



Telecom Order CRTC 2011-690

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Ottawa, 4 November 2011

Determination of costs award with respect to the participation of Jatinder Bhullar in the Telecom Notice of Consultation 2011-77 proceeding

File numbers: 8661-C12-201102350 and 4754-392

1. By letter dated 9 September 2011, Jatinder Bhullar applied for costs with respect to his participation in the proceeding initiated by Telecom Notice of Consultation 2011-77 (the proceeding).
2. On 19 September 2011, TELUS Communications Company (TCC) filed a response to Mr. Bhullar's application. Mr. Bhullar did not file a reply.
3. The Commission notes that it received Mr. Bhullar's application after the deadline for filing costs applications pursuant to section 65 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure). In the specific circumstances of this case, the Commission has accepted Mr. Bhullar's application outside the deadline.

Application

4. Mr. Bhullar submitted that he had met the criteria for an award of costs set out in section 68 of the Rules of Procedure because he represented a group or class of subscribers that had an interest in the outcome of the proceeding, he had assisted the Commission in developing a better understanding of the matters that were considered, and he had participated in a responsible way.
5. In particular, Mr. Bhullar submitted that he had acted as an individual citizen "representing Canadians at large who have a vested interest in the outcome of this proceeding both for the well being of the Providers and the users in innovative solutions for Canadians."
6. Mr. Bhullar requested that the Commission fix his costs at \$1,171.57, consisting entirely of disbursements.
7. Mr. Bhullar made no submissions as to the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).

Answer

8. In response to the application, TCC did not object to Mr. Bhullar's entitlement to costs nor to the amount claimed. TCC argued that, given the amount claimed, if costs are awarded they should be apportioned between parties according to their telecommunications operating revenues (TORs)¹ or in whatever way the Commission deems appropriate.

Commission's analysis and determinations

9. The Commission finds that Mr. Bhullar has satisfied the criteria for an award of costs set out in section 68 of the Rules of Procedure. Specifically, the Commission finds that Mr. Bhullar represented a group or class of subscribers that had an interest in the outcome of the proceeding, he assisted the Commission in developing a better understanding of the matters that were considered, and he participated in a responsible way.
10. The Commission finds that the total amount claimed by Mr. Bhullar was necessarily and reasonably incurred and should be allowed.
11. The Commission considers 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 Telecom Public Notice 2002-5.
12. In determining the appropriate costs respondents, the Commission has generally considered which parties are affected by the issues and have actively participated in the proceeding. The Commission notes, in this regard, that the following parties actively participated in the proceeding and had a significant interest in its outcome: Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies); Cogeco Cable Inc.; Distributel Communications Limited; MTS Allstream Inc.; Primus Telecommunications Canada Inc.; Quebecor Media Inc., on behalf of its affiliate Videotron G.P.; Rogers Communications Partnership (RCP); Saskatchewan Telecommunications; Shaw Cablesystems G.P.; and TCC.
13. The Commission further notes, however, that in allocating costs among costs respondents, it has also been sensitive to the fact that if numerous costs respondents are named, the applicant may have to collect small amounts from many costs respondents, resulting in a significant administrative burden to the applicant.
14. In light of the above, and given the relatively small size of the costs award and the large number of potential costs respondents in this case, the Commission considers that, consistent with section 48 of the Commission's *Guidelines for the Assessment*

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

of Costs,² it is appropriate to limit the costs respondents to the Bell companies, RCP, and TCC.

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

Bell companies	36%
RCP	32%
TCC	32%

16. The Commission notes that Bell Canada filed submissions in the proceeding on behalf of the Bell companies. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for payment on behalf of the Bell companies and leaves it to the members of the Bell companies to determine the appropriate allocation of the costs among themselves.

Directions regarding costs

17. The Commission **approves** the application by Mr. Bhullar for costs with respect to his participation in the proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to Mr. Bhullar at \$1,171.57.
19. The Commission directs that the award of costs to Mr. Bhullar be paid forthwith by Bell Canada on behalf of the Bell companies, by RCP, and by TCC, according to the proportions set out in paragraph 15.

Secretary General

Related documents

- *Review of billing practices for wholesale residential high-speed access services*, Telecom Notice of Consultation CRTC 2011-77, 8 February 2011, as amended by Telecom Notice of Consultation CRTC 2011-77-1, 17 March 2011, and Telecom Notice of Consultation CRTC 2011-77-2, 8 April 2011
- *Revision of CRTC costs award practices and procedures*, Telecom Regulatory Policy CRTC 2010-963, 23 December 2010

² These guidelines are set out in Telecom Regulatory Policy 2010-963.

- *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002
- *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