



Broadcasting Decision CRTC 2009-624

Route reference: 2009-180

Ottawa, 7 October 2009

Newcap Inc.
Thunder Bay, Ontario

Application 2009-0450-0, received 5 March 2009

CJUK-FM Thunder Bay – Technical change

*The Commission **approves** an application to change the authorized contours of CJUK-FM Thunder Bay, by increasing the effective radiated power from 37 watts to 250 watts.*

Introduction

1. The Commission received an application by Newcap Inc. (Newcap) to change the authorized contours of the English-language commercial radio programming undertaking CJUK-FM Thunder Bay, by increasing the effective radiated power (ERP) from 37 watts to 250 watts. The proposed increase in power would result in a change of CJUK-FM's status from a low-power unprotected service to a protected Class A1 station. All other technical parameters would remain unchanged.
2. Newcap stated that it is seeking to rectify technical deficiencies in CJUK-FM's signal and, in particular, to improve its reception within buildings. The applicant affirmed that approval of the application would not expand CJUK-FM's coverage outside Thunder Bay.
3. As part of this process, the Commission received an opposing intervention filed jointly by C.J.S.D. Incorporated (CJSD) and Northwest Broadcasting Inc. (Northwest). CJSD is the licensee CJSD-FM and CKPR-FM Thunder Bay. Northwest is the licensee of CFQK-FM, a low-power FM station serving Kaministiquia, Ontario, which is located 35 kilometres from Thunder Bay. The intervention and the applicant's reply to the intervention can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

4. After examining the application in light of applicable regulations and policies and taking into account the intervention received and the applicant's reply, the Commission finds that the primary issue to be addressed in its determinations relates to whether it is appropriate to permit CJUK-FM to implement a technical change that would change its status from that of a low-power unprotected FM station to that of a regular

Class A1 FM station.¹

5. The Commission expects that, when the licensee of a low-power radio station files an application to change its operating class to that of a higher-powered, protected station, it should present compelling economic or technical evidence that its authorized technical parameters are not adequate to provide the service as originally proposed. In evaluating such applications, the Commission also considers the impact that the proposed technical change would have on the radio market in question.
6. The opposing interveners argued that the present application is basically a duplication of an earlier request for a power increase by the previous owner of CJUK-FM, which was denied in *CJUK-FM Thunder Bay – Technical Change*, Broadcasting Decision CRTC 2003-497, 7 October 2003 (Broadcasting Decision 2003-497). The interveners further contended that the present application constitutes a “back-door” attempt by Newcap to acquire Class A1 protected status for CJUK-FM.
7. In its response to the intervention, Newcap provided a contour map prepared by an engineering firm demonstrating that CJUK-FM’s existing 3 mV/m contour encompasses only 20% of the Thunder Bay radio market. The engineering analysis also revealed reception problem areas within CJUK-FM’s existing 3 mV/m contour. In addition, Newcap pointed out that the application denied in Broadcasting Decision 2003-497 proposed an increase in power from 37 watts to 15,000 watts, which is substantially greater than what is requested in the present application.
8. The Commission’s analysis of CJUK-FM’s current theoretical contours confirms that the 3 mV/m contour does not fully encompass the Thunder Bay radio market and supports Newcap’s argument of in-building reception problems particularly in the old Port Arthur urban area of Thunder Bay. Further, the Commission’s technical analysis reveals that, if Newcap’s present application were approved, coverage of CJUK-FM’s 3 mV/m contour would remain limited to a portion of the City of Thunder Bay. The Commission therefore considers that the goal of Newcap’s application is not to obtain Class A1 protected status for CJUK-FM through a “back door” approach.
9. The Commission considers that Newcap has provided compelling evidence that CJUK-FM’s authorized technical parameters are not adequate to provide satisfactory service within its 3 mV/m contour and, in particular, to the old Port Arthur urban area of the City of Thunder Bay. In the Commission’s view, the limitations of CJUK-FM’s current coverage area could have a substantial negative impact on its long-term financial viability. Moreover, the Commission considers that the power increase requested by Newcap is not excessive or unreasonable given that CJUK-FM’s 3 mV/m contour will remain limited to the City of Thunder Bay. Finally, the Commission is satisfied that approval of the proposed technical change will not have an undue negative impact on incumbent stations in the Thunder Bay radio market.

¹ According to the Department of Industry’s regulations, the licensee of a low-power radio station - that is; a licensee operating a station with an ERP of 50 watts or less - must select another frequency if the Department so requires.

10. In light of the above, the Commission **approves** the application by Newcap Inc. to change the authorized contours of the English-language commercial radio programming undertaking CJUK-FM Thunder Bay, by increasing the ERP from 37 watts to 250 watts.
11. The Department of Industry (the Department) has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
12. The Commission reminds the licensee that, pursuant to section 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>.