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April 19, 2022

Mr. Claude Doucet  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
Ottawa, ON K1A 0N2

Dear Mr. Doucet:

**Re: *Call for comments – Accessibility – Mobile wireless service plans that meet the needs of Canadians with various disabilities*, Telecom Notice of Consultation CRTC 2020-178 (“TNC 2020-178”) – Cost claims of the Deaf Wireless Canada Committee (“DWCC”), the Canadian National Society of the Deaf-Blind, Inc. (“CNSDB”), the Deaf and Hard of Hearing Coalition (“DHH Coalition”), and the Canada Deaf Grassroots Movement (“CDGM”)**

**A. *Introduction***

1. TELUS Communications Inc. (“TELUS”) is in receipt of applications for final costs from DWCC, CNSDB, DHH Coalition,<sup>1</sup> and CDGM for their participation in TNC 2020-178 (the “Costs Applications”). In accordance with Rule 67 of the *CRTC Rules of Practice and Procedure* (the “Rules”), TELUS hereby files this Answer to the Costs Applications.
2. TELUS recognizes the importance of accessibility in communications and welcomes the participation of accessibility groups in formal proceedings conducted by the Commission. While accessibility groups brought critical perspectives to the

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<sup>1</sup> DHH Coalition represents Deafness Advocacy Association Nova Scotia (“DAANS”), Newfoundland and Labrador Association of the Deaf (“NLAD”), and Ontario Association of the Deaf (“OAD”). DAANS has submitted one costs application on behalf of DHH Coalition members.

- issues raised by TNC 2020-178, it is important for the Commission to ensure that each cost award is justified and in accordance with the Rules and CRTC policies.
3. CNSDB claims costs of **\$18,455.00**; DHH Coalition claims costs of **\$28,206.46**; and CDGM claims costs of **\$3,301.10**. TELUS provides no comment on whether or not those costs satisfy the costs requirements as set out under Rule 68 of the Rules. TELUS asks that the Commission ensure that these requirements are met prior to any costs award.
  4. DWCC claims costs of **\$176,432.10** based on its participation in the above-noted proceeding.<sup>2</sup> The magnitude of this costs claim merits specific attention, especially in comparison to the costs claim amounts requested by other accessibility advocacy organizations. In the remainder of this Answer, TELUS provides comments on DWCC's costs application and asks the Commission to ensure that DWCC has satisfied all the requirements under Rule 68 of the Rules prior to any cost award.

***B. DWCC's costs must be necessarily and reasonably incurred***

5. The Commission's framework for awarding final costs is set out in sections 65 to 70 of the Rules and its *Guidelines for the Assessment of Costs*.<sup>3</sup> As part of this framework, the Commission must take steps to ensure that only those costs that were necessarily and reasonably incurred are compensated, as required by subsection 70(2) of the *Rules*.
6. TELUS notes that the majority of work completed by DWCC was performed by senior consultants. In TELUS' view, it appears that much of the work conducted by senior consultants ought to have been delegated to junior or intermediate consultants as a means to control DWCC's costs. For instance, DWCC claims a total of **764 hours and \$148,555.00** (excluding added taxes) in consulting and analyst fees.<sup>4</sup> Of this amount, **561 hours** were billed by senior consultants, while

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<sup>2</sup> Costs Application of DWCC, Appendix A, Form V - Summary of Fees and Disbursements at p 20.

<sup>3</sup> *Guidelines for the Assessment of Costs*, December 23, 2010, as appended to Telecom Regulatory Policy CRTC 2010-963, *Revision of CRTC costs awards and procedures*, December 23, 2010 (the Guidelines").

<sup>4</sup> Costs Application of DWCC, Appendix A, Form III - Summary of Consultant and Analyst Fees at p 21, 26, 30, 34, 37, 39, 41 and 43.

only 137 hours were billed by junior consultants (and 66 hours were billed by a junior analyst). In other words, approximately one quarter of total hours were billed by junior consultants and analysts.

7. Figure 1 provides a summary of the consulting and analyst fees claimed by DWCC.

**Figure 1: Consulting and Analyst Fees Claimed by DWCC**

	Position		Rate/hr	Time (hrs)	Total
Lisa Anderson	External	Senior Consultant	\$225	458	\$103,050.00
Jeffrey Beatty	External	Senior Consultant	\$225	99	\$22,275.00
Gary Malkowski	External	Senior Consultant	\$225	4	\$900.00
Leonor Vlug	External	Junior Consultant	\$110	80	\$8,800.00
Paula Wesley	External	Junior Consultant	\$110	51	\$5,610.00
Eileen Edinger Marshall	External	Junior Consultant	\$110	4	\$440.00
Brian Foran	External	Junior Consultant	\$110	2	\$220.00
Michael J. Stewart	External	Junior Analyst	\$110	66	\$7,260.00
<b>Total</b>				<b>764</b>	<b>\$148,555.00</b>

8. Notably, the Commission has expressed that “costs applicants should rely on articling students or junior counsel to the greatest extent possible to avoid incurring excessive costs.”<sup>5</sup> In TELUS’ view, this principle, which ensures that costs are controlled and comply with subsection 70(2) of the Rules, should apply equally to the use of intermediate and junior consultants. It is not clear why it was necessary for senior consultants to conduct tasks at the Commission’s highest allowable

<sup>5</sup> Guidelines at para 36.

hourly rates that likely could have been assigned to junior or intermediate consultants.

9. It is also noteworthy that, of the 764 total hours claimed for consulting and analysts, **458 hours and \$103,050.00** in fees has been claimed by Ms. Anderson at the senior consultant hourly rate.<sup>6</sup> As noted above, it is likely that many of the tasks conducted by Ms. Anderson could have been completed by an intermediate or junior consultant at a lower hourly rate to avoid unnecessary costs.
10. For example, according to the Form IIIs submitted in DWCC's costs application, Ms. Anderson claims **280 hours and \$63,000.00** to "prepare evidence" at the senior consultant hourly rate, while only 42 hours have been claimed by junior DWCC team members for the same activity.<sup>7</sup>
11. Furthermore, Ms. Anderson's Timesheets include routine review, editorial and formatting tasks billed at the senior consultant hourly rate. For instance, on May 9-15th, 2021, **47 hours (\$10,575.00)** is claimed for review activities such as "fine-tuning," editing and proofreading. In addition, on August 8-18th, 2021, **6.5 hours (\$1462.50)** is claimed for: "Final editing, Formatting, Fiddling with Table of Contents, trimming & cutting up Table 1.1, inserting infographic, organizing & fixing up Appendices, double checking, proof reading, top to bottom & finalizing with Executive Summary." Likewise, on July 8-21st, 2021, Ms. Anderson claims **\$550.00** for "Double-checking report references with page numbers."<sup>8</sup> It would have been reasonable for these activities to have been delegated, in whole or in part, to intermediate or junior consultants. In fact, junior consultants have been tasked with review, editorial and formatting responsibilities during the proceeding,

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<sup>6</sup> Costs Application of DWCC, Appendix A, Form III - Summary of Consultant and Analyst Fees at p 21.

<sup>7</sup> Costs Application of DWCC, Appendix A, Form III - Summary of Consultant and Analyst Fees at p 21 and 43.

<sup>8</sup> Costs Application of DWCC, Appendix A, Timesheets of Lisa Anderson at p 22-25. See additional routine review, editorial and formatting activities dated July 15-18, 2021; August 15-18, 2021; May 30-June 26, 2021; July 21-25, 2021; August 7-14, 2021; and October 3-4, 2021.

indicating that DWCC's junior consultants can be appropriately relied on for this purpose.<sup>9</sup>

12. Additionally, Mr. Beatty has claimed **99 hours and \$22,275.00** at the senior consultant hourly rate, including **64 hours (\$14,400.00)** to "prepare evidence."<sup>10</sup> Again, it is not clear why many of the tasks conducted by Mr. Beatty could not have been performed by an intermediate or junior consultant. For instance, Mr. Beatty appears to have billed at least 4 hours for design-related tasks, such as "discussing colour scheme" and "creating cover image" for various submissions.<sup>11</sup> In TELUS' view, it is likely that DWCC could have relied on the services of junior team members for many of the tasks conducted by Mr. Beatty in order to control costs. As such, TELUS requests that the Commission assess whether DWCC's use of senior consultant resources complies with subsection 70(2) of the *Rules*.
13. Consulting and analyst fees claimed by DWCC should also be compared to the costs claims of the other accessibility advocacy groups that filed costs applications in this proceeding, as set out in paragraph 3 above. Notably, while DWCC claims \$126,225.00 (excluding added taxes) in hours billed by senior consultants alone, other accessibility advocacy groups have claimed between \$3301.10 and \$28,206.46 in total costs.
14. Finally, there were disbursements claims by the DWCC<sup>12</sup> that do not appear to TELUS to be "reasonably and necessarily incurred." TELUS therefore asks the Commission to assess the entirety of the DWCC costs claim to satisfy itself that any award meets the criteria set out in the Rules and Guidelines.

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<sup>9</sup> See e.g., Application of DWCC, Appendix A, Timesheets of Leonor Vlug at p 31-33. Leonor Vlug (junior consultant with 1 year of experience) reports review, editing and formatting activities in the preparation of DWCC's Reply Comments and responses to CRTC requests for information.

<sup>10</sup> Costs Application of DWCC, Appendix A, Form III - Summary of Consultant and Analyst Fees at p 26.

<sup>11</sup> Costs Application of DWCC, Appendix A, Timesheets of Jeffrey Beatty at p 27-29. See entries dated October 31, 2020; July 15, 2021; April 9, 2021; June 23/July 27, 2021; August 25, 2021; and October 8, 2021.

<sup>12</sup> See Costs Application of DWCC, "Disbursements and Expenses" at p 11-12; Costs Application of DWCC, Exhibit A - Summary Statement of Disbursements at p 17-18; Costs Application of DWCC, Appendix B, Expense Forms, Invoices and Receipts for TNC 2020-178.

*C. Conclusion*

15. In summary, TELUS takes no position with respect to the costs applications filed by CNSDB, DHH Coalition and CDGM, provided that the Commission satisfies itself that the costs applicants have met the criteria under the Rules. With respect to the costs application of DWCC, TELUS requests that the Commission consider whether DWCC's disproportionate reliance on senior consultant resources and incurred disbursements comply with the Rules, including subsection 70(2).
16. Furthermore, TELUS requests that any costs awarded in this proceeding should be allocated on the basis of wireless revenues. TELUS notes that "the Commission has generally determined that the appropriate costs respondents to an award of costs are the parties that have a significant interest in the outcome of the proceeding in question and have participated actively in that proceeding."<sup>13</sup> The scope of TNC 2020-178 was focused entirely on the accessibility of wireless services, and therefore, wireless service providers have a significant interest in the outcome of the proceeding. While "the Commission's general practice is to allocate responsibility for the payment of costs among costs respondents based on telecommunications operating revenues ("TORs") for all telecommunications services,"<sup>14</sup> TELUS submits that it is appropriate to deviate from that practice as the issues examined in this proceeding were limited to the wireless industry.

Yours truly,

*{Original signed by Stephen Schmidt}*

Stephen Schmidt  
Vice-President - Telecom Policy & Chief Regulatory Legal Counsel  
Telecom Policy & Regulatory Affairs

cc. Parties to TNC 2020-178

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<sup>13</sup> Telecom Decision CRTC 2020-33, *TELUS Communications Inc. – Application to review and vary Telecom Orders 2019-170 and 2019-171*, January 29, 2020 at para 9.

<sup>14</sup> *Ibid.*