



Telecom Order CRTC 2024-304

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Ottawa, 27 November 2024

File numbers: 1011-NOC2023-0039 and 4754-716

Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the proceeding initiated by Telecom Notice of Consultation 2023-39

Application

1. By letter dated 27 April 2023, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by Telecom Notice of Consultation 2023-39 (the proceeding). In the proceeding, the Commission invited comments on a proposal that all Canadian carriers be required to notify the Commission, Innovation, Science and Economic Development Canada, and any other relevant authorities of major service outages and to submit a comprehensive post-outage report to the Commission. Going forward, these proposed measures would be applied as a condition of service pursuant to section 24 of the *Telecommunications Act* (the Act).
2. The Commission did not receive any interventions in response to the application for costs.
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. Specifically, PIAC submitted that it represents the interests of consumers who are potentially affected by major service outages. PIAC also submitted that its contribution did not duplicate that of the other public interest parties because it is the only party that raised issues and provided evidence regarding the creation of reporting systems in Canada to make outage reporting more efficient and accessible to eligible entities like emergency management agencies, subject to appropriate confidentiality protections.
5. With respect to the group or class of subscribers that PIAC has submitted it represents, PIAC explained that this group or class consists of all consumers across Canada who have an interest in the reliability and resiliency of telecommunications networks, particularly networks supporting emergency and accessibility services. PIAC explained that it conducted extensive research related to consumer interests, and that it represents a number of individual and organizational members and is held accountable for its representation of the public interest through a volunteer board of directors drawn from across Canada.

6. PIAC requested that the Commission fix its costs at \$7,460.77, consisting entirely of 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.
7. PIAC claimed 4.6 hours at a rate of \$290 per hour for external counsel to prepare interventions, draft an application, and review and edit replies (\$1,408.27 with the HST); 9.5 days at a rate of \$600 per day for in-house counsel to conduct file review, draft interventions, review interventions, conduct legal research, and draft replies (\$5,700.00); and 1.5 days at a rate of \$235 per day for an in-house articling student to conduct file review (\$352.50).
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 represented the interests of Canadian consumers who are potentially affected or susceptible to being affected by major service outages.
11. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's submissions, especially regarding the creation of dedicated portals for outage and disaster information reporting by communications service providers, assisted the Commission in developing a better understanding of the matters that were considered.
12. 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.

13. 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.
14. 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 throughout the proceeding: Bell Canada; Bragg Communications Incorporated, carrying on business as Eastlink; Cogeco Communications inc., on behalf of Cogeco Connexion inc.; Quebecor Media Inc., on behalf of Videotron Ltd.; Rogers Communications Canada Inc., including Shaw Group and Shaw Telecom G.P. (RCCI); Saskatchewan Telecommunications; TBayTel; TekSavvy Solutions Inc.; Telesat Corporation; and TELUS Communications Inc. (TCI).
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.¹
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:²

Company	Proportion	Amount
RCCI	41.55%	\$3,099.91
TCI	35.10%	\$2,618.49
Bell Canada	23.35%	\$1,742.38

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 Act, the Commission fixes the costs to be paid to PIAC at \$7,460.77.

¹ TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

² In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

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

Secretary General

Related documents

- *Call for comments – Development of a regulatory framework to improve network reliability and resiliency – Mandatory notification and reporting about major telecommunications service outages*, Telecom Notice of Consultation CRTC 2023-39, 22 February 2023, as amended by Telecom Notice of Consultation CRTC 2023-39-1, 11 September 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