5 November 2026

Scott Hutton
Secretary General
CRTC
Ottawa, ON K1A 0N2

Via e-mail

Dear Secretary General,

Re: *A new approach to funding public interest participation in Commission proceedings – Part 1 – Increasing rates available in telecommunications proceedings*, Telecom Regulatory Policy CRTC 2026-201 (Gatineau, 7 August 2026), Part 1 Application to Review and Vary Telecom Regulatory Policy CRTC 2026-201

The Public Interest Advocacy Centre (PIAC) and the Forum for Research and Policy in Communications (FRPC) are filing the attached application to review and vary certain determinations in Telecom Regulatory Policy CRTC 2026-201, *A new approach to funding public interest participation in Commission proceedings – Part 1 – Increasing rates available in telecommunications proceedings*, issued by the CRTC on 7 August 2026.

Sincerely yours,

[Original signed by Tahira Dawood]

Acting General Counsel
Public Interest Advocacy Centre (PIAC)

[Original signed by Monica Auer

Executive Director
Forum for Research and Policy in Communications (FRPC)

Attachment

cc. Interested parties in Broadcasting and Telecom Notice of Consultation CRTC 2025-94

CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION

IN THE MATTER OF AN APPLICATION BY

PUBLIC INTEREST ADVOCACY CENTRE (PIAC)

AND

FORUM FOR RESEARCH AND POLICY IN COMMUNICATIONS (FRPC)

PURSUANT TO PART 1 OF THE *CANADIAN-TELEVISION AND TELECOMMUNICATIONS COMMISSION RULES OF PRACTICE AND PROCEDURE* AND SECTION 62 OF THE

TELECOMMUNICATIONS ACT

PUBLIC INTEREST ADVOCACY CENTRE
LE CENTRE POUR LA DÉFENSE DE L'INTÉRÊT PUBLIC

A NEW APPROACH TO FUNDING PUBLIC INTEREST PARTICIPATION IN COMMISSION PROCEEDINGS – PART 1 – INCREASING RATES AVAILABLE IN TELECOMMUNICATIONS PROCEEDINGS,
TELECOM REGULATORY POLICY CRTC 2026-201
(GATINEAU, 7 AUGUST 2026)

APPLICATON TO REVIEW AND VARY

5 November 2026

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I. Introduction: CRTC's 2026 Part 1 decision regarding cost awards

1. The Public Interest Advocacy Centre (PIAC) and the Forum for Research and Policy in Communications (FRPC) ask the CRTC to exercise its authority under the *Telecommunications Act*[1] to review and vary determinations made by the Canadian Radio-television and Telecommunications Commission in Telecom Regulatory Policy CRTC 2026-201: *A new approach to funding public interest participation in Commission proceedings – Part 1 – Increasing rates available in telecommunications proceedings* (2026-201), issued by the Commission on 7 August 2026.

2. TRP 2026-201 is the CRTC's first decision[2] issued by the Commission with respect to *Call for comments – A new approach to funding public interest participation in Commission proceedings*, Broadcasting and Telecom Notice of Consultation CRTC 2025-94 (Gatineau, 12 May 2025). TRP 2026-201 is also the first or "initial" regulatory policy regarding the CRTC's costs process: 2026-201 states that the CRTC "intends to announce" other "changes in a future regulatory policy"[3] aimed at improving "its processes to increase efficiency, predictability, and effectiveness for participants."[4]

A. Purpose of the CRTC's 2025 consultation on costs

3. The CRTC has been empowered to award public-interest participation costs with respect to its proceedings since 1975 when Parliament transferred jurisdiction over telecommunications to the Commission.[5] It has issued rules about cost applications[6] as well as procedures.[7] In 2010 it held a public consultation to review its cost-award practices and procedures.[8]

4. The 2025-94 consultation addressed, in part, the process used by the Commission to consider

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1 *Telecommunications Act*, s. 62:
> [t]he Commission may, on application or on its own motion, review and rescind or vary any decision made by it or re-hear a matter before rendering a decision.

2 *Ibid.*, s. 2(1):
> In this Act,
> …
> ***decision*** includes a determination made by the Commission in any form; (décision)
> ***….***

3 TNoC 2026-259, ¶3.

4 *Ibid*.

5 The *Canadian Radio-television and Telecommunications Commission Act* (Bill C-5), passed in April 1975, and promulgated by Order-in-Council 1 April 1975 stipulates that the CRTC "shall exercise the powers and perform the duties and functions in relation to telecommunications … vested … in the Canadian Transport Commission" (I, s. 14(2)).

6 Within *CRTC Telecommunications Rules of Procedure and Tariff Regulations*, Public Announcement (Ottawa, 20 July 1979), at Part III.

7 *CRTC Telecommunications Rules of Procedure*, SOR/79-554, adopted by Telecom Order CRTC 79-297 (Ottawa, 20 July 1979); *NEW PROCEDURE FOR TELECOM COSTS AWARDS*, Telecom Public Notice CRTC 98-11 (Ottawa, 15 May 1998); *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5 (Ottawa, 7 November 2002).

8 *Revision of CRTC costs award practices and procedures*, Telecom Regulatory Policy CRTC 2010-963 (Ottawa, 23 December 2010).

applications by public- and consumer-interest organizations to be reimbursed for their costs of participating in its proceedings.

5. In May 2025 BTNoC 2025-94 explained that the CRTC's goal in this proceeding was "how to better support public participation".[9] It explained that some public- and consumer-interest organizations had told the CRTC that obtaining funding to participate "can be complicated" and "unpredictable".[10]

6. BTNoC 2025-94 set out "the Commission's preliminary view" that "a simple predictable funding model is preferable"[11] and asked "[i]f the current costs model is maintained, how could the process be simplified".[12]

7. PIAC and FRPC agree that the CRTC is free to change its policies, unless these offend its enabling statutes.[13]

B. Telecom Regulatory Policy CRTC 2026-201

8. The Commission published the 2025-94 consultation notice on 15 May 2025 and issued its initial determination in 2026-201 on 7 August 2026.[14]

9. 2026-201 initially set out an error in its Appendix, by creating two overlapping ranges for fees for internal legal counsel: "0 to 8 completed years of practice" and "8 and over". This error was brought to attention of the CRTC's staff on 14 October 2026.

CRTC version of 2026-201 Appendix on 7 August 2026

Internal fees	New daily rate
Legal counsel (0 to 8 completed years of practice)	$873/day

9 BTNoC 2025-94

10 *Ibid*., at ¶2.

11 *Ibid*., at ¶14.

12 *Ibid*. at ¶14, Q13.

13 *Uniboard Surfaces Inc. v. Kronotex Fussboden GmbH and Co. KG*, [2007] 4 FCR 101, 2006 FCA 398 (CanLII), at ¶69: "A change of policy, in and of itself, is not an error unless it offends the enabling statute. Indeed, policies are rarely written in stone and it is very much within the realm of administrative tribunals to set them out and, when the need arises, to adapt them to new realities."

14 2026-201 refers to itself as an "initial regulatory policy" at ¶4, stating at ¶3 that the "Commission intends to announce these changes in a future regulatory policy."

Legal counsel (8 or more completed years of practice)	$1,164/day
Articling student	$342/day
Legal assistant	$255/day
Analyst/Consultant	$684/day

10. As of today's date, Telecom Regulatory Policy CRTC 2026-201 has been changed so that the overlap that existed in August 2026 no longer exists – while the "Date modified" of 2026-201 remains 7 August 2026:

CRTC version of 2026-201 Appendix on 5 November 2026

Internal fees	New daily rate
Legal counsel (0 to 8 completed years of practice)	$873/day
Legal counsel (over 8 years)	$1,164/day
Articling student	$342/day
Legal assistant	$255/day
Analyst/Consultant	$684/day

11. The CRTC's *Rules* are silent about the process it follows to correct mistakes in its decisions. PIAC and FRPC are unaware of any public announcement in which the CRTC stated that it had changed the text of TRP 2026-201 – or when it decided to do so.

12. 2026-201 states that as "set out in" BTNoC 2025-94, "the Commission's main objective in this proceeding is to develop a system that encourages participation while being transparent and accountable."[15] 2026-201 does not quote 2025-94 in full: 2025-94 stated that the CRTC's "main objective in this public proceeding is to develop a system that encourages the broadest, most diverse range of participants in its proceedings while being transparent and accountable"[16] [underlining shows text omitted from 2026-201].

13. TRP 2026-201 decided three changes to the CRTC's cost-reimbursement process. It raised the

15 2026-201, ¶12.
16 BTNoC 2025-94, ¶10.

professional-service rates it set in 2010, noting that these "are out of date". It capped the maximum amount for which applicants may apply, and it enabled applicants to apply for the CRTC's approval to exceed that cap in proceedings with intervention periods of 90 or more days. These changes have applied to cost applications submitted to the CRTC beginning 8 August 2026.

14. In the remainder of this application PIAC and FRPC demonstrate that 2026-201 errs in law by failing to support its decisions with relevant evidence and, regarding the concept of "intervention period", by not defining this term. We therefore ask that the Commission review and vary 2026-201 to provide the facts and clarification that 2026-201 lacks.

C. CRTC's review-and-vary guidelines

15. PIAC and FRPC are submitting this application in accordance with the Commission's most-recent, 2011 guidelines on review-and-vary applications.[17]

16. While the Commission cannot be bound by these guidelines,[18] they explain that PIAC and FRPC must demonstrate "substantial doubt as to the correctness of the original decision" due to errors in law, errors in fact, failures to consider a basic principle raised in the 2025-94 proceeding or a new principle arising from the TRP 2026-201 decision.[19]

17. Part II sets out the law regarding the CRTC's decisions and evidence. Part III describes the six areas in 2026-201 in which the CRTC does not support its findings and determinations with any facts. Part IV sets out the relief sought by PIAC and FRPC.

II. The law regarding costs and errors of law

A. Relevant provisions of the 1993 *Telecommunications Act*

18. Canada's 1993 *Telecommunications Act* enables the CRTC to "award interim or final costs of and incidental to proceedings before it and may fix the amount of the costs or direct that the amount be taxed" and "by whom and to whom any costs are to be paid and … may establish a scale for the taxation of costs."[20]

19. The same *Act* enables the Governor in Council (Cabinet) to "issue to the Commission directions of general application on broad policy matters with respect to the Canadian

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17 *Revised guidelines for review and vary applications*, Telecom Information Bulletin CRTC 2011-214 (Ottawa, 25 March 2011).

18 *Telecommunications Act*, s. 58 ("Guidelines"):

> [t]he Commission may from time to time issue guidelines and statements with respect to any matter within its jurisdiction under this Act or any special Act, but the guidelines and statements are not binding on the Commission.

19 *Ibid*., at ¶5.

20 S. 56(1) and (2).

telecommunications policy objectives".[21]

B. 2023 direction on a *Renewed Approach to Telecommunications Policy*

20. The *Telecommunications Act* requires the Commission to act and perform in accordance with any orders made by Cabinet.[22]

21. Cabinet's current, 2023 *Direction*[23] directs the CRTC generally to "consider how its decisions would promote … consumer interests ….". It directs the Commission to consider how its decisions "in particular" would "enhance and protect the rights of consumers in their relationships with telecommunications service providers, including rights related to accessibility."[24]

22. Cabinet also directs the CRTC to "base its decisions on sound and recent evidence and should exercise its powers to obtain necessary evidence."[25] It adds that the CRTC should "ensure that … decisions are transparent, predictable and coherent."[26] Evidence, presumably, helps the Commission to "ensure that the measures that it imposes through its decisions are efficient and proportionate to their purpose."[27]

23. TRP 2026-201 suffers from lack of facts to support the determinations it has made about its new approach to supporting public-interest participation. It is therefore distinguishable from other decisions of the CRTC in that it does not concern action the Commission "will take" in the future:[28] 2026-201 sets out objective criteria that, it stated, the CRTC would use beginning 8 August 2026.

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21 S. 8.

22 Specifically, s. 47 states that the CRTC

> … must exercise its powers and perform its duties under this Act and any special Act — in accordance with any orders made by the Governor in Council under section 8 or any standards prescribed by the Minister under section 15, and taking into account any orders made under section 15.1 or 15.2 and any regulation made under paragraph 15.8(1)(a) — with a view to implementing the Canadian telecommunications policy objectives and ensuring that Canadian carriers provide telecommunications services and charge rates in accordance with section 27.

23 *Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy*, SOR/2023-23 (Registration 2023-02-10).

24 *Ibid.*, s. 2(d).

25 *Ibid.*, s. 6.

26 *Ibid.*, s. 3.

27 *Ibid.*, s. 4.

28 *Canadian Institute of Public and Private Real Estate Co. v. Bell Canada*, 2004 FCA 243 (CanLII), at ¶2, citing paragraph 144 of Telecom Decision CRTC 2003-45. In *Canadian Institute* "[c]ounsel for the CRTC stated that the tribunal did not consider that it had made any decision with respect to MDUs. Rather it had simply issued guidelines which were not binding. He further stated that until there was specific fact situation adjudicated upon, there would be no decision.: The Federal Court of Appeal agreed because "statements by the CRTC regarding its jurisdiction in future cases do not constitute a "decision" within the meaning of subsection 64(1) of the Act" (¶5).

C. Decisions made in the absence of evidence raise a question of law.

24. In 2004 the Federal Court of Appeal noted that decisions made "in the absence of evidence" are nullities and are reviewable as being arbitrary. [29]

25. In 2019 the Supreme Court addressed administrative decision-makers' reasons. It explained that the "principles of justification and transparency require that an administrative decision maker's reasons meaningfully account for the central issues and concerns raised by the parties".[30] The Court explained that "reasons are the primary mechanism by which decision makers demonstrate that they have actually *listened* to the parties."[31]

26. The Court held that administrative decision-makers cannot be expected "to 'respond to every argument or line of possible analysis'" or "make an explicit finding on each constituent element, however subordinate, leading to its final conclusion".

27. It clarified, however, that

> … a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it. In addition to assuring parties that their concerns have been heard, the process of drafting reasons with care and attention can alert the decision maker to inadvertent gaps and other flaws in its reasoning. In 2026 the Federal Court of Appeal addressed the concept of adequate reasons: "reasons are inadequate when they prevent meaningful appellate review" and while they do not need to be perfect, appellate courts need to be able "to see 'why' the trial judge decided in a particular way".[32]

28. In particular, the Court held in Vavilov that when a decision-maker "*does* depart from longstanding practices or established internal authority, it bears the justificatory burden of explaining that departure in its reasons." The Court added that "[i]f the decision maker does not satisfy this burden, the decision will be unreasonable":[33]

> … a decision that departs from longstanding practices or established internal decisions will be reasonable if that departure is justified, thereby reducing the risk of arbitrariness, which would undermine public confidence in administrative decision makers and in the justice system as a whole.[34]

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29 *TELUS Communications Inc. v. Canada (Radio-television and Telecommunications Commission)* (F.C.A.), 2004 FCA 365 (CanLII), [2005] 2 FCR 388, at ¶42:

> A decision rendered in the absence of evidence, like a decision rendered without jurisdiction, is a nullity and reviewable as arbitrary. …

30 *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653, at ¶127.

31 *Ibid.*, italics in original text.

32 *Ibid.*, citations omitted.

33 *Ibid.*, ¶131.

34 *Ibid.*, ¶131.

29. The effect of TRP 2026-201 is to prevent public-interest participants from retaining the expert services they were able to engage before August 2026 to assist them in complex proceedings. As the companies will continue to be able to engage such services, public- and consumer-interest organizations will be placed at a growing disadvantage. If they are unable due to decisions made by the CRTC in its pre-approval process to commission survey research, for instance, public- and consumer-interest organizations will not only lose the ability to refute the companies' evidence and arguments, but will also lose an important source of evidence in *future* CRTC proceedings. The CRTC has not explained why the public interest and the consumer interest deserve a reduced ability to bring evidence to the CRTC than the companies.

III. Errors of fact and law in Telecom Regulatory Policy CRTC 2026-201

30. TRP 2026-201 makes determinations about four issues: the degree to which inflation has reduced the value of the costs in place before August 2026; a new, $75,000 cap for each cost applicant; a new pre-approval process for amounts above this cap in consultations with intervention periods longer than 89 days; and the impact of these changes on administrative burden.

31. The reasons and evidence set out in 2026-201 on these four points are set out below.

A. Error of fact and law: CRTC last changed its rates in 2007, yet 2026-201 changed rates from 2010

32. According to 2026-201, the CRTC's cost-reimbursement Rules at the time it issued 2025-94 "had not been reviewed in over 10 years".[35] It stated elsewhere in the decision that the professional-service rates were last reviewed 16 years ago,[36] presumably in *Revision of CRTC costs award practices and procedures*, Telecom Regulatory Policy CRTC 2010-963 (Ottawa, 23 December 2010).

33. In fact, the cost-reimbursement rates that applicants could use until 2026-201 was issued on 7 August were set in 2007 in *Guidelines for the Taxation of Costs*. Rather than compensating cost applicants for the 47.2% loss due to inflation in the value of rates set in 2007, the CRTC decided without explanation to change the rates to reflect a 45.44% loss due to inflation since 2010.[37] 2026-201 does not explain why it decided not to compensate public- and consumer-interest organizations for the true loss in inflation since the CRTC last adjusted the cost rates in 2007.

34. The Commission erred in fact and in law by failing to address the impact of inflation on public-

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35 2026-201, ¶1.

36 *Ibid*., ¶¶6 and 13.

37 This evidence was set out in the 9 September 2025 report prepared for FRPC by independent expert Edgardo Sepulveda: *Recommendations for CRTC Intervenor Cost Award Rate Structures and Levels*, at p. 2.

interest participation costs in the three years from 2007 to 2010 and by not providing adequate reasons for this decision.

B. Error of fact and law: CRTC cap on cost-applicants' costs

35. 2026-201 imposes a cap on cost applications of $75,000 per applicant, per proceeding.[38]

36. 2026-201 states that most telecommunications companies supported the concept of caps while most public- and consumer-interest organizations did not:

> 10. … Bell Canada indicated that further measures were necessary to avoid excessive costs claims and improve predictability. It suggested an initial cap of $15,000 for costs applications, with the opportunity to apply for pre-approval in cases where the applicant expects to exceed the cap.
> 11. Many telecommunications companies supported the idea of caps and pre-approvals for reasons similar to those mentioned by Bell Canada. Most public interest groups opposed caps and pre-approvals, which they considered burdensome, unfair, and contrary to the rationale for making costs applications available in the first place. Some public interest groups, including the Canadian Anti-Monopoly Project, conditionally supported the idea of caps or pre-approvals on the basis that they would provide greater certainty for all parties involved.

37. While 2026-201 mentions that 'most' public- and consumer-interest organizations did not support the principle of caps, in fact all but 2 of the 18 public- and consumer-interest organizations that engaged in the 2025-94 proceeding did not support the idea. Of the two parties (CAMP and CDGM) that addressed caps in positive terms, one supported preset funding while the other qualified its support for a threshold by arguing *against* the one-size-fits-all approach adopted by 2026-201.

38. The Commission erred in applying the proportionality principle in section 4 of the 2023 Policy Direction by restricting access to its cost-reimbursement process based on an undefined 'intervention period' without adequately assessing whether excluded proceedings may require comparable work and funding.

1. 2026-201 set $75,000 cap, yet provided no facts about this figure

39. 2026-201 states that "approximately 90% of costs awarded since the last review of rates have been for amounts below $50,000".[39]

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38 2026-201, ¶17:

> … to help ensure transparency, predictability, and fiscal accountability, the Commission is implementing a policy of limiting costs applications to $75,000 per applicant, per proceeding, applicable to all costs applications filed with the Commission after the date of this regulatory policy.
> ….

39 *Ibid.*, ¶18.

a) No facts about number of cost awards reviewed by CRTC

40. The CRTC's decision does not state how many or which cost awards it considered to reach this conclusion, meaning that affected parties cannot independently verify the CRTC's results. Nor is it clear to which 'review of the rates' 2026-201 refers, since the CRTC's 2010 'review' did not purport to review and change the rates that the Commission *had* reviewed and *had* changed in 2007.

b) Years from which $75,000 data drawn

41. As the CRTC's decision does not state the awards it reviewed, it is unknown whether the CRTC controlled for the effects of inflation. 2026-201 states, however, that the CRTC had determined that rates should be increased by 45.44% to account for the impact of inflation.

42. If the CRTC did not consider the impact of inflation when reviewing its previous cost awards, a cost award of $75,000 granted in 2010 would amount to $109,080 in 2025 dollars.[40]

c) Cost awards - not applications – were reviewed

43. Even if the CRTC's decision justified a $75,000 cap – and PIAC and FRPC disagree that it does – the CRTC's decision states that it did not review applications for costs that are the focus of the cap, but instead reviewed the costs it awarded: as the CRTC has the discretion to change and has decreased costs in the past, cost awards may differ to an unknown degree from cost applications. 2026-201 does not explain its decision to review the costs it awarded rather than the costs applicants sought. It is therefore unknown how many cost applicants actually applied for costs of $75,000 or more.

d) CRTC review of cost awards based on $50,000 threshold – not $75,000 cap

44. Even if 2026-201 were correct to review costs awarded rather than costs applied for, the CRTC's decision did not review cost awards of $75,000 or more. Instead, it assessed costs awarded which were less than $50,000. The decision does not explain why it assessed costs in terms of $50,000 instead of $75,000.

e) No facts about which applicants' cost awards reviewed

45. Even if the CRTC explained its reference to $50,000 or its choice of $75,000, the CRTC's decision does not provide any facts about the impact of its cap on cost applicants.

46. Knowing which cost applicants would have been affected by the 2026-201 in the past is relevant because the decision does not provide facts regarding the impact of its cap on encouraging "the broadest, most diverse range of participants" to participate in the CRTC's proceedings.

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40 A cost award of $50,000 in 2010 would amount to $72,720 in 2025 dollars.

47. The absence of facts about the participants that would have been affected by this cap in the proceedings the CRTC reviewed means it is impossible to evaluate how 2026-201 will meet the CRTC objective stated in 2025-94, of encouraging "the broadest, most diverse range of participants in its proceedings".

48. The Commission erred in law by failing to apply section 47 of the *Telecommunications Act* and the relevant provisions of Cabinet's 2023 Policy Direction by not considering how the restrictions now established by 2026-201 affect consumer interests through reduced effective consumer participation.

2. Ignoring AI unfairly penalizes those relying on professionals providing services

49. 2026-201 does not provide any information about the use of large-language learning models (LLMs) or generative AI in the CRTC's proceedings. The CRTC's telecom costs forms currently do not ask whether applicants or any of the persons on whose behalf they are filing applications for costs have relied on AI in making their submissions. Legal counsel practising in Ontario, though, may only "pass on generative AI usage costs to clients" if such costs are "disclosed to the client in a timely fashion" and are billed at "actual cost rather than [at] an estimated cost".[41]

50. In other words, 2026-201 does not distinguish between high costs resulting from the use of specialists such as lawyers, experts and consultants, and lower costs resulting from the use of generative AI. It is not enough – if the CRTC's silence in 2026-201 about AI so implies – to say that applicants should have the option of disclosing their reliance on AI: that simply triggers a race to the bottom in which the CRTC deems 'actual' costs of human legal and other specialists' services excessive in relation to the 2026-201 cap, while ignoring the possibility that other parties may be submitting generative-AI work as their own without disclosing the cost of that work or the fact that they are not, in fact, seeking reimbursement of the costs of *their* work but of material generated by AI.

51. The absence of the facts noted above means that the CRTC's decision has not provided adequate reasons for establishing the per-applicant cap.

C. Error of law: 2026-201 focused on intervention period – an undefined term

52. 2026-201 states that applicants may apply for "pre-approval" for costs above $75,000 in proceedings "initiated by a notice of consultation that sets an intervention period of 90 days or more".[42]

53. The CRTC's decision does not define "intervention period" and this term is also not defined by

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41 Law Society of Ontario, *Generative AI: Your professional obligations*, (10 April 2024), Section 5 ("Duty to charge reasonable fees and disbursements), at p. 6.

42 *Ibid*., ¶18.

the *Telecommunications Act* or the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*.

54. As noted previously, 2026-201 does not state which or how many of the notices of consultation that it published since 2010 it reviewed.

55. 2026-201 does not state how many of these notices of consultations set intervention periods of 89 days or longer – and it does not state whether the duration of intervention periods correlates with individual applicants' costs, whether as they applied for them or as the CRTC approved them.

56. If the CRTC's new cap-based limit is based solely on intervention deadlines, public- and consumer-interest organizations in the CRTC's consultations will be unable apply for pre-approval of their costs with respect to "replies", to responses to requests for information "RFIs", to hearing submissions and to final submissions. As the First Mile Connectivity Consortium pointed out in its intervention (¶32),

> Total time and effort required can be difficult to predict, as proceedings often require comments, reply comments, final comments and requests by the Commission for additional responses or extended proceedings. Detailed information about whether these stages of participation are taking place and what the deadlines are not always included in initial Notices of Consultation, making it difficult for applicants to plan ahead. These phases also require varying amounts of time and effort for interveners.

57. The absence of facts in the CRTC's decision makes it impossible to evaluate the reasons for its decision to choose a 90-day 'intervention period' as a cut-off threshold.

58. The Commission committed an error of law by failing to define a term that is not defined in its enabling statutes, in the *Interpretation Act* or in the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*

D. Errors of law and fact: CRTC says changes yield little administrative burden yet 2026-201 lacks facts about administrative burden

59. 2026-201 states that cost applicant may use the CRTC's existing forms and criteria to submit applications about which potential cost payors may then object. [43]

60. It then states that "[a]pplying for pre-approval will not impose a significant administrative

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[43] *Ibid.*, ¶19

> Applying for pre-approval will not impose a significant administrative burden because it will rely on the same forms and criteria that are already required for final costs awards. Costs applicants will need to file their pre-approval applications as soon as possible and generally no later than 30 days after the notice of consultation is published. This will ensure that potential costs respondents have 10 days to comment, and the Commission can consider the pre-approval application within a reasonable timeframe before the intervention deadline.

burden because it will rely on the same forms and criteria that are already required for final costs awards."[44]

61. The CRTC's decision does not, however, set out any facts describing the resources that public- and consumer-interest organizations allocated to completing and submitting cost applications to the CRTC from 2010 to 2026 and does not set out any estimates of the additional time that applying for pre-approval will require from cost applicants or potential cost respondents.

62. The CRTC's decision not provide facts explaining how a process that doubles the number of forms that parties must either complete or evaluate within the same proceeding will take the same time that a process based on completing or evaluating half the number of forms currently takes.

63. PIAC and FRPC submit that the Commission committed an error in fact when it determined that submitting existing forms to meet the Commission's criteria would mean that pre-approval imposes no significant administrative burden, as 2026-201 does not adequately take into account the additional work required to prepare advance cost estimates, seek approval and later to substantiate actual expenditures against the approved plan.

1. 2026-201 claims costs will be proportionate to complexity, yet no facts provided

64. 2026-201 states that pre-approval "will help ensure that the cost and effort associated with submissions are proportionate to the scope and complexity of the proceeding".[45]

65. The CRTC's decision does not, however, set out any facts about the numbers of cost applications in which the applicants' submissions were disproportionate to the scope and complexity of the proceedings to which the applications apply. The absence of these facts makes it impossible to evaluate the degree to which the pre-approval process established by 2026-201 will render costs and efforts more, less or equally proportionate to any proceeding's scope and complexity.

2. 2026-201 says new process provides greater certainty, yet no facts provided

66. 2026-201 states that pre-approval "will provide greater costs certainty to public interest groups and costs respondents earlier in the proceeding".[46]

67. 2026-201 does not define what it means by "certainty" in the context of cost applications.

68. If certainty refers to when applicants will learn if their applications have been granted, denied, or denied in part, the CRTC's decision does not state any facts about the decisions it makes about costs, such as the minimum, average and median days from the dates when applicants

44 *Ibid.*, ¶19.
45 *Ibid.*, ¶18.
46 *Ibid.*, ¶18.

submit their cost applications to the CRTC to the date when the CRTC renders decisions with reasons.

IV. Relief sought

69. In 2004 the Federal Court of Appeal held in the context of a challenge as to rates applicable to certain conduit types that the CRTC not only may, but ought to review decisions that are fundamentally flowed. Specifically,

> … the CRTC has jurisdiction, when so requested by an aggrieved party, to entertain an allegation that, as a result of an earlier decision, services and charge rates have become unjust and unreasonable. There is also no doubt in my respectful view that it has implied as well as express powers to recognize and acknowledge that a previous decision, in whole or in part, is a nullity and proceed to take appropriate corrective measures. Indeed, the legislative scheme governing the CRTC imposes upon it a duty to do so and confers to it broad powers to allow it to fulfill that duty.[47]

70. PIAC and FRPC ask the Commission to review TRP 2026-201 to determine whether, as published by the Commission on 7 August 2026[48] the decision is a nullity due to the absence of facts and reasons to support its decisions regarding

a. the choice of year on which to base an estimate of the value in costs lost due to inflation
b. the $75,000 costs cap whose impact and rationale for selection are unknown
c. the use of an undefined term – 'intervention period' – on which pre-approval of costs estimated to exceed $75,000 will depend, and
d. the conclusion that the changes established in BTNoC 2025-94 will result in little administrative burden.

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47 *TELUS Communications Inc. v. Canada (Radio-television and Telecommunications Commission)* (F.C.A.), 2004 FCA 365 (CanLII), [2005] 2 FCR 388, at ¶48.

48 Not as it was then subsequently amended without notice with respect to at least one error in the original decision.