



## Telecom Order CRTC 2024-296

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Ottawa, 22 November 2024

*File numbers: 1011-NOC2023-0089 and 4754-753*

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Telecom Notice of Consultation 2023-89**

#### **Application**

1. By letter dated 16 July 2024, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2023-89 (the proceeding). In the proceeding, the Commission sought to review the Broadband Fund policy and considered modifying its objectives, introducing a specific funding stream for Indigenous communities, and providing operational funding, among other matters.
2. In Telecom Order 2024-12, the Commission awarded costs to PIAC for its participation in the proceeding. This supplemental application is for additional costs incurred as a result of PIAC's participation in the further process introduced by the Commission for this file. It was filed per paragraph 13 of that order.
3. The Commission did not receive any interventions in response to the application for costs.
4. 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.
5. In particular, PIAC submitted that it represents the interests of all consumers of broadband Internet services across Canada. PIAC added that it represents low-income and other vulnerable consumers, such as consumers living in unserved or underserved areas. With respect to the specific methods by which PIAC has submitted that it represents this group or class, PIAC explained that its purpose is to make representations to governing authorities on matters of public concern on behalf of public interest groups and the public at large. PIAC indicated that it has conducted extensive research related to consumer interests and produced recent reports examining the transparency, affordability, and choice of telecommunications and broadcasting services.

6. PIAC submitted that, following the reopening of the record, its responses to requests for information and its replies to new interventions assisted the Commission in developing a better understanding of the matters that were considered because they provided an important public interest perspective on the relation between operational costs of funded networks and revenues from sparser rural and remote locations.
7. PIAC requested that the Commission fix its costs at \$3,551.84, consisting of \$2,501.84 in external legal fees and \$1,050.00 in in-house legal fees. PIAC's claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which PIAC is entitled in connection with the HST. PIAC filed a bill of costs with its application.
8. PIAC suggested that the responsibility for payment of costs should be divided among the costs respondents on the basis of their gross revenues or another similar factor.

### **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. PIAC is a national non-profit organization and charity that represents the interests of all consumers across Canada, including low-income and other vulnerable consumers. It has also conducted extensive research related to consumer interests.
11. 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.

12. 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.
13. 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.
14. The Commission considers that the following parties had a significant interest in the outcome of the proceeding and participated actively in the proceeding: 307net; Bell Canada, on behalf of itself, Bell Mobility Inc., and Northwestel Inc.; Bragg Communications Incorporated, carrying on business as Eastlink; the Coalition<sup>1</sup>; Cogeco Communications inc.; Eeyou Communications Network; First Mile Connectivity Consortium; Great Northern Wireless Inc.; Leepfrog Telecom Ltd; National Capital FreeNet; Quebecor Media Inc., on behalf of Videotron Ltd. and Freedom Mobile Inc.; Rogers Communications Canada Inc. (including Shaw Group and Shaw Telecom G.P.) [RCCI]; Saskatchewan Telecommunications; Spirit Mobile Inc.; SSi Micro Ltd.; TELUS Communications Inc.; TeraGo Networks Inc.; ViaSat Inc.; and Xplore Inc.
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.<sup>2</sup>
16. 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:<sup>3</sup>

<b>Company</b>	<b>Proportion</b>	<b>Amount</b>
Bell Canada	54.36%	\$1,930.94
RCCI	45.64%	\$1,620.90

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<sup>1</sup> The coalition is comprised of the British Columbia Broadband Association, the Canadian Association of Wireless Internet Service Providers, the Canadian Communication Systems Alliance, the Competitive Network Operators of Canada, and the Independent Telecommunications Providers Association.

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

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

## **Directions regarding costs**

18. The Commission approves the application by PIAC 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 PIAC at \$3,551.84.
20. The Commission directs that the award of costs to PIAC be paid forthwith by Bell Canada and RCCI according to the proportions set out in paragraph 17.

Secretary General

## **Related documents**

- *Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Telecom Notice of Consultation 2023-89*, Telecom Order CRTC 2024-12, 17 January 2024
- *Call for comments – Broadband Fund policy review*, Telecom Notice of Consultation CRTC 2023-89, 23 March 2023
- *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