



## Broadcasting Decision CRTC 2005-500

Ottawa, 18 October 2005

**BEA-VER Communications Inc.**  
Chatham and Windsor, Ontario

*Application 2005-0007-6*  
*Broadcasting Public Notice CRTC 2005-56*  
*7 June 2005*

### **CKUE-FM Chatham and its transmitter CKUE-FM-1 Windsor – Technical changes**

*The Commission **approves** an application to change the authorized contours of CKUE-FM Chatham and its transmitter CKUE-FM-1 Windsor, by decreasing the effective radiated power (ERP) of CKUE-FM from 42,000 watts to an average ERP of 36,400 watts and by decreasing the antenna height, and by increasing the average ERP of CKUE-FM-1 from 400 watts to 1,950 watts and by increasing the antenna height.*

#### **The application**

1. The Commission received an application by BEA-VER Communications Inc. (BEA-VER) to change the authorized contours of the radio programming undertaking CKUE-FM Chatham, by decreasing the effective radiated power (ERP) from 42,000 watts to an average ERP of 36,400 watts, and by decreasing the antenna height. The licensee also proposed to change the authorized contours of CKUE-FM's transmitter CKUE-FM-1 Windsor, by increasing the average ERP from 400 watts to 2,870 watts and by increasing the antenna height.

#### **Background**

2. Windsor is located about 67 kilometres from Chatham. The population of the Windsor central market area is about 2.9 times larger than that of the city of Chatham-Kent.
3. In *CKUE-FM Chatham – New transmitter in Windsor*, Broadcasting Decision CRTC 2003-603, 17 December 2003 (Decision 2003-603), the Commission approved an application by BEA-VER to add a synchronous transmitter of CKUE-FM in Windsor; that is, a transmitter that operates at the same 95.1 MHz frequency as CKUE-FM's main transmitter in Chatham. CKUE-FM-1 Windsor began operation in late 2004.
4. In Decision 2003-603, the Commission noted BEA-VER's statement that with the addition of a transmitter in Windsor "CKUE-FM would provide a regional service that would be attractive to residents of Windsor and Chatham, who share common interests and often commute between the two cities."

### **Licensee's rationale for the present application**

5. In support of its present application, BEA-VER submitted that CKUE-FM-1 is subject to considerable interference in Windsor from U.S. radio stations operating in the adjacent city of Detroit, Michigan, and from CKUE-FM's Chatham transmitter. BEA-VER argued that the effect of the two sources of interference allows CKUE-FM-1 to provide an interference-free signal to only a small portion of Windsor. BEA-VER claimed that "a total of 6,400 persons currently live in the CKUE-FM secondary coverage zone receiving interference from CKUE-FM-1", and "a total of 109,000 persons currently live in the CKUE-FM-1 secondary coverage zone receiving interference from CKUE-FM."
6. BEA-VER stated that the purpose of the proposed technical changes is to reduce CKUE-FM Chatham's signal strength towards Windsor, and, with the use of a directional antenna, to permit CKUE-FM's synchronous transmitter, CKUE-FM-1 Windsor, to provide improved coverage to the east and southeast. According to BEA-VER, approval of the application would reduce the amount of interference that currently exists between the two transmitters and enable the station to optimize its regional coverage.
7. BEA-VER confirmed that it would maintain CKUE-FM's current programming orientation and continue to provide a regional service that would address the particular needs and interests of the residents of both Chatham and Windsor. The licensee also stated that it would continue to abide by the commitments it made in connection with its application approved in Decision 2003-603. Specifically, BEA-VER stated that it would continue to broadcast a minimum of 84 hours of local programming in each broadcast week, of which 42 hours would be produced in its studios in Chatham and 42 hours would be produced in its studios in Windsor. Five programming and news staff would continue to be located in Chatham and two programming staff and two news staff would continue to be located in Windsor. The station's local advertising would continue to be produced in Chatham.

### **Intervention**

8. The Commission received an intervention by CHUM Limited (CHUM) in opposition to this application. CHUM owns all four commercial radio stations that currently serve Windsor. Of CHUM's two AM radio stations serving Windsor, CKWW offers an adult standard music format and CKLW broadcasts news and information. With respect to CHUM's FM radio stations serving Windsor, CIMX-FM offers a modern/alternative rock music format while CIDR-FM broadcasts an adult contemporary/jazz/urban contemporary music format.

9. CHUM submitted that approval of BEA-VER's application would have a negative impact on the intervener's four Windsor radio stations, which operate under special conditions given the unique circumstances of the Windsor market<sup>1</sup>. According to CHUM, CKUE-FM has captured significant tuning in the Windsor market since the implementation of its Windsor transmitter, CKUE-FM-1. CHUM expressed concern that, if granted the technical changes requested in this application, BEA-VER would orient CKUE-FM more to the Windsor market at the expense of coverage to Chatham and the surrounding area.

#### **Licensee's reply**

10. In response, BEA-VER noted that, while CHUM's Windsor radio stations generate most of their revenues from the Detroit market, CKUE-FM and its transmitter CKUE-FM-1 are not receivable in Detroit. BEA-VER submitted that, since it cannot compete for revenues from the Detroit market, approval of this application would not have a significant negative financial impact on CHUM's Windsor radio stations.
11. BEA-VER reiterated that the proposed technical changes would enable it to provide service to areas in Windsor currently experiencing interference that make CKUE-FM-1 difficult to receive. The licensee also reaffirmed that it would not change CKUE-FM's programming orientation.

#### **Commission's analysis and determinations**

12. The Commission notes that the technical changes proposed by BEA-VER are in accordance with the Department of Industry's (the Department) revised *Broadcasting Procedures and Rules, Part 3*, as it addresses short spacing limitations pertaining to FM radio stations. In its evaluation of this application, the Commission has considered the impact that the proposed technical changes would have on CHUM's four radio stations serving the Windsor market as well as the impact on CKUE-FM's service to Chatham and surrounding area.

#### **Impact on CHUM's Windsor radio stations**

13. The Commission notes that 53% of tuning in the Windsor radio market is to out-of-market radio stations, primarily those situated in Detroit. In Decision 2003-603, the Commission stated that it considered that CKUE-FM would compete most directly with Detroit classic rock radio stations rather than with Windsor commercial radio stations because the classic rock format broadcast by CKUE-FM was not offered by any of Windsor's commercial radio stations. In the Commission's view, that is still the case.

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<sup>1</sup> In *Windsor Radio Review*, Public Notice CRTC 1984-233, 25 September 1984, and in subsequent decisions related to Windsor, the Commission acknowledged the special circumstances of Windsor radio licensees, who compete with the many radio signals emanating from the adjacent city of Detroit, Michigan, one of the largest radio markets in the U.S. Given the particular difficulties facing private FM radio broadcasters in Windsor, the Commission has taken an extraordinarily flexible approach in the regulation of FM radio stations in that city.

14. With respect to CHUM's contention that CKUE-FM has captured significant tuning in the Windsor market since the launch of CKUE-FM-1 in late 2004, the Commission notes that, according to the Bureau of Broadcast Measurement's (BBM) data for Spring 2005, CKUE-FM received a 2% share of all tuning by listeners over 12 years of age in the Windsor radio market. BBM's data for Spring 2005 indicate that CHUM's four stations together received a 37% combined share of tuning in the Windsor radio market by listeners over 12 years of age. The Commission also notes that, on a consolidated basis, CHUM's four Windsor radio stations have enjoyed an above average level of profitability in each of the past five years, with the exception of 2003 when they were about equal to the national average.
15. Based on its analysis, the Commission considers that the effect of BEA-VER's proposed technical changes would be to increase the size of the population within CKUE-FM-1's service area by about 70%. Accordingly, the Commission estimates that the audience share and the amount of advertising revenues generated by CKUE-FM-1 in Windsor could increase proportionately. Nevertheless, given that more than half of tuning in the Windsor radio market is to out-of-market radio stations, the Commission anticipates that only a portion of the additional tuning and advertising revenues accruing to CKUE-FM-1 as a result of the proposed technical changes would come at the expense of CHUM's Windsor radio stations.
16. In light the above factors, the Commission is satisfied that approval of BEA-VER's application will not have an undue negative impact on either the listening audiences or the advertising revenues of CHUM's Windsor radio stations.

#### **Impact on service to Chatham**

17. The Commission considers that, while approval of the proposed technical changes will result in some loss in the coverage currently provided by CKUE-FM, there will be a significant improvement in the overall number of listeners who are able to receive the combined service of CKUE-FM and CKUE-FM-1 without interference.
18. The Commission notes BEA-VER's commitment to maintain CKUE-FM's current programming orientation and to continue to provide a regional service that addresses the particular needs and interests of the residents of both Chatham and Windsor. Five programming and news staff will be maintained in Chatham. Further, while most commercial radio stations are required to broadcast a minimum of 42 hours of local programming in each broadcast week that they seek to broadcast local advertising, CKUE-FM is subject to a condition of licence requiring that it refrain from soliciting or accepting local advertising for broadcast during any broadcast week when less than 84 hours of the programming aired is local, as defined in *Policies for local programming on commercial radio stations and advertising on campus stations*, Public Notice CRTC 1993-38, 19 April 1993.
19. The Commission also notes that BEA-VER operates two other local radio stations that provide service to Chatham and the surrounding area; namely, CFCO Chatham and CKSY-FM Chatham.

20. In light of the foregoing, the Commission is satisfied that CKUE-FM will continue to respond to the particular needs and interests of Chatham residents.

## Conclusion

21. The Commission concludes that, even though CKUE-FM's current technical parameters were approved less than two years ago, the proposed amendments are justified by the increase in the number of listeners in the Chatham/Windsor region who will be able to receive the combined service of CKUE-FM and CKUE-FM-1 without interference. Furthermore, in the Commission's view, approval of the present application is consistent with the objectives of Decision 2003-603.
22. Accordingly, the Commission **approves** the application by BEA-VER Communications Inc. to change the authorized contours of the radio programming undertaking CKUE-FM Chatham, by decreasing the ERP from 42,000 watts to an average ERP of 36,400 watts and by decreasing the antenna height, and to change the authorized contours of CKUE-FM-1 Windsor, by increasing the average ERP from 400 watts to 1,950 watts<sup>2</sup> and by increasing the antenna height.
23. The Department has advised the Commission that, while this application is conditionally technically acceptable, it will only issue broadcasting certificates when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
24. 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 broadcasting certificates 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>*

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<sup>2</sup> The Department of Industry has advised that CKUE-FM-1 Windsor will have an average effective radiated power of 1,950 watts rather than 2,850 watts, as had been indicated in Broadcasting Public Notice CRTC 2005-56, 7 June 2005.