



## Telecom Costs Order CRTC 2006-5

Ottawa, 1 June 2006

### Public Interest Advocacy Centre – Application for costs – Telecom Public Notice CRTC 2005-7

Reference: 8665-C12-20057212 and 4754-263

1. By letter dated 6 February 2006, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the proceeding initiated by *Access to information contained in the incumbent local exchange carriers' Emergency 9-1-1 databases for the purpose of providing a Community Notification Service*, Telecom Public Notice CRTC 2005-7, 22 June 2005 (the PN 2005-7 proceeding).
2. On 16 February 2006, Bell Canada on behalf of itself, Aliant Telecom Inc. (Aliant Telecom), NorthernTel, Limited Partnership (NorthernTel), Saskatchewan Telecommunications (SaskTel) and Société en commandite Télébec (Télébec), (collectively the Companies) filed comments in answer to PIAC's application. PIAC did not file reply comments.

#### The application

3. PIAC submitted that it had met the criteria for an award of costs set out in subsection 44(1) of the *CRTC Telecommunications Rules of Procedure* (the Rules) as it represents a group of subscribers that had an interest in the outcome of the PN 2005-7 proceeding, had participated responsibly, and had contributed to a better understanding of the issues by the Commission through their participation in the PN 2005-7 proceeding.
4. In particular, PIAC submitted that it had provided public interest arguments on the nature and scope of emergencies that might involve a system such as that proposed and further illustrated the telecom and privacy law factors applicable to such a system. PIAC also noted that it was not making a claim for costs in relation to its work on the Strathcona Part VII application which precipitated the PN 2005-7 proceeding.
5. PIAC requested that the Commission fix its costs at \$10,164.73 for legal fees. PIAC's claim included the Federal Goods and Services Tax (GST) on fees less the rebate to which PIAC is entitled in connection with GST. PIAC filed a bill of costs with its application.
6. PIAC claimed 42.7 hours at a rate of \$230 per hour for legal fees for John Lawford.
7. PIAC submitted that the appropriate respondents in this case were all parties listed in PN 2005-7. However, PIAC was concerned with the ability of the applicants in the 2005-7 proceeding, namely County of Strathcona, the City of Fort Saskatchewan, the Association of Municipalities of Ontario, the City of Brandon, the New Brunswick - Department of Safety, Emergency Management Alberta, Emergency Management Ontario, the County of Essex and the City of Niagara Falls, as well as the Privacy Commissioner of Canada to support a costs award in addition to their own expenses and accordingly submitted that it would be reasonable to allocate two-thirds of any cost award to the incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs) in proportion to their

telecommunications operating revenues (TORs) and the remaining one third borne by the remaining parties in whatever proportion the Commission saw fit.

### **Answer**

8. In answer to the application, the Companies stated that they did not object to the amount claimed in PIAC's application. However, the Companies did question the appropriateness of awarding any costs in this matter. In particular, they submitted that the PN 2005-7 proceeding was not one that directly engaged significant commercial interests of the Companies or one where the interests of the consumers would have gone unrepresented but for the participation of PIAC.
9. The Companies submitted that, should the Commission determine that a costs award is appropriate, the costs should be apportioned as suggested by PIAC.

### **Commission analysis and determination**

10. The Commission finds that PIAC has satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that PIAC is representative of a group or class of subscribers that has an interest in the outcome of the proceeding, has participated in a responsible way, and has contributed to a better understanding of the issues by the Commission.
11. The Commission notes that the rates claimed in respect of legal 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 PIAC was necessarily and reasonably incurred and should be allowed.
12. 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.
13. In determining the appropriate respondents to an award of costs, the Commission has generally looked at which parties are affected by the issues and have actively participated in the proceeding. The Commission has, however, also considered the potential administrative burden on applicants if they were required to collect small amounts from many respondents. Given the small size of the costs award in this case, the Commission finds that it would impose an unnecessary administrative burden on PIAC to require the collection of small amounts from the numerous parties who participated in the PN 2005-7 proceeding.
14. On this basis, and given that the issue in this proceeding relates to the ILEC's own 9-1-1 databases, the Commission concludes that the appropriate respondents to PIAC's costs application are the major ILECs who participated in the proceeding, namely, Bell Canada, Aliant Telecom, SaskTel, TELUS Communications Company (TCC) and MTS Allstream Inc. (MTS Allstream).

15. The Commission notes that it has, in previous decisions, allocated the responsibility for the payment of costs among respondents on the basis of the respondents' TORs, as an indicator of the relative size and interest of the parties involved in the proceeding. The Commission is of the view that, in the present circumstances, it is appropriate to apportion the costs among the respondents in proportion to their TORs, as reported in their most recent audited financial statements. Accordingly, the Commission finds that the responsibility for the payment of costs should be allocated as follows:

Bell Canada	48%
TCC	33%
Aliant Telecom	7%
MTS Allstream	8%
SaskTel	4%

**Direction as to costs**

16. The Commission **approves** the application by PIAC for costs with respect to its participation in the PN 2005-7 proceeding.
17. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$10,164.73.
18. The Commission directs that the award of costs to PIAC be paid forthwith by the ILECs according to the proportions set out in paragraph 15.

Secretary General

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