



Telecom Order CRTC 2024-212

PDF version

Ottawa, 17 September 2024

File numbers: 8665-C209-202304814 and 4754-721

Determination of costs award with respect to the participation of the Deaf and Hard of Hearing Coalition in the proceeding initiated by the filing of the Canadian Administrator of VRS (CAV), Inc. proposed 2024 annual budget

Application

1. By letter dated 11 October 2023, the Deafness Advocacy Association Nova Scotia, the Newfoundland and Labrador Association of the Deaf, and the Ontario Association of the Deaf (collectively, the Deaf and Hard of Hearing Coalition [DHH Coalition]) applied for costs with respect to the DHH Coalition's participation in the proceeding initiated by the filing of the Canadian Administrator of VRS (CAV), Inc. (CAV) proposed 2024 budget (the proceeding). As part of that budget, CAV had requested \$33,793,452 in funds from the National Contribution Fund (NCF) to operate video relay service (VRS) in Canada in 2024 and acknowledged that the requested amount exceeded the established funding cap of \$30 million.
2. The Commission did not receive any interventions in response to the application for costs.
3. The DHH 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 had assisted the Commission in developing a better understanding of the matters that were considered, and it had participated in a responsible way.
4. With respect to the group or class of subscribers that the DHH Coalition submitted it represents, the DHH Coalition explained that it represents Deaf sign language users who use VRS administered by CAV. With respect to the specific method by which the DHH Coalition submitted that it represents this group or class, the DHH Coalition explained that it provided the Commission with a fulsome record of how CAV's proposed 2024 budget could affect Deaf sign language users.
5. The DHH Coalition requested that the Commission fix its costs at \$3,717.40, consisting of \$3,687.50 for consultant fees and \$29.90 for disbursements. The DHH Coalition filed a bill of costs with its application.
6. The DHH Coalition claimed one day for two in-house consultants at a rate of \$470 per day (\$470) and 19.5 hours for an outside consultant at a rate of \$165 per hour (\$3,217.50).

7. The DHH Coalition submitted that in Telecom Regulatory Policy 2014-187, the Commission directed telecommunications service providers (TSPs) to fund VRS nationally via the existing NCF. It also submitted that said TSPs were responsible for covering costs awarded to parties' participation in the proceedings initiated by Telecom Notice of Consultation 2013-155, which led to Telecom Regulatory Policy 2014-187, and in Telecom Notice of Consultation 2014-188, which led to Telecom Regulatory Policy 2014-659. The DHH Coalition submitted that if the Commission determines that TSPs are not the appropriate costs respondents, the NCF would be the appropriate costs respondent. The DHH Coalition added that if the NCF was also not deemed the appropriate costs respondent, the CAV itself would be the appropriate costs respondent.

Request for information

8. No TSPs actively participated in the proceeding. Therefore, the Commission's general approach of naming companies who actively participated in the proceeding as the potential costs respondents does not apply in this case.
9. Consequently, by letter dated 12 December 2023, Commission staff asked Bell Canada, Rogers Communications Canada Inc. (RCCI) and TELUS Communications Inc. (TCI) to provide comments on a proposed costs allocation that would see them named as costs respondents with an interest in the outcome of the proceeding and the Commission's established approach of allocating costs based on relative telecommunications operating revenues (TORs) applied.¹
10. In response, all three companies accepted that all TSPs that fund VRS have an interest in the outcome of the proceeding and did not object to the allocation of costs among the three largest TSPs based on TORs. Bell Canada, however, objected to the specific list of Bell Canada affiliates that were referenced in the request for information being included in the calculations, arguing that some of the affiliates would not normally participate in Commission proceedings.

Commission's analysis

11. 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

¹TORs 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.

12. 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 DHH Coalition has demonstrated that it meets this requirement. The DHH Coalition assisted the Commission in developing a better understanding of the matters in this proceeding by advocating on behalf of Deaf sign language users. The DHH Coalition intervened on behalf of this group by reviewing CAV's proposed 2024 budget. It presented its view that CAV's proposed 2024 budget of \$33,793,452 must be sufficiently increased to ensure Deaf and hard-of-hearing consumers can make and receive phone calls in exactly the same fashion anytime and anywhere in Canada.
13. The DHH Coalition has also satisfied the remaining criteria through its participation in the proceeding. In particular, the DHH Coalition's submissions, especially regarding harmonized sales tax (HST) credits and adapting VRS to Canadian users, assisted the Commission in developing a better understanding of the matters that were considered.
14. The rates claimed in respect of consultant 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 DHH Coalition was necessarily and reasonably incurred and should be allowed.
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. Even though no TSPs participated in the proceeding, the Commission considers that all TSPs that pay contributions to fund VRS had a significant interest in the outcome of the proceeding² and that Bell Canada and its affiliates (collectively, Bell Canada et al.),³ RCCI,⁴ and TCI are the potential costs respondents.
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.

²Considering the low amount of costs, the Commission limited its analysis to the largest players in the industry.

³The following TSPs have been included as part of Bell Canada et al.: Bell Canada; Bell Mobility Inc.; Distributel Communications Limited; KMTS, a division of Bell Canada; NorthernTel, Limited Partnership; Northwestel Inc.; Ontera, a division of NorthernTel; Primus Telecommunications Canada Inc.; and Télébec, Société en commandite.

⁴The TORs of Shaw Group, Shaw Telecom G.P., and RCCI have been combined for the allocation of costs.

17. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:⁵

Company	Proportion	Amount
Bell Canada et al.	40.32%	\$1,498.69
RCCI	32.07%	\$1,192.27
TCI	27.61%	\$1,026.44

Directions regarding costs

18. The Commission approves the application by the DHH Coalition for costs with respect to its participation in the proceeding.
19. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to the DHH Coalition at \$3,717.40.
20. The Commission directs that the award of costs to the DHH Coalition be paid forthwith by Bell Canada et al., RCCI, and TCI according to the proportions set out in paragraph 17.

Secretary General

Related documents

- *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
- *Structure and mandate of the video relay service administrator*, Telecom Regulatory Policy CRTC 2014-659, 18 December 2014
- *Video relay service*, Telecom Regulatory Policy CRTC 2014-187, 22 April 2014
- *Issues related to the feasibility of establishing a video relay service*, Telecom Notice of Consultation CRTC 2013-155, 27 March 2013; as amended by Telecom Notice of Consultation CRTC 2013-155-1, 16 May 2013
- *Revision of CRTC costs award practices and procedures*, Telecom Regulatory Policy CRTC 2010-963, 23 December 2010

⁵ In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.