



Telecom Order CRTC 2022-302

PDF version

Ottawa, 7 November 2022

File numbers: [1011-NOC2021-0191](#) and 4754-677

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding that led to Telecom Regulatory Policy 2022-234

Applications

1. By letters dated 26 October 2021 and 12 April 2022¹, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding that led to Telecom Regulatory Policy 2022-234 (the proceeding). In the proceeding, the Commission sought comments to determine the need to implement a national three-digit code for mental health crisis and suicide prevention services (9-8-8), to identify existing barriers to the establishment of such a code and, if necessary, to determine how these barriers could be overcome.
2. TELUS Communications Inc. (TCI) filed an intervention, dated 10 November 2021, in response to PIAC's 26 October 2021 application for costs. PIAC did not file a reply.
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 assisted the Commission in developing a better understanding of the matters that were considered, and it participated in a responsible way.
4. In particular, PIAC submitted that it represents the interests of Canadian consumers, with a focus on vulnerable and low-income consumers who, according to PIAC, are relatively more prone to mental health crisis and distress. PIAC noted that it regularly advocates for low-income and other vulnerable consumers in Commission proceedings relating to access to emergency services and helplines.
5. PIAC requested that the Commission fix its costs at \$11,552.28, consisting entirely of legal fees. PIAC's claim included the Ontario Harmonized Sales Tax (HST) on

¹ On 12 April 2022, PIAC filed a supplementary application for costs with respect to its participation in the additional process set out in the request for information issued on 7 February 2022 to certain parties in the proceeding.

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

6. PIAC claimed 16.5 hours for senior external counsel at a rate of \$290.00 per hour, 10.25 days for in-house legal counsel at a rate of \$600 per day and 2.25 days for an in-house articling student at a rate of \$235 per day.
7. PIAC submitted that the responsibility for payment of costs should be allocated among costs respondents based on the most recent data provided to the Commission by the telecommunications service providers.

Answer

8. TCI did not object to PIAC's eligibility for costs and took no positions regarding the amount of costs claimed. However, TCI submitted that any costs awarded in this proceeding should be allocated on the basis of telecommunications operating revenues (TORs)² and that all telecommunications service providers who participated in the proceeding should be named as costs respondents.

Commission's analysis

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. Specifically, PIAC represented the interests of Canadian consumers, with a particular focus on vulnerable and low-

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

income consumers who, according to PIAC, are relatively more prone to mental health crisis and distress.

11. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC assisted the Commission in developing a better understanding of the matters that were considered by providing submissions arguing (i) that calls to 9-8-8 should be free for consumers and that end-users should never be charged any direct per-call or network access fees to make a three-digit emergency call, (ii) that the deployment of 9-8-8 should be uniform all across Canada, and (iii) that a consumer awareness campaign should be planned and executed in Canada before the launch of 9-8-8 in the United States.
12. Further, PIAC participated in the proceeding in a responsible way. 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 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.
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: Bell Canada; Bragg Communications Incorporated, carrying on business as Eastlink; Distributel Communications Limited; Iristel Inc.; Quebecor Media Inc., on behalf of Videotron Ltd.; Rogers Communications Canada Inc. (RCCI); Saskatchewan Telecommunications; TBayTel; TekSavvy Solutions Inc.; and TCI.
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.

17. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:³

Company	Proportion	Amount
Bell Canada	43.7%	\$5,048.35
TCI	28.64%	\$3,308.57
RCCI	27.66%	\$3,195.36

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)(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 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 \$11,552.28.

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

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

22. The Commission **directs** that the award of costs to PIAC be paid forthwith by Bell Canada, TCI and RCCI according to the proportions set out in paragraph 17.

Secretary General

Related documents

- *Introduction of 9-8-8 as the three-digit abbreviated dialing code for mental health crisis and suicide prevention services and Northwestel Inc.'s application for modified implementation of ten-digit local dialing*, Telecom Regulatory Policy CRTC 2022-234, 31 August 2022
- *Call for comments – Introduction of a three-digit abbreviated dialing code for mental health crisis and suicide prevention services*, Telecom Notice of Consultation CRTC 2021-191, 3 June 2021; as amended by Telecom Notice of Consultation CRTC 2021-191-1, 30 November 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
- *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