

October 24, 2014

John Traversy
Secretary General
Canadian Radio-television and Telecommunications Commission
Les Terrasses de la Chaudière 1 Promenade du Portage
Gatineau, Québec J8X 4B1

By GCKEY

Re: DiversityCanada Foundation and the National Pensioners Federation's application to review and vary Telecom Cost Order 2014-220 – Application for Costs – Response

1. The Canadian Wireless Telecommunications Association (CWTA) is the recognized authority on wireless issues, developments and trends in Canada. It represents wireless service providers as well as companies that develop and produce products and services for the industry, including handset and equipment manufacturers, content and application creators and business-to-business service providers. CWTA is filing these comments on behalf of its members in response to the application for costs noted above, received from DiversityCanada Foundation and the National Pensioners Federation (DCF/NPF) on October 15, 2014.
2. CWTA objects to DCF/NPF's claim for costs because DCF/NPF does not meet the Commission's criteria for an award of costs as set out in section 66(1) of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules). Specifically, DCF/NPF have not assisted the Commission in developing a better understanding of the matters that were considered (section 66(1)(a)(ii)). Rather, the arguments in DCF/NPF's review and vary application are based entirely on a misinterpretation of Telecom Cost Order 2014-220. Moreover DCF/NPF's submissions consist of references to jurisprudence and public policy of which the Commission is already well aware.
3. DCF/NPF's application to review and vary Telecom Cost Order 2014-220 is based solely on the premise that DCF/NPF's application for costs was declined because the Commission did not accept their submission to review and vary Section J of the Wireless Code. As shown in CWTA's submission to the review and vary application, this is a broad and inaccurate interpretation of the Commission's ruling. Aside from merely making this claim, DCF/NPF did not even attempt to establish, based on the ruling's content (i.e. the nine paragraphs that form the Commission's determinations in 2014-220), that the Commission assessed the cost application on anything other than its merits.
4. The remainder of DCF/NPF's submissions address the principle that costs awards should not be based solely on the applicant's success in the proceeding for which costs are being sought. There are references to Supreme Court of Canada rulings related to CRTC cost awards processes, as well as past CRTC decisions. There is no evidence to suggest the Commission was not already well aware of existing policy on this matter.

5. DCF/NPF's application therefore fails to contribute to a better understanding of the Commission's obligations in determining costs awards in light of the fact that 1) it did not establish that its cost application was denied for reasons other than its merits, and 2) the public policy references to support its misinterpretation are already well known by the Commission.
6. For these reasons, CWTA submits that DCF/NPF have failed to meet the criteria for an award of costs as set out in section 66 of the Rules and its claim should be denied.
7. Alternatively, if the Commission determines that DCF/NPF have met the criteria for an award of costs, for all the reasons above, CWTA submits that DCF/NPF's claim should be reduced to properly reflect the limited assistance provided by these submissions.
8. In this regard, it is submitted that any award of costs should additionally reflect a reasonable use of resources to participate in the proceeding. Although the arguments in DCF/NPF's interventions are extensively supported by legal jurisprudence, their legal counsel contributed only 9.4 hours reviewing and revising the documents, compared to 90.66 hours expended by their outside consultant to prepare these documents. Having a non-legal practitioner perform this type of legal research is not an appropriate, efficient or reasonable use of the intervener's resources. Therefore, CWTA respectfully submits that the time claimed in relation to DCF/NPF's outside consultant was not reasonably or necessarily incurred, and accordingly, any cost award should be reduced to account for this excessive and unreasonable time claim.
9. CWTA appreciates the opportunity to provide these comments.

Yours truly,



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