



Telecom Order CRTC 2022-289

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Ottawa, 19 October 2022

File numbers: 1011-NOC2021-0404 and 4754-692

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding that led to Telecom Decision 2022-284

Application

1. By letter dated 14 April 2022, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding that led to Telecom Decision 2022-284 (the proceeding). In the proceeding, the Commission considered whether hosted call handling solutions (CHS) should be introduced in the next-generation 9-1-1 (NG9-1-1) framework, and in what manner.
2. The Commission did not receive any interventions in response to the application for costs.
3. 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.
4. In particular, PIAC submitted that it represents the interests of Canadians, with a focus on low-income Canadians. PIAC added that it represents a number of individual and organizational members.¹ PIAC stated that it is held accountable to the groups it represents through a volunteer board of directors drawn from across Canada.
5. PIAC submitted that its participation over the years in various proceedings relating to the 9-1-1 service, and its history of representing low-income and vulnerable Canadians, enabled it to provide a fuller understanding of the potential impact of allowing hosted CHS in the NG9-1-1 framework.
6. PIAC requested that the Commission fix its costs at \$7,059.98, consisting entirely of legal fees. PIAC's claim included the Ontario Harmonized Sales Tax (HST) on fees

¹ PIAC's current group members are: the Alberta Council on Aging, Canadian Pensioners Concerned, Dying with Dignity Canada, Federation of Metro Tenants Association, Ontario Society of Senior Citizens Organizations, PEI Council of the Disabled, and Rural Dignity of Canada.

less the rebate to which its external counsel John Lawford is entitled in connection with the HST. PIAC filed a bill of costs with its application.

7. PIAC claimed seven hours for senior external counsel at a rate of \$290.00 per hour (\$2,109.98 with the HST and the associated rebate), and eight and a quarter days for in-house legal counsel at a rate of \$600 per day (\$4,950.00) for work preparing the intervention and reply comments.
8. PIAC did not specifically name the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents), but it submitted that, consistent with Telecom Regulatory Policy 2010-963, it would be appropriate to allocate responsibility for payment among potential costs respondents based on the most recent data provided to the Commission by telecommunications service providers.

Commission's analysis and determinations

9. 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.
10. 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 specifically identified that it represents the views of Canadian consumers, particularly low-income, disabled and elderly Canadians, as well as individual and organizational members. PIAC submitted that its experience representing low-income and vulnerable consumers in previous Commission proceedings related to the 9-1-1 service helped it to represent these groups in the proceeding.
11. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's submissions, especially those regarding the impact of hosted CHS on the resiliency of the NG9-1-1 network and the need for enhanced reporting requirements, assisted the Commission in developing a better understanding of the matters that were considered.

12. The rates claimed with respect to legal fees are in accordance with the rates established in the *Guidelines for the Assessment of Costs*, 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.
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. The Commission considers that the following parties had a significant interest in the outcome of the proceeding and participated actively in the proceeding: Bell Canada and Bell Mobility Inc. (collectively, Bell); Bragg Communications Incorporated, carrying on business as Eastlink; Rogers Communications Canada Inc. (RCCI); Saskatchewan Telecommunications (SaskTel); Shaw Communications Inc.; and TELUS Communications Inc. (TCI).
15. 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.² 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.
16. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:³

Company	Proportion	Amount
Bell	40.66%	\$2,870.65
RCCI	30.56%	\$2,157.16
TCI	28.78%	\$2,032.17

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

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

³ In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

2019 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).⁴ The Commission considers that the awarding of costs in this instance is consistent with subparagraph 1(a)(iii) of the 2019 Policy Direction.
19. By facilitating the participation of a group that represents consumer interests, this order contributes to ensuring that affordable access to high-quality telecommunications services is available in all regions of Canada. 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 PIAC promotes consumer interests.

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 \$7,059.98.
22. The Commission **directs** that the award of costs to PIAC be paid forthwith by Bell, RCCI, and TCI according to the proportions set out in paragraph 16.

Secretary General

Related documents

- *Modification of the next-generation 9-1-1 framework to accommodate hosted call handling solutions for public safety answering points*, Telecom Decision CRTC 2022-284, 17 October 2022
- *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

⁴ *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

- *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