



Telecom Order CRTC 2020-70

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Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding that led to Telecom Decision 2020-48

Application

1. By letter dated 7 October 2019, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding that led to Telecom Decision 2020-48 (the proceeding). In the proceeding, the Commission considered a Part 1 application by Québecor Média inc., on behalf of its subsidiary Videotron Ltd. (Videotron), to order Bell Canada, on behalf of its subsidiary Bell Mobility Inc. (Bell Mobility), to refrain from suspending wholesale roaming services provided to Videotron.
2. Videotron and TELUS Communications Inc. (TCI) filed interventions, dated 19 September 2019 and 26 September 2019 respectively, in response to PIAC's application.
3. PIAC had originally applied for costs by letter dated 18 September 2019. However, by letter dated 19 September 2019, PIAC noted that its 18 September 2019 application inadvertently included the costs claim schedules from another file. Accordingly, PIAC refiled its costs application with the correct costs claim schedules on 7 October 2019.
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 particular focus on vulnerable consumers. With respect to the specific methods by which PIAC submitted that it represents this group or class of subscribers, PIAC explained that it ascertained the interests of consumers through its research regarding the effect of open roaming access on wireless competition and its research and advocacy regarding the recent wholesale and retail wireless reviews.

6. PIAC submitted that it had assisted the Commission in developing a better understanding of the matters that were considered by providing (i) an analysis of the Commission's policy rationale for regulating wholesale roaming services, (ii) an assessment of whether the Commission's indicators for roaming abuse had been met based on the record, and (iii) a distinct point of view as the only intervenor concerned with the affordability and reliability of wireless services for consumers.
7. PIAC requested that the Commission fix its costs at \$809.24, consisting of \$632.99 for legal fees and \$176.25 for in-house articling student fees. PIAC's claim 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.
8. PIAC submitted that Bell Mobility and Videotron are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents) because, in the applicant's view, they had the most significant interest in the outcome of the proceeding given that the proceeding was a dispute between both costs respondents.

Answer

9. Videotron submitted that PIAC had met the costs eligibility criteria. Videotron also argued that the responsibility for payment of costs should be apportioned equally between itself and Bell Mobility, given that they are the parties directly affected by the outcome of the proceeding.
10. TELUS likewise argued that the responsibility for payment of any costs awarded to PIAC should be allocated equally to the two parties that are directly affected by the outcome of the proceeding, namely Bell Mobility and Videotron.

Commission's analysis and determinations

11. The criteria for an award of costs are set out in section 68 of the Rules of Procedure, 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.

12. 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. Specifically, PIAC represented the interests of all Canadian consumers, with a particular focus on vulnerable consumers. PIAC ascertained the interests of consumers through its research regarding the effect of open roaming access on wireless competition and its research and advocacy regarding the recent wholesale and retail wireless reviews.
13. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's (i) analysis of the Commission's policy rationale for regulating wholesale roaming services, (ii) assessment of whether the Commission's indicators for abuse of wholesale roaming services had been met, and (iii) distinct point of view as the only intervener concerned with the affordability and reliability of wireless services for consumers assisted the Commission in developing a better understanding of the matters that were considered. Further, PIAC participated in the proceeding in a responsible way. Accordingly, the Commission considers that PIAC meets the criteria for an award of costs under section 68 of the Rules of Procedure.
14. The rates claimed in respect of legal fees and in-house articling student 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 total amount claimed by PIAC was necessarily and reasonably incurred and should be allowed.
15. 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.
16. 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 Bell Mobility and Videotron had a significant interest in the outcome of the proceeding and participated actively throughout the proceeding, given that the proceeding was a dispute between both parties. Accordingly, Bell Mobility and Videotron are the appropriate costs respondents to PIAC's costs application.
17. The Commission has also generally allocated the responsibility for payment of costs among costs respondents based on their telecommunications operating revenues (TORs)¹ and has generally considered \$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. However, allocating responsibility based on TORs is not appropriate in this case, because the

¹ TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

small amount for which Videotron would be responsible would create an administrative burden. Further, given that Videotron agreed to pay 50% of PIAC's costs, the Commission considers that it is appropriate to depart from its general practice in this case and determines that the responsibility for payment of costs should be allocated equally between Videotron and Bell Mobility.

18. In light of all of the above, the Commission finds that the responsibility for payment of costs should be allocated as follows:

Company	Proportion	Amount
Bell Mobility	50%	\$404.62
Videotron	50%	\$404.62

Policy Direction

19. The Governor in Council issued a policy direction to the Commission, which came into force on 17 June 2019, directing the Commission to consider how its decisions can promote competition, affordability, consumer interests, and innovation (2019 Policy Direction).² PIAC's application was received on 7 October 2019; accordingly, the 2019 Policy Direction applies to this order. The Commission considers that the awarding of costs in this instance complies with paragraph 1(a)(iv) of the 2019 Policy Direction, because it facilitates the involvement of a group that represents consumer interests. Since consumer groups often require financial assistance to effectively participate in proceedings, the Commission is of the view that its practice of awarding costs, as exercised in this instance, enables such groups to provide their perspective on how consumer interests may be affected by the outcomes of the proceedings.

Directions regarding costs

20. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
21. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$809.24.
22. The Commission **directs** that the award of costs to PIAC be paid forthwith by Bell Mobility and Videotron according to the proportions set out in paragraph 18.

Secretary General

² Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation, SOR/2019-227, 17 June 2019.

Related documents

- *Videotron Ltd. (Videotron) – Application for the Commission to order Bell Canada, on behalf of Bell Mobility Inc., not to suspend wholesale roaming services offered to Videotron – Final relief*, Telecom Decision CRTC 2020-48, 5 February 2020
- *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