



## Broadcasting Decision CRTC 2011-530

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Route references: 2011-314, 2011-314-2 and 2011-314-3

Ottawa, 26 August 2011

### **Norwesto Communications Ltd.**

Vermilion Bay, Dryden, Kenora and Sioux Lookout, Ontario

*Application 2010-1662-6, received 12 November 2010*

### **CKQV-FM Vermilion Bay – Licence renewal**

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CKQV-FM Vermilion Bay and its transmitters CKQV-FM-1 Dryden, CKQV-FM-2 Kenora and CKQV-FM-3 Sioux Lookout, from 1 September 2011 to 31 August 2015. This short-term licence renewal will enable the Commission to review, at an earlier date, the licensee's compliance with the Radio Regulations, 1986.*

#### **Introduction**

1. The Commission received an application by Norwesto Communications Ltd. (Norwesto) to renew the broadcasting licence for the English-language commercial radio programming undertaking CKQV-FM Vermilion Bay and its transmitters CKQV-FM-1 Dryden, CKQV-FM-2 Kenora and CKQV-FM-3 Sioux Lookout, which expires 31 August 2011.<sup>1</sup>
2. In Broadcasting Notice of Consultation 2011-314, the Commission stated that the licensee may have failed to comply with section 9(2) of the *Radio Regulations, 1986* (the Regulations), which relates to the filing of annual returns. As set out in section 9(2) of the Regulations, licensees are required to file, on or before 30 November of each year, their annual return for the broadcast year ending the previous 31 August. The Commission notes that for the following broadcast years, the licensee filed its annual returns late, on the dates indicated: 2004-2005: 21 April 2006; 2005-2006: 31 January 2007; 2006-2007: 21 May 2008; 2007-2008: 9 April 2009; 2008-2009: 9 February 2010; and 2009-2010: 21 April 2011.
3. The Commission received an intervention commenting on this application from Acadia Broadcasting Limited and its wholly owned subsidiary Northwoods Broadcasting Limited (Acadia/Northwoods). The intervention and the licensee's reply

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<sup>1</sup> This broadcasting licence was administratively renewed from 1 September 2010 to 30 November 2010 in Broadcasting Decision 2010-547, from 1 December 2010 to 31 March 2011 in Broadcasting Decision 2010-880, and from 1 April 2011 to 31 August 2011 in Broadcasting Decision 2011-166.

can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

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

4. After examining the application in light of applicable regulations and policies, the Commission considers that the issue to be addressed in its determinations is the licensee's non-compliance in regard to the filing of annual returns for the broadcast years noted in paragraph 2 above.
5. In its intervention, Acadia/Northwoods submitted that the licence for CKQV-FM should be renewed for a short-term period if the Commission determines that the licensee did not comply with section 9(2) of the Regulations relating to the filing of annual returns.
6. In its reply, Norwesto stated that the failure to submit annual returns by the prescribed deadline occurred as a result of the previous owner<sup>2</sup> not fully understanding the implications of filing late annual returns. It further stated that since it did not own or operate CKQV-FM at the time of the non-compliances, the licence for the station should be renewed for a full seven-year term. In addition, the licensee noted that, as the new owner and operator of the station, it has the experience and the proper mechanisms in place to ensure the timely filing of its annual returns.
7. The Commission notes that the repeated late filing of the annual returns in the range of two to five months for each broadcast year in question represents a serious non-compliance. While this late filing occurred under the previous licensee, the Commission continues to evaluate a station's past performance as part of the station's licence renewal. The Commission notes Norwesto's assurances that it has put in place procedures to ensure that the filing of annual returns will be made on or before 30 November of each year.

### **Conclusion**

8. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to dealing with radio stations found in non-compliance. The Commission noted in particular that each instance of non-compliance will be evaluated in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also noted that it will consider the circumstances leading to the non-compliance in question, the licensee's arguments and the measures taken to rectify the situation.

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<sup>2</sup> In Broadcasting Information Bulletin 2010-855, the Commission announced the approval of an application by Golden West Broadcasting Ltd. (Golden West), a corporation controlled by Elmer Hildebrand, for the transfer of shares and change of effective control of Norwesto to Golden West. This approval was granted on 25 August 2010.

9. In accordance with its revised practice regarding radio non-compliance set out in Broadcasting Information Bulletin 2011-347, the Commission finds it appropriate to renew the licence for this service for a five-year period, beginning from the original expiry date of 31 August 2010. Accordingly, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CKQV-FM Vermilion and its transmitters CKQV-FM-1 Dryden, CKQV-FM-2 Kenora and CKQV-FM-3 Sioux Lookout, from 1 September 2011 to 31 August 2015. This short-term licence renewal will allow the Commission to review, at an earlier date, the licensee's compliance with the Regulations. The licence will be subject to the **conditions of licence** set out in the appendix to this decision.

### **Tangible benefits flowing from the 2010 ownership transaction**

10. In its application for the above-noted change in effective control that was approved in Broadcasting Information Bulletin 2010-855, Golden West Broadcasting Ltd. (Golden West) proposed a tangible benefits package of \$89,966, representing 6% of the value of the transaction to be paid over a seven-year period. The Commission expects Golden West to honour its commitment to distribute the tangible benefits flowing from the 2010 ownership transaction as set out in its application.

### **Employment equity**

11. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

### **Related documents**

- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2011-314, 12 May 2011
- *Administrative renewal*, Broadcasting Decision CRTC 2011-166, 10 March 2011
- *Applications processed pursuant to streamlined procedures*, Broadcasting Information Bulletin CRTC 2010-855, 18 November 2010
- *Administrative renewals*, Broadcasting Decision CRTC 2010-880, 26 November 2010
- *Administrative renewals*, Broadcasting Decision CRTC 2010-547, 3 August 2010

*\*This decision is to be appended to the licence.*

## **Appendix to Broadcasting Decision CRTC 2011-530**

### **Conditions of licence**

1. The licence will be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. The licensee shall ensure that all programming broadcast on the rebroadcasting transmitters CKQV-FM-1 Dryden and CKQV-FM-2 Kenora is identical to the programming that originates from its Vermilion Bay studio and is broadcast on CKQV-FM Vermilion Bay.