legal counsel. PIAC's claim for external legal fees included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which PIAC is entitled in connection with the HST. PIAC filed a bill of costs with its application.

7. PIAC submitted that RCCI is the appropriate party to be required to pay any costs awarded by the Commission (the costs respondent).

Commission's analysis and determinations

8. 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.
9. 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, PIAC has demonstrated that it meets this requirement. PIAC was the only consumer group that participated in the proceeding, and the Commission is satisfied that, in the context of the proceeding, PIAC was well positioned to advance consumer interests and did, in fact, do so.
10. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's submissions with respect to how the relief requested by RCCI would affect subscribers to multi-user plans were cogent and assisted the Commission in developing a better understanding of the matters that were considered.
11. The rates claimed in respect of legal 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.
12. With respect to PIAC's bill of costs, the Commission notes that the time and rates claimed by PIAC total \$338.65, not \$338.00 (as set out in one area of the bill of costs). The Commission finds that the amount of \$338.65 was necessarily and reasonably incurred and should be allowed.
13. 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.

14. 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. In this case, while RCCI was not the only wireless service provider to participate actively in the proceeding, it had the most significant interest in the outcome of the proceeding. RCCI initiated the proceeding and sought a company-specific extension of time to implement certain regulatory obligations. Further, given the relatively small amount of costs claimed, naming additional costs respondents would likely prove overly burdensome. Accordingly, RCCI is the appropriate costs respondent to PIAC's application for costs.

Directions regarding costs

15. The Commission **approves, with changes**, the application by PIAC for costs with respect to its participation in the proceeding.
16. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$338.65.
17. The Commission **directs** that the award of costs to PIAC be paid forthwith by RCCI.

Secretary General

Related documents

- *Review of the Wireless Code*, Telecom Regulatory Policy CRTC 2017-200, 15 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
- *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