



Telecom Costs Order CRTC 2005-13

Ottawa, 16 November 2005

Application for costs by the Public Interest Advocacy Centre on behalf of the Consumer Groups - Follow-up Proceedings to Telecom Decision 2005-17, *Retail quality of service rate adjustment plan and related issues*

Reference: 8660-A53-200505084; 8660-T66-200505159; 8638-C12-200505018 and 4754-245

1. By letter dated 30 June 2005, the Public Interest Advocacy Centre (PIAC), on behalf of itself, the Consumers' Association of Canada, l'Union des consommateurs and the National Anti-Poverty Organization (the Consumer Groups) applied for costs with respect to their joint intervention in the follow-up proceedings to *Retail quality of service rate adjustment plan and related issues*, Telecom Decision CRTC 2005-17, 24 March 2005 (the Decision 2005-17 follow-up proceedings).¹
2. By letters dated 11 July 2005 and 15 July 2005, TELUS Communications Inc. (TCI) and TELUS Communications (Québec) Inc. (TELUS Québec) (collectively, TELUS) and Bell Canada, Aliant Telecom Inc. (Aliant Telecom) and Saskatchewan Telecommunications (collectively, the Companies), respectively filed responses to the Consumer Groups' costs application.

The application

3. The Consumer Groups submitted that they had met the criteria for an award of costs as set out in subsection 44(1) of the *CRTC Telecommunications Rules of Procedure* (the Rules) as they represented a body of subscribers that had a clear interest in the outcome of the proceeding, they participated responsibly and they contributed to a better understanding of the issues through their comments in the proceeding.
4. The Consumer Groups requested that the Commission fix their costs at \$5,537.77, which included the Federal Goods and Services Tax (GST) on certain fees less the rebate to which they are entitled in connection with the GST. The breakdown of the fees, inclusive of the respective GST and rebate portions, includes \$737.96 for legal fees and \$4,799.81 for consulting/analyst fees. The Consumer Groups filed a bill of costs with their application.
5. The Consumer Groups did not propose which party should be responsible for costs.

¹ Parties to this costs application treated the Decision 2005-17 follow-up proceedings as one proceeding encompassing three separate issues. The Commission considers that the Decision 2005-17 follow-up proceedings are three separate Commission proceedings, which are: 1) finalization of the local service revenue base from which to calculate the Total Maximum Adjustment Value (TMAV) (Revenue Base Finalization Proceeding); 2) exclusion application filed by Aliant Telecom Inc. (Aliant Telecom) dated 25 April 2005 (Aliant Telecom Exclusion Application Proceeding); 3) exclusion application filed by TELUS Communications Inc. (TCI) dated 26 April 2005 (TCI Exclusion Application Proceeding).

Answer

6. TELUS stated that it did not oppose the Consumer Groups' costs application or the amount claimed therein. TELUS submitted that the incumbent local exchange carriers (ILECs) should be identified as cost respondents in this matter in accordance with the Commission's statement that "it has generally determined that the appropriate respondents to an award of costs are the parties who are affected by the issues and have participated actively in the proceeding."² TELUS further submitted that Aliant Telecom and TELUS should each bear 25% of the costs, given that these companies were the sole ILEC participants in the exclusion application portion of the follow-up proceeding. TELUS submitted that the remainder of the costs should be apportioned among the ILECs on a revenue basis.
7. The Companies stated that it did not oppose the Consumer Groups' costs application or the amount claimed therein. The Companies submitted that the ILECs are the proper costs respondents in this matter and that the costs should be apportioned among them in accordance with each respondent's interest in and participation in the proceeding. The Companies submitted that the proceeding dealt with three distinct issues: the determination of the revenue base (TMAV calculation) and the adverse event filings by TCI and Aliant Telecom. The Companies submitted that the majority of the proceedings' time and the Consumer Groups' interventions focussed on the adverse event filings, which did not involve Bell Canada or Saskatchewan Telecommunications and the allocation of costs should reflect this fact. In this regard, the Companies submitted that it would be helpful if the Consumer Groups had submitted a detailed bill of costs so that costs could be apportioned accordingly.

Commission analysis and determination

8. The Commission finds that the Consumer Groups have met the criteria for a costs award as set out in subsection 44(1) of the Rules. Specifically, the Commission finds that the Consumer Groups 1) represent various groups of subscribers that have an interest in the outcome of the Decision 2005-17 follow-up proceedings of such a nature that they will receive a benefit or suffer a detriment as a result of the orders or decisions resulting from the proceedings; 2) have participated in a responsible way; and 3) have contributed to a better understanding of the issues by the Commission.
9. The Commission notes that the rates claimed in respect of the legal and consulting/analyst fees are in accordance with the rates set out in the Legal Directorate's *Guidelines for the Taxation of Costs*, revised as of 15 May 1998. The Commission also finds that the total amount claimed by the Consumer Groups was necessarily and reasonably incurred and should be allowed.
10. The Commission is of the view that this is an appropriate case in which to fix the costs and dispense with taxation in accordance with the streamlined procedure set out in *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002.

² Telecom Costs Order CRTC 2002-15, *Public Interest Advocacy Centre, the National Anti-Poverty Organization and Action Réseau Consommateur applications for costs - Order CRTC 2000-393*, 22 October 2002, paragraph 35.

11. With respect to the issue of the appropriate cost respondents, the Commission notes that in its detailed bill of costs, the Consumer Groups broke down their participation in the follow-up proceedings in the following manner: Aliant Telecom Exclusion Application Proceeding, 34% (equivalent to \$1,882.84); TCI Exclusion Application Proceeding, 43% (equivalent to \$2,381.24); and Revenue Base Finalization Proceeding, 23% (equivalent to \$1,273.69). The Commission finds that these estimates are reasonable and is basing its determination concerning the appropriate costs respondents upon them.
12. The Commission has generally determined that the appropriate respondents to an award of costs are the parties who have a significant interest in the outcome of the proceedings and have participated actively in the proceedings. However, the Commission has also been sensitive to the fact that if too large a number of respondents are named, the applicant may have to collect small amounts from many respondents.
13. Accordingly, the Commission names Aliant Telecom the costs respondent for the proportion of the costs attributable to the Consumer Groups' participation in the Aliant Telecom Exclusion Application Proceeding; TCI the costs respondent for the proportion of the costs attributable to the Consumer Groups' participation in the TCI Exclusion Application Proceeding; and Bell Canada and TCI as costs respondents for the proportion of the costs attributable to the Consumer Groups' participation in the Revenue Base Finalization Proceeding. For the latter proceeding, the Commission determines that the proper method of apportioning the costs awarded among Bell Canada and TCI is to base it on their telecommunications operating revenues. As such Bell Canada should be responsible for 62% (equivalent to \$789.69) and TCI for 38% (equivalent to \$484.00).

Direction as to costs

16. The Commission **approves** the application by PIAC, on behalf of the Consumer Groups, for an award of costs with respect to their participation in the Decision 2005-17 follow-up proceedings.
17. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC, on behalf of the Consumer Groups, at \$5,537.77.
18. The Commission directs that the award of costs to PIAC, on behalf of the Consumer Groups, be paid forthwith, according to the proportions noted in paragraphs 11 and 13, as follows: by Aliant Telecom, \$1,882.84; by TCI, \$2,865.24; and by Bell Canada, \$789.69.

Secretary General

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