

Federal Court



Cour fédérale

Date: 20110307

Docket: T-26-10

Citation: 2011 FC 267

Toronto, Ontario, March 7, 2011

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

PUBLIC MOBILE INC.

Applicant

and

**ATTORNEY GENERAL OF CANADA,
GLOBALIVE WIRELESS MANAGEMENT
CORP., BELL CANADA, ROGERS
COMMUNICATIONS INC., SHAW
COMMUNICATIONS INC., AND TELUS
COMMUNICATIONS COMPANY**

Respondents

and

**ALLIANCE OF CANADIAN CINEMA,
TELEVISION AND RADIO ARTISTS,
COMMUNICATIONS, ENERGY AND
PAPERWORKERS UNION OF CANADA, AND
FRIENDS OF CANADIAN BROADCASTING**

Intervenors

REASONS FOR ORDER AND ORDER AS TO COSTS

[1] In my Reasons released February 4, 2011 (2011 FC 130) I invited the parties to make submissions as to costs. I have now received those submissions.

[2] The Respondent, Telus Communications Company, submitted that it would bear its own costs; therefore no costs will be awarded for or against Telus.

[3] Counsel for the Applicant, Public Mobile Inc., by an e-mail to the Court sent February 25, 2011, advised that the Applicant, Public Mobile Inc., the Respondents, Attorney General of Canada and Globalive Wireless Management Corp. have agreed that the Applicant, Public Mobile Inc. should recover its costs from the Attorney General of Canada and Globalive Wireless Management Corp. on a scale being the high end of Column IV, including a second counsel fee, and that quantification should be deferred until the disposition of all appeals. I agree with this submission and will make an Order to that effect.

ORDER

THEREFORE, THIS COURT ORDERS that further to the Judgment dated February 4, 2011 herein:

1. No costs shall be awarded for or against the Respondent, Telus Communications Company;
2. The Applicant, Public Mobile Inc. is entitled to recover costs, including disbursements, from the Respondents, the Attorney General of Canada and Globalive Wireless Management Corp. to be assessed at the high end of Column IV. The quantification of such costs, if then required, shall be deferred until after the final disposition of all appeals.

“Roger T. Hughes”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-26-10

STYLE OF CAUSE: PUBLIC MOBILE INC. v. ATTORNEY GENERAL OF CANADA, GLOBALIVE WIRELESS MANAGEMENT CORP., BELL CANADA, ROGERS COMMUNICATIONS INC., SHAW COMMUNICATIONS INC., AND TELUS COMMUNICATIONS COMPANY v. ALLIANCE OF CANADIAN CINEMA, TELEVISION AND RADIO ARTISTS, COMMUNICATIONS, ENERGY AND PAPERWORKERS UNION OF CANADA, AND FRIENDS OF CANADIAN BROADCASTING

PLACE OF HEARING: Ottawa, Ontario

DATES OF HEARING: January 19 & 20, 2011

REASONS FOR ORDER AND ORDER AS TO COSTS BY: HUGHES J.

DATED: March 7, 2011

APPEARANCES:

John B. Laskin
Torys LLP, Toronto, ON

FOR THE APPLICANT

Michael H. Ryan
Arnold & Porter LLP
London, England

Robert MacKinnon
Alexander Gay

FOR THE RESPONDENT (Attorney General of
Canada)

Thomas G. Heintzman QC
Malcolm M. Mercer
Anna Matas

FOR THE RESPONDENT (Globalive Wireless
Management Corp.)

Kenneth Jull
Stephen Schmidt

FOR THE RESPONDENT (Telus Communications
Company)

Steven Shrybman

FOR THE INTERVENERS

SOLICITORS OF RECORD:

Dougald E. Brown
Nelligan O'Brien Payne LLP
Barristers & Solicitors
Ottawa, Ontario

FOR THE APPLICANT

Myles J. Kirvan
Deputy Attorney General of Canada
Ottawa, Ontario

FOR THE RESPONDENT (Attorney General of
Canada)

McCarthy Tetrault LLP
Barristers & Solicitors
Toronto, Ontario

FOR THE RESPONDENT (Globalive Wireless
Management Corp.)

Stephen Schmidt
Chief Regulatory Legal Counsel
Telus Communications Company
Ottawa, Ontario

FOR THE RESPONDENT (Telus Communications
Company)

Sack Goldblatt Mitchell LLP
Barristers & Solicitors
Ottawa, Ontario

FOR THE INTERVENERS