



Telecom Costs Order CRTC 2007-3

Ottawa, 14 March 2007

Application for costs by Public Interest Advocacy Centre on behalf of the Consumer Groups – *Review of price cap framework*, Telecom Public Notice CRTC 2006-5

Reference: 8678-C12-200605553 and 4754-286

1. By letter dated 21 December 2006, the Public Interest Advocacy Centre (PIAC) applied on behalf of the Consumer Groups for costs with respect to its participation in the proceeding initiated by *Review of Price Cap Framework*, Telecom Public Notice CRTC 2006-5, 9 May 2006 (the PN 2006-5 proceeding).
2. By letter dated 29 December 2006, Bragg Communications Inc. (EastLink) filed comments. By letter dated 31 December 2006, Bell Canada filed comments on behalf of Bell Aliant Regional Communications, Limited Partnership, Bell Canada, and Saskatchewan Telecommunications (collectively, the Companies).
3. PIAC did not file a reply to the comments submitted regarding the application.

The application

4. PIAC submitted that the Consumer Groups 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 they represent a group of subscribers that had an interest in the outcome of the PN 2006-5 proceeding, they had participated responsibly in the PN 2006-5 proceeding, and they had contributed to a better understanding of the issues by the Commission.
5. PIAC filed a bill of costs with its application, claiming a total amount of \$146 005.01 for legal and consultant fees, as well as disbursements. PIAC's claim included the Federal Goods and Services Tax (GST) on fees less the rebate to which PIAC is entitled in connection with the GST. PIAC did not name any costs respondents or take any position as to the allocation of its costs.
6. In answer to the application, the Companies submitted that they did not oppose PIAC's entitlement to costs. However, they argued that the Commission should consider the theoretical and practical flaws associated with Dr. Trevor Roycroft's analysis when evaluating the merit of PIAC's costs claim component related to this consultant.
7. The Companies further submitted that the following parties should be named as cost respondents, on the basis of their participation in the proceeding and their significant interest in its outcome: the Companies; TELUS Communications Company (TCC); MTS Allstream Inc. (MTS Allstream); and Quebecor Media Inc. (Quebecor), Cogeco Cable Inc. (Cogeco),

Rogers Communications Inc. (Rogers), Shaw Communications Inc. (Shaw), and EastLink (collectively, the competitors). The Companies noted that a costs order arising from the previous Price Cap review proceeding, *Action Réseau Consommateur et al. application for costs – Price cap review proceeding*, Telecom Costs Order CRTC 2002-2, 1 March 2002 (Costs Order 2002-2) named both competitors and incumbents as costs respondents because of their significant interest in the outcome.

8. The Companies suggested that any costs ordered should be allocated among the parties in proportion to their respective share of telecommunications operating revenues (TORs).
9. In answer to the application, EastLink submitted that while it did not oppose PIAC's costs application, it was unable to comment on PIAC's participation and the cost amount claimed because of its own limited participation in the proceeding. EastLink submitted that it was not an appropriate costs respondent due to this limited participation, which consisted entirely of responding to interrogatories posed by the Commission.

Commission's analysis and determinations

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 the Consumer Groups are representative of a group or class of subscribers that has an interest in the outcome of the proceeding, have participated in a responsible way, and have contributed to a better understanding of the issues by the Commission.
11. In relation to the portion of the costs claim related to Dr. Trevor Roycroft, the Commission considers that both his written submissions and his oral contributions at the hearing contributed positively to the Commission's overall understanding of price cap regulatory issues.
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 award*, Telecom Public Notice CRTC 2002-5, 7 November 2002.
13. 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.
14. The Commission notes that the incumbent local exchange carriers and several of their competitors were active participants in the proceeding, will be affected by the outcome and should be costs respondents.
15. The Commission agrees with EastLink's assessment of its limited participation in the proceeding, noting that it only submitted responses to interrogatory questions posed by the Commission. Accordingly, the Commission considers that EastLink is not an appropriate costs respondent in this proceeding.

16. In light of the above, the Commission determines that this cost award shall be allocated in the following proportions, based on relative TORs:

Companies	62.3%
TCC	21.4%
MTS Allstream	9.3%
Shaw	2.5%
Rogers	2.1%
Quebecor	1.8%
Cogeco	0.6%

17. Consistent with its general approach articulated in *Action Réseau Consommateur, the Consumers' Association of Canada, Fédération des associations coopératives d'économie familiale and the National Anti-Poverty Organization application for costs – Public Notice CRTC 2001-60, Telecom Costs Order CRTC 2002-4, 24 April 2002*, the Commission makes Bell Canada responsible for payment on behalf of the Companies, and leaves it to the members of the Companies to determine the appropriate allocation of the costs among themselves.

Direction as to costs

18. 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 PN 2006-5 proceeding.
19. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$146,005.01.
20. The Commission directs that the award of costs to PIAC be paid forthwith by the costs respondents in the proportions indicated above in paragraph 16.

Secretary General

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