



Broadcasting Decision CRTC 2018-207

PDF version

Reference: Part 1 application posted on 5 October 2017

Ottawa, 14 June 2018

Rock 95 Broadcasting Ltd.
Toronto, Ontario

Public record for this application: 2017-0913-0

CIND-FM Toronto –Technical changes

*The Commission **denies** an application to change the authorized contours of the commercial radio station CIND-FM Toronto, Ontario.*

Application

1. Rock 95 Broadcasting Ltd. (Rock 95) filed an application to change the authorized contours of the English-language commercial radio station CIND-FM Toronto by increasing the maximum effective radiated power (ERP) from 4,000 to 12,000 watts and the average ERP from 2,100 to 5,000 watts, and increasing the effective height of the antenna above average terrain from 281 to 298 metres. All other technical parameters would remain unchanged.
2. Rock 95 stated that the technical changes are needed to correct interference and reception issues, and because CIND-FM's current parameters provide inadequate service to its licensed market. The licensee added that the station's poor signal has impacted station profitability, and that the amendment is necessary for CIND-FM's financial viability.

Interventions

3. The Commission received numerous interventions in support of this application, as well as interventions offering general comments. It also received interventions in opposition to the application from new and incumbent broadcasters, including First Peoples Radio Inc. (FPR), for which the Commission recently approved an application for a broadcasting licence to operate a new English- and Indigenous-language Type B Native FM radio station to serve the urban Indigenous community in Toronto (see Broadcasting Decision 2017-198). Rock 95 replied to the interventions.

Commission's analysis and decisions

4. When a licensee of a radio station files an application for a technical change, the Commission expects the licensee to present compelling technical or economic evidence justifying the technical change. Given this expectation, and after examining the

information on the public record for this application in light of applicable regulations and policies, the Commission considers that it must address the following issues:

- whether the licensee has demonstrated a compelling economic need for the technical changes;
- whether the licensee has demonstrated a compelling technical need for the technical changes; and
- whether approving the requested technical changes would undermine the fulfillment of the policy objectives of the *Broadcasting Act* (the Act) relating to the special place of Indigenous peoples within Canadian society.

Economic need

5. Rock 95 indicated that CIND-FM, after being in operation for four years, is not yet profitable. In this regard, the licensee submitted that the station's current coverage of the Toronto Census Metropolitan Area is limiting its tuning share in the Toronto radio market, and consequently its ability to attract advertisers and generate revenues. It added that the station's low ratings require it to spend more money on sales and marketing in order to offset the reduced return on these expenditures. Rock 95 stated, however, that should the Commission approve its application, CIND-FM would turn a profit in year 3, following the implementation of the requested technical changes. Should the application be denied, the licensee stated that it is unlikely the station will be able to achieve profitability in the foreseeable future.
6. In the Commission's view, CIND-FM may not have yet reached its full market potential. Although it is not yet profitable, the station's revenues have grown significantly each year since it began operations in 2014, and the station has been incurring fewer losses with each year of operation. In regard to Rock 95's claim that CIND-FM's expenses have been higher than expected, the station's revenue growth has outpaced increases in spending, resulting in a profit before interest and taxes (PBIT) level that has improved considerably since the station's launch.
7. In light of the above, the Commission finds that Rock 95 has not demonstrated a compelling economic need for the requested technical changes.

Technical need

8. Rock 95 indicated that the station's current technical parameters are inadequate to provide service to its licensed market given that its primary (i.e., 3 mV/m) service contour encompasses only 15% of the geographical area of Toronto. In support of its application, the licensee filed a signal quality study that includes a review of CIND-FM's predicted service contours, along with field-strength measurements and qualitative measurements. It submitted that according to this study, the station's service contours do not encompass its licensed market of Toronto, as specified by the Department of Industry's (the Department's) definition for Service Contours and Coverage Requirements set out in [BPR-3 – Application Procedures and Rules for FM Broadcasting](#)

Undertakings (BPR-3). In Rock 95's view, this shows that CIND-FM's current technical parameters are inadequate to serve its licensed market of Toronto.

9. BPR-3 defines an FM radio station's service contours and coverage requirements. However, the market of an FM station is defined in the *Radio Regulations, 1986* as "the F.M. 3mV/m contour or the central area as defined by the Bureau of Broadcast Measurement (BBM), whichever is smaller."¹ As such, the licensee's argument that CIND-FM's signal does not meet the Department's definition for coverage requirements does not justify the need to address signal quality within the station's authorized coverage area. Consequently, the Commission finds that Rock 95 has not demonstrated a compelling technical need for the requested technical changes.

Policy objectives of the *Broadcasting Act* relating to the needs and special place of Indigenous peoples within Canadian society

10. In Broadcasting Decision 2015-282, the Commission stated that there was a pressing need to serve the Indigenous community as a whole given that issues vitally important to Indigenous Canadians were not covered or addressed at all in non-Native media. It further stated that radio stations serving such communities can play a critical role in serving the public interest and contributing to the fulfilment of the policy objectives set out in sections 3(1)(d)(iii) and 3(1)(o) of the Act, specifically, to meet the needs and reflect the special place of Indigenous peoples within Canadian society.
11. To fulfil this mandate, the Commission issued Broadcasting Notice of Consultation 2015-399, in which it called for applications for radio licences to serve urban Indigenous communities in various large radio markets across Canada, including Toronto. The Commission considered the applications it received at a public hearing commencing 27 March 2017. As noted above, in Broadcasting Decision 2017-198, the Commission approved FPR's application for a broadcasting licence to operate a new English- and Indigenous-language Type B Native FM radio station to serve the urban Indigenous community in Toronto. That station has not yet commenced operations.
12. Certain of the technical parameters proposed by Rock 95 for CIND-FM are mutually exclusive with those of FPR's new station. Specifically, Rock 95 is proposing to move its antenna to a higher position at its existing transmission tower, using the same antenna location that FPR proposed for its new Toronto station. Approval of the present application would therefore effectively preclude the launch of FPR's station at the technical parameters approved by the Commission in Broadcasting Decision 2017-198, and would force FPR to find alternative technical parameters to launch its new station.
13. The Commission recognizes Rock 95's efforts to improve its existing service without being detrimental to FPR's new service. However, given the priority that the Commission has placed on the need for radio stations to serve urban Indigenous communities, and the particular circumstances of the present case, it would not be appropriate to approve an application that would effectively preclude aspects of a previous application that aim to

¹ In June 2014, the BBM rebranded as Numeris.

meet the needs of Indigenous peoples. Approval of the present application would undermine not only the integrity of the Commission's licensing process for FPR's new radio station to serve the urban Indigenous community in Toronto, but also the fulfillment of the policy objectives set out in the Act relating to the needs of Indigenous peoples in Canada and to the special place of Indigenous peoples within Canadian society.

Conclusion

14. In light of all of the above, the Commission **denies** the application by Rock 95 Broadcasting Ltd. to change the authorized contours of the English-language commercial radio programming undertaking CIND-FM Toronto, Ontario.

Secretary General

Related documents

- *Licensing of new radio stations to serve the urban Indigenous communities in Vancouver, Edmonton, Calgary, Ottawa and Toronto*, Broadcasting Decision CRTC 2017-198, 14 June 2017
- *Call for radio applications to serve urban Aboriginal communities in Ottawa, Toronto, Calgary, Edmonton and Vancouver*, Broadcasting Notice of Consultation CRTC 2015-399, 26 August 2015
- *CKAV-FM Toronto, CKAV-FM-2 Vancouver, CKAV-FM-3 Calgary, CKAV-FM-4 Edmonton and CKAV-FM-9 Ottawa – Revocation of licences*, Broadcasting Decision CRTC 2015-282, 25 June 2015