



## Telecom Order CRTC 2023-5

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Ottawa, 9 January 2023

*File numbers: 8740-T66-202204816 and 4754-699*

### **Determination of costs award with respect to the participation of the Manitoba Coalition in the proceeding that led to Telecom Order 2022-335**

#### **Application**

1. By letter dated 6 October 2022, the Aboriginal Council of Winnipeg, the Manitoba Branch of the Consumers' Association of Canada (CAC Manitoba), and Harvest Manitoba (collectively, the Manitoba Coalition) applied for costs with respect to its participation in the proceeding initiated by 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 the Manitoba Coalition's application. The Manitoba Coalition did not reply.
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 the interests of Canadians living in Manitoba, including the urban Indigenous community of Winnipeg and those facing food scarcity and poverty. In addition, the Manitoba Coalition argued that, together with its member organizations, it represents Canadians in Manitoba whose well-being and social and economic inclusion depend on their ability to rely on affordable communications services.
5. With respect to the group or class of subscribers that the Manitoba Coalition has submitted it represents, the Manitoba Coalition explained that its member organizations represent the interests of particular groups of Manitoba consumers. CAC Manitoba seeks input from consumers on its policy positions through, for example, focus groups and workshop-style sessions. Harvest Manitoba provides emergency food assistance to individuals across Manitoba and has expertise in poverty and hunger. The Aboriginal Council of Winnipeg advocates for Winnipeg's Indigenous community and seeks to ensure that Indigenous voices are represented in decisions that affect them. The Manitoba Coalition submitted that the positions

taken, and recommendations made were directly informed by the voices of Manitoba consumers as understood through each member organizations' regular engagement with its constituents and the findings of multiple past consumer research initiatives. The Manitoba Coalition also submitted that it was the only intervenor that was province-specific and had a consumer-focused perspective.

6. The Commission sent a Request for Information (RFI) for this cost application. The information on the record was updated based on the response to the RFI. The Manitoba Coalition requested that the Commission fix its costs at \$7050, consisting of \$5400 for legal fees, and \$1650 for consultant and analyst fees. The Manitoba Coalition filed a bill of costs with its application.
7. The Manitoba Coalition submitted that TCI is the appropriate party to be required to pay any costs awarded by the Commission.

### **Answer**

8. TCI submitted that it had no contentions with the Manitoba Coalition's application for costs.

### **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, the Manitoba Coalition has demonstrated that it meets this requirement. Its submission was informed by consumer research, past studies, and the relevant findings from consumers in Manitoba. This research was conducted through each member organization.

11. The Manitoba Coalition has also satisfied the remaining criteria through its participation in the proceeding. In particular, the Manitoba Coalition's submissions, especially regarding consumer interests and affordability, credit usage, and Manitoba-specific concerns, assisted the Commission in developing a better understanding of the matters that were considered.
12. Finally, the Manitoba Coalition submitted that it relied on junior resources to the extent it was able to. Ultimately, it provided an intervention that was well structured and focused on the issues in the proceeding.
13. The rates claimed in respect of consultant and 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 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. In the circumstances, the appropriate costs respondent to the Manitoba Coalition'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).<sup>1</sup> 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 the Manitoba Coalition promotes consumer interests.

### **Directions regarding costs**

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

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<sup>1</sup> *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 the Manitoba Coalition at \$7050.
20. The Commission **directs** that the award of costs to the Manitoba Coalition 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