



Telecom Order CRTC 2022-255

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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 initiated by Telecom Notice of Consultation 2020-178

Application

1. By letter dated 8 April 2022, the Canadian National Society of the Deaf-Blind, Inc. (CNSDB) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2020-178 (the proceeding). In the proceeding, the Commission is examining a number of questions relating to the accessibility of mobile wireless services (wireless services). These include (i) how wireless service providers are complying with the Commission's existing regulatory framework and whether differences exist between primary and flanker brands; (ii) whether the plans currently offered and promoted are sufficient to meet the needs of Canadians with various disabilities; and (iii) whether additional regulatory measures are required and, if so, the nature of measures required to ensure that Canadians with various disabilities have access to plans that meet their needs and enable them to participate more fully in Canada's digital economy.
2. Rogers Communications Canada Inc. (RCCI) and TELUS Communications Inc. (TCI) filed interventions, dated 18 April 2022, in response to the CNSDB's application. The CNSDB did not file a reply.
3. The CNSDB 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, the CNSDB submitted that it represents a specific and distinct group of Canadian telecommunications consumers: Deaf, deaf-blind, and hard-of-hearing Canadians. The CNSDB also submitted that it contributed to the proceeding by providing the unique and particular perspectives and experiences of persons who are deaf-blind.

5. The CNSDB submitted that it had to rely on facilitation and assistance from its joint interveners due to the rapid and significant loss of vision of its lead consultant in the spring of 2021.¹
6. The CNSDB requested that the Commission fix its costs at \$18,455, consisting entirely of external consultant fees. The CNSDB filed a bill of costs with its application.
7. The CNSDB claimed 88 hours at a rate of \$110 per hour for junior consultants, for a total of \$9,680, and 39 hours at a rate of \$225 per hour for senior consultants, for a total of \$8,775.
8. The CNSDB submitted that the appropriate costs respondents to its application are wireless services providers (WSPs) and telecommunications service providers, and that costs should be allocated based on their telecommunications operating revenues (TORs).²

Answer

9. RCCI and TCI did not object to the CNSDB's eligibility for costs and took no positions regarding the amount of costs claimed. However, both companies requested that any costs awarded in this proceeding be allocated on the basis of wireless service revenues.

Commission's analysis

10. 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

¹ The CNSDB participated jointly with the Canadian Association of the Deaf – Association des Sourds du Canada and the Deaf Wireless Canada Consultative Committee.

² TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

(c) whether the applicant participated in the proceeding in a responsible way.

11. 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 meets this requirement. In particular, it is a registered charity (i) that advocates for deaf-blind Canadians, who have unique needs in accessing wireless services; and (ii) whose submissions are informed by the lived experiences of its members.
12. The CNSDB has also satisfied the remaining criteria through its participation in the proceeding. It participated with joint interveners and assisted in the presentation of their views; it was also able to provide its own, more specific perspective. In particular, the CNSDB assisted the Commission in understanding the issues in the proceeding as they specifically relate to deaf-blind Canadians and the barriers they may face in accessing wireless services that meet their needs. For instance, the CNSDB provided supplementary submissions specific to the deaf-blind context and, in some cases, provided its own responses to requests for information.
13. Accordingly, the Commission finds that the applicant meets the criteria for an award of costs under section 68 of the Rules of Procedure.
14. The rates claimed in respect of consultant 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.
15. The CNSDB's bill of costs contained detailed breakdowns of costs incurred by service for each consultant, including hourly records. These records support the applicant's claims, including those resulting from facilitation and assistance provided by joint interveners in light of the accessibility issues faced by its lead consultant.
16. In the circumstances, the Commission finds that the total amount claimed by the CNSDB was necessarily and reasonably incurred and should be allowed.
17. 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.
18. 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: Bell Mobility Inc. (Bell Mobility);³ Brooke Telecom Co-operative Ltd.; Bruce Telecom Ontario

³ Bell Mobility participated on its own behalf and on behalf of the following related companies or divisions: Bell Canada; Bell MTS, a division of Bell Canada; Lucky Mobile; Solo Mobile; and Virgin Plus.

Inc.; Bragg Communications Incorporated, carrying on business as Eastlink; Execulink Telecom Inc.; Freedom Mobile Inc.; Hay Communications Co-operative Limited; Huron Telecommunications Co-operative Limited; Ice Wireless Inc.; Mornington Communications Co-operative Limited; Petro Canada Mobility; Quadro Communications Co-operative Inc.; RCCI; Saskatchewan Telecommunications; Sogetel Mobilité inc.; TBayTel; TCI; Tuckersmith Communications Co-operative Limited; Videotron Ltd.; Xplore Mobile Inc.; and Wightman Communications Ltd.

19. It is also the Commission’s general practice to allocate the responsibility for the 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.
20. However, allocating responsibility for the payment of costs based on TORs would not be appropriate in this case given that the proceeding related solely to wireless services. The Guidelines set out the key principles that the Commission seeks to implement through its costs regime. These include ensuring that the process has the flexibility to take into account particular circumstances where they are relevant and that the approach taken is fair, efficient, and effective. Accordingly, given that the focus of the proceeding was restricted to the wireless service industry, wireless service providers, and consumers of wireless services, it would be appropriate to allocate costs among the costs respondents based on wireless revenue market share. These shares are publicly available, compiled as part of the Commission’s annual *Communications Monitoring Report*, and represent an appropriate indicator of the relative size and interest of the costs respondents in the circumstances.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	Proportion	Amount
RCCI	34.3%	\$6,330.07
Bell Mobility	33.9%	\$6,256.24
TCI	31.8%	\$5,868.69

⁴ In this order, the Commission has used the wireless revenue market share data of the costs respondents based on the 2020 [Communications Monitoring Report](#) and the underlying data supporting that report (under Data – Retail Mobile [Application] on [Open Data](#), see Tab MB-S1 of Supplementary Table 1 – Retail mobile revenue and subscriber market share by service provider, 2013-2020).

2019 Policy Direction

23. 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).⁵ The Commission considers that the awarding of costs in this instance is consistent with subparagraph 1(a)(iv) of the 2019 Policy Direction.
24. Specifically, 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, including rights related to accessibility. 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 CNSDB promotes consumer interests.

Directions regarding costs

25. The Commission **approves** the application by the CNSDB for costs with respect to its participation in the proceeding.
26. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to CNSDB at \$18,455.
27. The Commission **directs** that the award of costs to the CNSDB be paid forthwith by RCCI, Bell Mobility, and TCI according to the proportions set out in paragraph 22.

Secretary General

Related documents

- *Call for comments – Accessibility – Mobile wireless service plans that meet the needs of Canadians with various disabilities*, Telecom Notice of Consultation CRTC 2020-178, 1 June 2020; as amended by Telecom Notices of Consultation CRTC 2020-178-1, 26 August 2020; 2020-178-2, 29 September 2020; 2020-178-3, 23 March 2021; 2020-178-4, 21 May 2021; 2020-178-5, 29 June 2021
- *Guidance for costs award applicants regarding representation of a group or a class of subscribers*, Telecom Information Bulletin CRTC 2016-188, 17 May 2016

⁵ *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

- *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*