



Broadcasting Decision CRTC 2014-483

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Ottawa, 18 September 2014

Dufferin Communications Inc.
Hudson/Saint-Lazare, Quebec

Application 2013-1162-0

CHSV-FM Hudson/Saint-Lazare – Technical changes

*The Commission **approves** an application to change the authorized contours of the English-language commercial radio station CHSV-FM Hudson/Saint-Lazare.*

Application

1. Dufferin Communications Inc. (Dufferin) filed an application to change the authorized contours of the commercial radio station CHSV-FM Hudson/Saint-Lazare, which is not yet in operation, by moving the transmission site 5.3 km to the southwest, increasing the average effective radiated power (ERP) from 500 to 1,420 watts (maximum ERP from 500 to 2,650 watts), changing the antenna's radiation pattern from non-directional to directional and increasing its effective height above average terrain (EHAAT) from 94 to 94.5 metres.
2. In support of its application, Dufferin stated that it was unable to arrive at a satisfactory technical configuration and arrangement with Bell Mobility for the transmission site as originally proposed. Specifically, Bell Mobility informed the licensee that the tower was at capacity and that any additions would cause overload and require reinforcement to the structure. Dufferin estimated that implementing the required changes (such as a guyed tower extension, the reinforcement to the tower and a transmitter shelter) would add up to a cost of approximately \$190,000. Dufferin also noted potential interference from other tenants on the Bell Mobility tower. Finally, the applicant submitted that the increase in power was necessary to compensate for the topography of the terrain and maintain its primary coverage over the Hudson/Saint-Lazare area using the proposed transmission site, which is the only other available tower in the area.

Background

3. In *English-language FM radio station in Hudson/Saint-Lazare*, Broadcasting Decision CRTC 2012-576, 19 October 2012 (Broadcasting Decision 2012-576), the Commission approved Dufferin's application for a new English-language commercial FM radio station in Hudson/Saint-Lazare at 106.7 MHz with an ERP of 500 watts. At the time, Dufferin emphasized that it had no intention of serving the Montréal market and noted that any impact on nearby stations would be mitigated by its English-only programming, which would target

a Hudson and Saint-Lazare audience. The Commission found that given that the proposed station would only reach the west-end of the Island of Montréal with its secondary (0.5 mV/m) contour, the service would not have a significant impact on stations serving the Montréal market. The Commission also noted that French- and English-language radio services serving the same geographical area are considered as operating in two separate and distinct markets.

Interventions and applicant's replies

4. The Commission received opposing interventions by Group CHCR Inc. (CHCR),¹ licensee of the commercial ethnic FM radio stations CKDG-FM and CKIN-FM Montréal, as well as by the French-language commercial radio station CJVD-FM Vaudreuil-Dorion. The public record for this application can be found on the Commission's website at www.crtc.gc.ca or by using the application number provided above.
5. CHCR argued that Dufferin's proposal would extend CHSV-FM's coverage into parts of Montréal and that its stations might face future interference from this expanded coverage. It also submitted that it was technically possible for Dufferin to respect the same contours as originally proposed in its licensing application at the newly proposed site.
6. For its part, CJVD-FM argued that the technical change application was effectively a new licence application because the proposed technical changes did not reflect what was originally approved. The intervener further argued that approval of the application would have a negative financial impact on its station and prevent it from improving its own signal. It submitted that Dufferin should be required to adhere to the originally approved parameters or seek another site that would accommodate the original parameters. Alternatively, it proposed a frequency exchange whereby Dufferin would use CJVD-FM's current 100.1 MHz frequency to reach its market and target audience and CJVD-FM would use CHSV-FM's 106.7 MHz frequency.
7. In reply to CHCR, Dufferin noted that the intervener had not provided any evidence or research to substantiate its claims of future interference or impact on its ethnic services. Dufferin also submitted that its proposed signal would not reach Montréal and noted that no interventions had been received from other Montréal broadcasters. Finally, the applicant noted that its broadcast engineer had determined that the increase in power was necessary to maintain its primary coverage over Hudson/Saint-Lazare.
8. In response to CJVD-FM, Dufferin noted that its application respected the authorization granted in Broadcasting Decision 2012-576 insofar as it would serve the same target audience and market and retain the same local programming orientation. It added that its technical proposal offered a practical and affordable solution and disagreed that it would negatively affect CJVD-FM given that CJVD-FM is an established French-language service whose principal marketing area is Vaudreuil-Dorion. Dufferin further noted that CJVD-FM had not provided any assessment demonstrating that its signal did not adequately cover its

¹ On 28 January 2014, Canadian Hellenic Cable Radio Ltd. changed its name to Group CHCR Inc.

licensed service area. Finally, with respect to the proposed frequency exchange, the applicant stated that it would be unfair and inconsistent for the Commission to reverse its decision.

Commission's analysis and decision

9. With respect to CJVD-FM's submission that the proposed technical changes do not reflect what the Commission authorized in Broadcasting Decision 2012-576 and effectively represent an application for a new licence, the Commission notes that with the exception of some changes to the station's technical parameters, all elements considered in Broadcasting Decision 2012-576 will remain the same, including the station's frequency, programming orientation, local programming commitments and target market.
10. The Commission generally assesses the merits of applications for technical changes on the basis of economic need or technical evidence that a station's existing technical parameters are not adequate to provide the service as originally proposed.
11. In this case, while the applicant cited an economic need to justify its proposal, the Commission is of the view that the application was made primarily to avoid further delays and added costs that would be incurred as a result of the required upgrades to the Bell Mobility tower. While this unforeseen increase in the station's pre-operating costs would add financial pressure on the station as it attempts to establish itself in the market, the Commission finds that the required amount would not represent an undue burden on the station. Accordingly, the Commission does not consider it appropriate to assess this application on the basis of economic need. Rather, it considers that the issue to be addressed relates to whether the proposal represents an appropriate technical solution, while not having an undue financial impact on other radio stations.
12. In this respect, the Commission notes that neither the currently authorized nor the proposed primary (3 mV/m) contours for CHSV-FM extend to any significant degree into the Montréal market. Moreover, the difference between the proposed and authorized secondary contours as it relates to this market is not significant, and the interference-free zone for the proposed secondary contour does not enter to a significant degree into Montréal. The Commission also notes that at the proposed transmitter location, the station's currently authorized technical parameters would be insufficient to reach the entire target market of Hudson/Saint-Lazare, particularly in the Hudson area and along the Ottawa River. Finally, the Commission notes that approval of the application would avoid further delays in the launch of a first radio service for the English-language minority population of Hudson/Saint-Lazare and that the costs savings (\$190,000) would benefit the service.
13. In light of the preceding, the Commission is of the view that the applicant's technical solution is appropriate and would not have an undue financial impact on stations serving the Montréal market.
14. Similarly, with respect to the concerns raised by CJVD-FM regarding the possible negative financial impact of the proposal on its station in Vaudreuil-Dorion, the Commission considers that the likelihood of an incremental impact from this proposal versus that of the authorization originally granted to Dufferin would be limited given that CHSV-FM's

currently approved secondary contour already covers the Vaudreuil-Dorion market. Accordingly, the Commission is of the view that the determinations made in Broadcasting Decision 2012-576 relating to this issue remain valid in this case. Specifically, the Commission noted in that decision that CJVD-FM was a French-language service, whereas Dufferin's application was for an English-language service. Consequently, although there would be some overlap within the two stations' main contours, the Commission saw no reason to deviate from its practice of distinguishing between French- and English-language radio services serving the same geographical area and considering these stations as operating in two separate and distinct markets.

15. In light of all of the above, the Commission **approves** the application by Dufferin Communications Inc. to change the authorized contours for the English-language commercial radio programming undertaking CHSV-FM Hudson/Saint-Lazare by moving the transmission site, increasing the average ERP from 500 to 1,420 watts (maximum ERP from 500 to 2,650 watts), changing the antenna's radiation pattern from non-directional to directional and increasing its EHAAT from 94 to 94.5 metres.

Reminder

16. Pursuant to section 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department of Industry 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.*