



Broadcasting Decision CRTC 2012-654

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Ottawa, 29 November 2012

WhiStle Community Radio
Whitchurch-Stouffville, Ontario

Application 2011-1475-1

CIWS-FM Whitchurch-Stouffville – Technical change

The Commission denies an application by WhiStle Community Radio to change the authorized contours of the English-language community radio station CIWS-FM Whitchurch-Stouffville, Ontario.

The application

1. The Commission received an application by WhiStle Community Radio (WCR) to amend the authorized contours of the English-language community radio programming undertaking CIWS-FM Whitchurch-Stouffville, Ontario, by changing the class from LP to A, changing the antenna's radiation pattern from non-directional to directional, increasing the average effective radiated power (ERP) from 50 to 193 watts (maximum ERP from 50 to 675 watts) and increasing the antenna's effective height above average terrain from 12 to 138 metres.
2. WCR noted it had recently concluded an agreement with the Whitchurch-Stouffville fire department, the York Regional Police and Emergency Message Services to be the emergency broadcaster. The applicant submitted that the amendment was necessary for CIWS-FM to be able to serve the entire geographic area within the municipal boundaries of the town of Whitchurch-Stouffville and function as the emergency broadcaster in the event of emergency situations, including major power outages. WCR further submitted that the proposed technical change would enable that station to provide a better advertising venue for local businesses.

Interventions

3. The Commission received interventions in support of the application as well as a joint comment from Michel Mathieu and 8041393 Canada Inc., which concluded that WCR was justified in seeking the proposed technical changes. The Commission also received two interventions in opposition, one from Frank Rogers and one from Bhupinder Bola. The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

4. Both opposing interveners submitted that WCR is attempting to redefine the geographic boundaries of the community it serves by including the towns of Aurora, Richmond Hill, Markham, and Newmarket. Frank Rogers cited possible interference to a low-power station CHOP-FM Newmarket, if the application were approved.
5. The licensee did not reply to the interventions.

Commission's analysis and decisions

6. CIWS-FM is currently licensed as a low-power unprotected FM service. Approval of this application would change its operating class to that of a service that has protected status under the Department of Industry's rules.¹ The Commission expects a licensee that applies to change the operating class of its low-power radio station to present compelling evidence that the authorized low-power technical parameters are not adequate to provide the service as originally proposed.
7. The technical changes requested in this application would result in an increase in the population served from 12,541 to 32,624 in the 3 mV/m contour and from 14,915 to 417,115 in the 0.5 mV/m contour. The population increase in the secondary contour would be largely attributable to coverage of Markham, Richmond Hill, Aurora and Newmarket. Further, the proposed antenna location is north of the town centre, indicating a shift away from the community that CIWS-FM was originally licensed to serve.
8. The Commission finds that the licensee has not presented any compelling technical need for its request to change its class and increase its power. The Commission also finds that the licensee has not provided sufficient economic evidence to justify its request for a technical amendment. In this respect, the Commission notes that, while the station's revenues were modest, it recorded growth in its total revenues over the past three broadcast years. Accordingly, as presented and in the absence of sufficient evidence from the applicant, the Commission is not convinced that a change in the station's technical parameters is warranted to assist it in fulfilling its mandate as originally licensed.
9. The applicant cited an agreement to function as an emergency broadcaster in support of its application. In Broadcasting Order 2009-340 and Broadcasting Decision 2011-438, the Commission addressed the implementation of a National Public Alerting System. In Broadcasting Decision 2011-438, the Commission reiterated its expectation that all radio and television broadcasters and broadcasting distribution undertakings participate in the National Public Alerting System and reminded all licensees that they have a duty to inform the public of imminent perils. As the effectiveness of public alerting increases with the number of participating broadcasters, the Commission is of the view that it is inappropriate for any given broadcaster to act as the designated emergency broadcaster. Accordingly, the

¹ BPR-3 – [Application Procedures and Rules for FM Broadcasting Undertakings](#)

Commission considers that the applicant's proposal to serve as the emergency broadcaster for the Town of Whitchurch-Stouffville does not justify approval of its application.

Non-compliance

10. Section 9(2) of the *Radio Regulations, 1986* provides that on or before 30 November of each year, a licensee shall submit to the Commission a statement of accounts, on the annual return of broadcasting licensee form, for the broadcast year ending the previous 31 August.
11. The licensee did not file an annual return for CIWS-FM and for the 2007-2008 broadcast year, and annual returns for the 2008-2009, 2009-2010 and 2010-2011 broadcast years were either filed late or were incomplete.
12. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach for dealing with non-compliance by radio stations. In particular, the Commission indicated that each instance of non-compliance would be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission indicated that it would also consider the circumstances leading to the non-compliance, the arguments provided by the licensee, as well as the measures taken to rectify the situation. In accordance with its revised approach and based on the seriousness of the instances of non-compliance identified, the Commission will process this application based on its merits.
13. The Commission considers that the licensee's non-compliance is closely linked to its amendment application. While the licensee mentioned a demonstrated financial problem, it has not respected the deadlines that the Commission has clearly established with respect to the submission of annual returns.
14. The Commission advises the licensee that the non-compliance will be considered at the time of the renewal of its licence. At that time, the Commission will review the circumstances that led to the non-compliance in question, the licensee's arguments and the measures taken to rectify the situation.

Conclusion

15. In light of all of the above, the Commission **denies** the application by WhiStle Community Radio to amend the authorized contours of the English-language community radio programming undertaking CIWS-FM Whitchurch-Stouffville, Ontario by changing the class from LP to A, changing the antenna's radiation pattern from non-directional to directional, increasing the average ERP from 50 to 193 watts (maximum ERP from 50 to 675 watts) and increasing the antenna's effective height above average terrain from 12 to 138 metres.

Secretary General

Related documents

- *The Weather Network/Météomédia – Licence renewal and extension of the mandatory distribution of the service*, Broadcasting Decision CRTC 2011-438, 22 July 2011
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Mandatory distribution order for The Weather Network and Météomédia*, Broadcasting Order CRTC 2009-340, 11 June 2009