



Telecom Order CRTC 2023-4

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Ottawa, 9 January 2023

File numbers: 8740-T66-202204816 and 4754-702

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding that led to Telecom Order 2022-335

Application

1. By letter dated 11 October 2022, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in TELUS Communications Inc. (TCI)'s application to introduce a credit card processing fee to its General Tariff, General Terms of Service, Item 108, Customer's Responsibility for Charges.
2. TCI filed an answer, dated 17 October 2022, in response to PIAC's application. PIAC did not 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 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 all Canadians with a focus on low-income consumers. PIAC also submitted that it represents all customers of telecommunication services and of essential services more broadly and 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. With respect to the group or class of subscribers, PIAC submitted it has conducted extensive research related to consumer interests, as well as produced recent reports that review affordability and ongoing research related to the choices in telecommunications and broadcasting providers. PIAC also submitted that it has a long history of representing low-income and other vulnerable consumers at Commission proceedings, and that its submissions reflected its concerns.

¹ PIAC's current group members are: 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.

6. PIAC requested that the Commission fix its costs at \$5,788.02, consisting entirely of legal fees. PIAC's claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which its external counsel is entitled in connection with the HST. PIAC filed a bill of costs with its application.
7. PIAC claimed 6.5 hours for senior external counsel at a rate of \$290.00 per hour (\$1959.27 with the HST and the associated rebate), 5.5 days for in-house legal counsel at a rate of \$600 per day (\$3,300.00) for work preparing the intervention, and 2.25 days for an articling student to review and summarize interventions at a rate of \$235.00 per day (\$528.75).
8. PIAC submitted that TCI is the appropriate party to be required to pay any costs awarded by the Commission.

Answer

9. TCI submitted that it had no contentions with PIAC's application for costs.

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
 - (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, PIAC has demonstrated that it meets this requirement. PIAC specifically identified that it represents the views of Canadian consumers, particularly low-income, as well as individual and organizational members. PIAC submitted that the research it has conducted related to consumer interests as well as its long history in representing low income and other vulnerable consumers helped it to represent the interests of these groups in the proceeding.

12. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's submission presented a well-reasoned and consumer-focused position on the matter before the Commission and analyzed a great deal of other submissions in articulating this position which assisted the Commission in developing a better understanding of the matters that were considered. Further, PIAC participated responsibly in the proceedings by providing focused submissions on the key issue of consumer concerns regarding TCI's tariff application to implement a surcharge.
13. The rates claimed in respect of 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. In the circumstances, the appropriate costs respondent to PIAC's costs application is TCI.

2019 Policy Direction

16. 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).² The Commission considers that the awarding of costs in this instance is consistent with subparagraph 1(a)(iv) of the 2019 Policy Direction.
17. 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

18. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.

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

19. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$5,788.02.
20. The Commission **directs** that the award of costs to PIAC be paid forthwith by TCI.

Secretary General

Related documents

- *TELUS Communications Inc. – Introduction of a credit card processing fee for regulated services in Alberta and British Columbia*, Telecom Order CRTC 2022-335, 8 December 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
- *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