



Broadcasting Decision CRTC 2013-588

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Route reference: Part 1 applications posted on 16 January 2013

Ottawa, 1 November 2013

Rock 95 Broadcasting Ltd.

Toronto, Ontario

Erin Community Radio

Erin, Ontario

La Clé d'la Baie en Huronie, Association culturelle francophone

Penetanguishene, Ontario

Applications 2013-0019-4, 2013-0024-3 and 2013-0026-9

CIND-FM Toronto, CHES-FM Erin and CFRH-FM Penetanguishene – Technical changes and new transmitter

*The Commission **approves** the following:*

- *an application by Rock 95 Broadcasting Ltd. to increase the average effective radiated power (ERP) of the English-language commercial radio station CIND-FM Toronto, Ontario from 532 to 2,100 watts (maximum ERP increasing from 875 watts to 4,000 watts) and to decrease the effective height of antenna above average terrain (EHAAT) from 328.4 to 281 metres;*
- *an application by Erin Community Radio to increase the average ERP of the English-language community radio station CHES-FM Erin, Ontario from 125 to 570 watts (maximum ERP increasing from 250 to 1,250 watts); and*
- *an application by La Clé d'la Baie en Huronie, Association culturelle francophone to add a rebroadcasting transmitter in Barrie for the French-language community radio station CFRH-FM Penetanguishene, Ontario. The transmitter will operate at 106.7 MHz (channel 294A1) with an ERP of 175 watts (non-directional antenna with an EHAAT of 85.5 metres).*

The Commission considers that approval of the applications will result in improved service to the applicants' respective markets as well as to the French-language official language minority community in Barrie. It further considers that the technical changes make appropriate use of the FM radio spectrum and will not have an undue negative financial impact on incumbent stations in the affected markets.

The applications

1. Rock 95 Broadcasting Ltd. (Rock 95), Erin Community Radio, and La Clé d'la Baie en Huronie, Association culturelle francophone (La Clé d'la Baie) filed applications that are the result of negotiations between the applicants with the aim of improving the technical coverage of their respective stations. Since the applicants' radio stations all operate on frequency 88.1 MHz, the applications are related on a technical basis. The Commission has therefore considered them together.
2. Rock 95's application relates to the broadcasting licence for the English-language commercial radio station CIND-FM Toronto, Ontario.¹ Rock 95 proposed to increase CIND-FM's average effective radiated power (ERP) from 532 to 2,100 watts (maximum ERP increasing from 875 watts to 4,000 watts) and to decrease the effective height of antenna above average terrain (EHAAT) from 328.4 to 281 metres.
3. Erin Community Radio's application relates to the broadcasting licence for the English-language community FM station CHES-FM Erin, Ontario. The licensee proposed to increase CHES-FM's average ERP from 125 to 570 watts (maximum ERP increasing from 250 to 1,250 watts).
4. La Clé d'la Baie's application relates to the broadcasting licence for the French-language community radio station CFRH-FM Penetanguishene, Ontario. La Clé d'la Baie proposed to amend CFRH-FM's broadcasting licence by adding a rebroadcasting transmitter to serve Barrie. The transmitter would operate at 106.7 MHz (channel 294A1) with an ERP of 175 watts (non-directional antenna with an EHAAT of 85.5 metres).

Interventions

5. The Commission received interventions in support of each of these applications.
6. The Commission also received an intervention concerning the application by Rock 95 from the Province of Ontario related to the participation of CIND-FM in the National Public Alerting System (NPAS). The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
7. As specified in its three-year plan, the Commission will be looking at measures to ensure the participation of Canadian broadcasters and telecommunications service providers in the NPAS. Therefore, the Commission will not impose conditions of licence requiring the participation of broadcasters in the NPAS at this time. However, the Commission expects all licensees to voluntarily participate in the NPAS so that Canadians receive timely warnings of imminent perils.

Commission's analysis and decisions

¹ CIND-FM is the call sign for the new commercial FM station in Toronto that the Commission approved in Broadcasting Decision 2012-485.

Regulatory framework

8. When a licensee files an application for a change to its authorized technical parameters, the Commission expects the licensee to present compelling technical or economic evidence that its existing parameters are not adequate to provide the service as originally proposed. The Commission also examines whether changes in technical parameters would have an undue negative impact on other stations.

Rock 95

9. Rock 95 submitted that the changes proposed in the current application would improve CIND-FM's service for Toronto listeners, many of whom live in reinforced concrete buildings. It argued that the current parameters for CIND-FM are limited due to the need to provide protection to adjacent stations, and that CIND-FM's coverage would encompass only a quarter of the population of the Toronto Census Metropolitan Area (CMA). Rock 95 further submitted that CIND-FM's current power levels covering half of Toronto are less than 315 watts.
10. Signal penetration in buildings is directly related to a station's signal strength. The Commission is therefore of the view that the licensee has legitimate concerns regarding reception of CIND-FM in reinforced concrete buildings. The Commission further notes that the licensee's existing contours cover only a portion of the market that CIND-FM was licensed to serve.
11. In light of the above, the Commission finds that Rock 95 has demonstrated a compelling technical need for the proposed amendment. The Commission is of the view that the increase in CIND-FM's coverage will result primarily in improved reception within its licensed service area and that the increase will not impact the availability of frequencies in adjacent markets.
12. Given the overall health of the Toronto radio market and in the absence of opposing interventions, the Commission considers that the proposed technical change would not have an undue negative impact on other stations serving Toronto.

Erin Community Radio

13. In Broadcasting Decision 2010-383, the Commission approved an application by Erin Community Radio to amend CHES-FM's technical parameters to improve the station's service to the Town of Erin. However, the technical parameters were limited by the need to protect the signal of CKLN-FM Toronto, operating on frequency 88.1 MHz. The Commission revoked CKLN-FM's licence in Broadcasting Decision 2011-56.
14. In its present application, Erin Community Radio submitted that CHES-FM's current 3 mV/m contour encompasses less than 40% of the Town of Erin. It further stated that many residents in outlying portions of the community are not able to receive the station's signal because of the hilly, rolling terrain of the Niagara Escarpment. Erin Community Radio also indicated that approval of the application is necessary to ensure CHES-FM's financial viability.

15. The Commission agrees that the service that CHES-FM provides to the Town of Erin and surrounding area under its current technical parameters is limited. The Commission is of the view that the proposed amendment would improve CHES-FM's service to the area that it is licensed to serve and mitigate the increased interference that would result from Rock 95's proposal for CIND-FM. Accordingly, the Commission finds that Erin Community Radio has demonstrated a compelling technical need for its proposed amendment, that its proposal provides an appropriate technical solution, and that the power increase will not impact the availability of frequencies in adjacent markets.
16. CHES-FM currently depends heavily on government grants for its revenues, which have varied significantly in recent years. Erin Community Radio indicated that it expects that its advertising revenues would grow substantially if its application were approved. In the Commission's view, approval of Erin Community Radio's application will serve to improve CHES-FM's financial viability and permit it to maintain a consistent level of service to its listeners. Accordingly, the Commission considers that Erin Community Radio has demonstrated a compelling economic need for its proposed amendment.
17. Given the nature of the service that the station provides, the absence of opposing interventions and the relatively limited number of additional listeners who would receive CHES-FM under the proposal, the Commission is of the view that approval of Erin Community Radio's application would not have an undue negative impact on other stations serving the market.

La Clé d'la Baie

18. In Broadcasting Decision 2005-424, the Commission approved an application to change CFRH-FM's authorized contours in order to improve service to Barrie, Borden and Angus, Ontario. However, La Clé d'la Baie was not able to extend CFRH-FM's 3 mV/m service contour to cover Barrie because CFRH-FM's signal would have then interfered with the signals of other stations. In the present application, La Clé d'la Baie stated that a new transmitter in Barrie, which would operate on a different frequency, would permit it to improve service to the urban French-language official language minority community (OLMC) of Barrie and surrounding areas, and would mitigate the additional interference incurred by Rock 95's proposal for CIND-FM. La Clé d'la Baie further submitted that CFRH-FM faces financial challenges and is operating at a loss.
19. The Commission finds that La Clé d'la Baie has demonstrated a compelling technical need to improve the signal that it provides to the Barrie OLMC and that a rebroadcasting transmitter is an appropriate solution for providing service to that community. The Commission also considers that the requested frequency is not the last available frequency to serve Barrie.
20. In light of financial projections provided by La Clé d'la Baie, the Commission is of the view that approval of the application would serve to improve CFRH-FM's difficult financial situation. Accordingly, the Commission considers that La Clé d'la Baie has demonstrated a compelling economic need for the proposed amendment.

21. Given that the station serves Barrie's relatively small French-language OLMC, and the absence of opposing interventions, the Commission finds that approval of the application would not result in an undue negative impact on other stations serving the market.

Conclusion

22. The Commission considers that approval of the applications by Rock 95, Erin Community Radio and La Clé d'la Baie would result in improved service to the applicants' respective markets as well as to the French-language OLMC in Barrie. It further considers that the proposed technical changes would make appropriate use of the FM radio spectrum and not have an undue negative financial impact on existing stations in the affected markets.

23. In light of the above the Commission **approves**:

- the application by Rock 95 Broadcasting Ltd. to increase the average ERP of the English-language commercial radio programming undertaking CIND-FM Toronto, Ontario from 532 to 2,100 watts (maximum ERP increasing from 875 watts to 4,000 watts) and to decrease the antenna's EHAAT from 328.4 to 281 metres;
- the application by Erin Community Radio to increase the average ERP of the English-language community radio programming undertaking CHES-FM Erin, Ontario from 125 to 570 watts (maximum ERP increasing from 250 to 1,250 watts); and
- the application by La Clé d'la Baie en Huronie, Association culturelle francophone to add a rebroadcasting transmitter for the French-language community radio programming undertaking CFRH-FM Penetanguishene to serve Barrie. The transmitter will operate at 106.7 MHz (channel 294A1) with an ERP of 175 watts (non-directional antenna with an EHAAT of 85.5 metres).

24. The Commission reminds the applicants that, pursuant to section 22(1) of the *Broadcasting Act*, the authorities granted in this decision will only be effective when the Department of Industry notifies the Commission that its technical requirements have been met and that broadcasting certificates will be issued.

25. La Clé d'la Baie's new transmitter must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before **1 November 2015**. In order to ensure that such a request is processed in a timely manner, it should be submitted in writing at least 60 days before that date.

Secretary General

Related documents

- *Licensing of a new radio station to serve Toronto*, Broadcasting Decision CRTC 2012-485, 11 September 2012

- *CKLN-FM Toronto – Revocation of licence*, Broadcasting Decision CRTC 2011-56, 28 January 2011
- *CHES-FM Erin – Technical change*, Broadcasting Decision CRTC 2010-383, 16 June 2010
- *CFRH-FM Penetanguishene – Technical change*, Broadcasting Decision CRTC 2005-424, 18 August 2005

**This decision is to be appended to each licence.*