



Telecom Order CRTC 2022-154

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Determination of costs award with respect to the participation of the Manitoba Coalition in the proceeding initiated by Telecom Notice of Consultation 2020-131

Application

1. By letter dated 23 December 2020, the Aboriginal Council of Winnipeg, the Manitoba Branch of the Consumers' Association of Canada and Harvest Manitoba (together, the Manitoba Coalition) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2020-131 (the proceeding). The proceeding was initiated by the Commission to review rate setting for wholesale telecommunications services with the intent of establishing a more transparent and efficient rate-setting process while ensuring that rates for regulated wholesale services remain just and reasonable.
2. The Commission did not receive any interventions in response to the application for costs.
3. The Manitoba Coalition 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 assisted the Commission in developing a better understanding of the matters that were considered, and it participated in a responsible way.
4. In particular, the Manitoba Coalition submitted that it represents a wide array of Manitoba consumers, including low-income and vulnerable consumers. The Manitoba Coalition detailed how its member organizations represent Manitoba consumers: the Aboriginal Council of Winnipeg is an Indigenous political organization representing First Nations, Inuit and Metis living in Winnipeg; the Manitoba Branch of the Consumers' Association of Canada is a volunteer, non-profit, independent organization that works to inform and empower consumers and to represent consumer interests in Manitoba; and Harvest Manitoba is a non-profit, community-based organization that is committed to providing food to people who face poverty and food scarcity. Collectively, these organizations helped to shape the submission of the Manitoba Coalition. Further, the Manitoba Coalition noted that in preparing its submission, it sought specific input from its multidisciplinary team of experts regarding the impacts of wholesale rates and rate setting processes on consumers.
5. The Manitoba Coalition requested that the Commission fix its costs at \$38,963.25 consisting of \$9,137 for external legal fees, \$15,581.25 for expert witness fees, and \$14,245 for outside analyst fees. The Manitoba Coalition filed a bill of costs with its application.

6. The Manitoba Coalition submitted that the appropriate costs respondents to its application are all the telecommunications service providers that participated in the proceeding.
7. The Manitoba Coalition suggested that the responsibility for payment of costs should be divided among the costs respondents on the basis of their telecommunications operating revenues (TORs).¹

Commission's analysis

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, the Manitoba Coalition has demonstrated that it meets this requirement. Its submission was informed by the history and knowledge of its three member organizations who engage with the consumers they represent, and by specific input from its multidisciplinary team of experts regarding the impacts of wholesale rates and rate setting processes on consumers.
10. The Manitoba Coalition has also satisfied the remaining criteria through its participation in the proceeding. In particular, the Manitoba Coalition's submission focused specifically on consumer interests within the scope of the questions posed by the Commission in the proceeding. The Manitoba Coalition's submission included a reply to rate-setting propositions put forward by other parties to the proceeding. In this reply, the Manitoba Coalition provided input on other parties' proposals, which helped the Commission to engage meaningfully with the various proposals and positions put forward in the proceeding.
11. The Manitoba Coalition also participated in a responsible way by engaging two experts with distinct skill sets to assist the Manitoba Coalition in effectively assessing consumer risks and other parties' proposals, and ultimately providing a concise and well-researched proposal of its own. Furthermore, the Manitoba Coalition also relied on an articling student for the majority of the legal work, which helped to reduce fees.

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

12. Accordingly, the Commission finds that the applicant meets the criteria for an award of costs under section 68 of the Rules of Procedure.
13. The rates claimed with respect to consultant and legal 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 the Manitoba Coalition 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 the following parties had a significant interest in the outcome of the proceeding and participated actively in the proceeding: Allstream Business Inc.; Bell Canada (on its own behalf and on behalf of Bell Mobility Inc., Northwestel Inc., and Télébec, Société en commandite [hereafter referred to as Bell Canada et al.]); Bragg Communications Incorporated, carrying on business as Eastlink; Cogeco Communications Inc.; Distributel Communications Limited; Mobilexchange Ltd.; Rogers Communications Canada Inc. (RCCI); Saskatchewan Telecommunications; Shaw Communications Inc.; SSi Micro Ltd.; TBayTel; TekSavvy Solutions Inc.; TELUS Communications Inc. (TCI); Quebecor Media Inc., on behalf of Videotron Ltd. (Videotron); and Xplornet Communications Inc.
16. 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 TORs as an indicator of the relative size and interest of the parties involved in the proceeding.

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.

Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:²

² In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

Company	Proportion	Amount
Bell Canada et al.	40.85%	\$15,915.72
TCI	27.03%	\$10,533.53
RCCI	26.11%	\$10,174.54
Videotron	6.00%	\$2,339.46

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

Policy Direction

18. The Governor in Council issued a policy direction in which it directed the Commission to consider how its decisions can promote competition, affordability, consumer interests, and innovation (the 2019 Policy Direction).³ The Commission considers that the awarding of costs in this instance is consistent with subparagraph 1(a)(iv) of the 2019 Policy Direction.
19. By facilitating the participation of a group that represents consumer interests, this order contributes to enhancing and protecting the rights of consumers in their relationships with telecommunications service providers. Since consumer groups often require financial assistance to effectively participate in Commission proceedings, the Commission is of the view that its practice of awarding costs, as exercised in this instance, enables such groups to provide their perspectives on how consumer interests may be affected by the outcomes of the proceedings. In light of the above, the Commission considers that its determination to award costs to the Manitoba Coalition promotes consumer interests.

Directions regarding costs

20. The Commission **approves** the application by the Manitoba Coalition 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 the Manitoba Coalition at \$38,963.25.
22. The Commission **directs** that the award of costs to the Manitoba Coalition be paid forthwith by Bell Canada, on behalf of Bell Canada et al., TCI, RCCI and Videotron according to the proportions set out in paragraph 16.

Secretary General

³ 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

- *Call for comments – Review of the approach to rate setting for wholesale telecommunications services*, Telecom Notice of Consultation CRTC 2020-131, 24 April 2020; as amended by Telecom Notices of Consultation CRTC 2020-131-1, 7 July 2020; and 2020-131-2, 19 October 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
- *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