



Broadcasting Decision CRTC 2019-213

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References: Part 1 applications posted on 18 December 2018

Ottawa, 14 June 2019

First Peoples Radio Inc.

Toronto, Ontario

Rock 95 Broadcasting Ltd.

Toronto, Ontario

Public record for these applications: 2018-1019-3 and 2018-1020-1

CFPT-FM Toronto and CIND-FM Toronto – Technical changes

*The Commission **approves** the application by First Peoples Radio Inc. to change the authorized contours of the English- and Indigenous-language Type B Native radio station CFPT-FM Toronto by increasing the average effective radiated power (ERP) from 1,014 to 1,150 watts, increasing the maximum ERP from 2,600 to 2,950 watts, and decreasing the effective height of the antenna above average terrain (EHAAT) from 297.7 to 280.4 metres. The station will continue operating on frequency 106.5 MHz (channel 293B1).*

*The Commission also **approves** the application by Rock 95 Broadcasting Ltd. to change the authorized contours of the English-language commercial radio station CIND-FM Toronto by increasing the average ERP from 2,100 to 4,800 watts, increasing the maximum ERP from 4,000 to 12,000 watts, and increasing the EHAAT from 281 to 298 metres. The station will continue operating on frequency 88.1 MHz (channel 201A).*

Background

1. In Broadcasting Decision 2017-198, following a competitive process, the Commission approved an application by First Peoples Radio Inc. (FPR) for a broadcasting licence to operate an English- and Indigenous-language Type B Native FM radio station to serve the urban Indigenous communities in Toronto, Ontario. That station launched as CFPT-FM Toronto on 25 October 2018, on frequency 106.5 MHz (channel 293B1), and currently operates with an average effective radiated power (ERP) of 1,014 watts (maximum ERP of 2,600 watts with an effective height of antenna above average terrain (EHAAT) of 297.7 metres).
2. In Broadcasting Decision 2012-485, also following a competitive process, the Commission approved an application by Rock 95 Broadcasting Ltd. (Rock 95) for a broadcasting licence to operate a commercial FM radio station in Toronto. That station launched as CIND-FM Toronto on 3 September 2013, on frequency 88.1 MHz

(channel 201A) with an average ERP of 532 watts (maximum ERP of 875 watts with an EHAAT of 328.4 metres).

3. In Broadcasting Decision 2013-588, the Commission approved an application by Rock 95 to change the authorized contours of CIND-FM by increasing the average ERP from 532 to 2,100 watts, increasing the maximum ERP from 875 to 4,000 watts, and decreasing the EHAAT from 328.4 to 281 metres. The Commission found that Rock 95 had demonstrated a compelling technical need justifying the requested technical changes, and that those changes would have resulted in improved service to the market served by CIND-FM without imposing an undue financial impact on incumbent stations or impacting the availability of frequencies in adjacent markets.
4. In Broadcasting Decision 2018-207, the Commission denied an application by Rock 95 to change the authorized contours of CIND-FM by increasing the maximum ERP from 4,000 to 12,000 watts, increasing the average ERP from 2,100 to 5,000 watts, and increasing the EHAAT from 281 to 298 metres. The Commission determined that approving that application would have undermined the licensing process for FPR's new radio station, given that Rock 95 had proposed to use the same antenna location that FPR had proposed for its new Toronto station. Noting the priority it had placed on the need for radio stations to serve urban Indigenous communities, the Commission stated that it would not be appropriate to approve an application for technical changes that would effectively preclude aspects of a previous application that aimed to meet the needs of Indigenous peoples. The Commission also found that approving Rock 95's application would have undermined the fulfillment of the policy objectives set out in the *Broadcasting Act* (the Act) relating to the needs of Indigenous peoples in Canada and to the special place of Indigenous peoples within Canadian society. Further, the Commission determined that the licensee had not demonstrated either a compelling economic or technical need to justify the requested technical changes.

Applications

5. FPR filed an application (2018-1019-3) to change the authorized contours of CFPT-FM by increasing the average ERP from 1,014 to 1,150 watts, increasing the maximum ERP from 2,600 to 2,950 watts, and decreasing the EHAAT from 297.7 to 280.4 metres. All other technical parameters would remain unchanged.
6. Rock 95 filed an application (2018-1020-1) to change the authorized contours of CIND-FM by increasing the average ERP from 2,100 to 4,800 watts, increasing the maximum ERP from 4,000 to 12,000 watts, and increasing the EHAAT from 281 to 298 metres. All other technical parameters would remain unchanged.
7. Rock 95 stated that the purpose of its application is to address problems relating to the reception of CIND-FM's signal, whereas FPR stated that the purpose of its application is to accommodate tower planning at the shared antenna location by permitting Rock 95 to relocate its antenna to a greater height. In this regard, the parties filed with the Commission a signed agreement dated 18 July 2018. Consequently, FPR's and Rock 95's requests are conditional on the Commission's approval of the other's application.

8. The Commission did not receive any interventions regarding FPR's application. It received numerous interventions in support of Rock 95's application, as well as interventions in opposition from two individuals, one of which falls outside of the scope of this proceeding.

Commission's analysis and decisions

CFPT-FM

9. As noted above, the purpose of FPR's application is to accommodate Rock 95's requested technical changes. The Commission finds that approval of FPR's application does not raise any issues of a technical nature as it would result in negligible changes to CFPT-FM's authorized contours and to the population served by the station.
10. Furthermore, the Commission finds that FPR's application to decrease CFPT-FM's antenna height in order to accommodate Rock 95's proposal would not affect that station's ability to continue meeting the needs of Indigenous peoples in the Toronto radio market. As such, it alleviates the concern raised by the Commission in Broadcasting Decision 2018-207 regarding the potential for the technical changes requested at that time by Rock 95 for CIND-FM to undermine the fulfillment of the Act's policy objectives relating to the role that programming plays in serving the needs and interests of Indigenous peoples within Canadian society and reflecting the Indigenous cultures of Canada (i.e., sections 3(1)(d)(iii) and (3)(1)(o) of the Act).
11. In light of the above, the Commission does not have any concerns relating to the technical changes requested by FPR for CFPT-FM.

CIND-FM

12. After examining the information on the public record for Rock 95's application in light of applicable regulations and policies, the Commission has addressed the following issues:
 - whether Rock 95 has demonstrated a compelling technical or economic need justifying the requested technical changes for CIND-FM;
 - whether the requested technical changes for CIND-FM are appropriate on a technical basis and represent an appropriate use of spectrum; and
 - whether approval of Rock 95's application would have an undue negative financial impact on incumbent stations.

Compelling technical or economic need

13. When a licensee of a radio station files an application for a technical change, the Commission generally requires the licensee to present compelling technical or economic evidence justifying the technical change.

Technical need

14. Rock 95 submitted that the reception of CIND-FM's signal is impaired due to the increase in the density of high-rise buildings within its primary (i.e., 3mV/m) service contour. In support of the application and to demonstrate signal deficiency and reception issues within that service contour, the licensee filed a signal quality report that included computer simulations of received signal field-strength, measurements of received signal field-strength, assessments of the quality of reception at various locations and a description of sources of interference. In addition, it filed over 300 listener complaints relating to CIND-FM's signal quality.
15. The Commission acknowledges that an increase in the density of high-rise buildings can degrade the reception of FM radio signals. The signal quality report filed by the licensee, which focuses specifically on locations within CIND-FM's primary service contour, provides clear and sufficient evidence of signal reception issues.
16. One of the individuals who opposed this application submitted that Rock 95 knew of the limitations of CIND-FM's frequency when it applied for a broadcasting licence to operate the station. It added that the requested technical changes would result in interference to two Canadian broadcasters and one foreign broadcaster.
17. In its reply, Rock 95 submitted that the intervener incorrectly interpreted the zones of interference contained within CIND-FM's service contours. It argued that the zones of interference in fact originate with those stations and not with adjacent stations. The licensee added that all short-spaced stations were contacted and provided with copies of the technical brief, and that none objected to the power increase. It added that foreign stations do not benefit from any protection over Canadian territory.
18. In regard to the intervention, the Commission notes that technical matters such as interference fall within the jurisdiction of the Department of Industry (the Department). If the Department encounters a technical issue with the application, it will require that the problem be remedied before the proposal is deemed to be technically acceptable.
19. In light of the above, the Commission finds that Rock 95 has demonstrated a compelling technical need justifying the requested technical changes.

Economic need

20. Rock 95 stated that the requested technical changes would allow CIND-FM to better serve its market. It added that the station's current coverage is limiting its tuning share and, consequently, its ability to attract advertisers and generate revenues. The licensee further stated that the CIND-FM's low tuning share requires it to spend more on sales and marketing in order to offset the reduced return on these expenditures. It added that other factors, such as increases in rent and the cost of living in Toronto, have also increased costs.

21. CIND-FM has incurred significant losses each year since its launch in 2014. Although the station's revenues increased from 2015 to 2017, they decreased in 2018, which, coupled with an increase in operating expenses, resulted in more pronounced losses that year. Rock 95 indicated that should its application be approved, the station would become profitable in the second year following approval. In the Commission's view, approval of Rock 95's application will serve to improve CIND-FM's financial viability and would enable the station to compete on a more level playing field with other radio stations in the market.
22. Accordingly, the Commission finds that Rock 95 has demonstrated a compelling economic need justifying the requested technical changes.

Appropriateness of the technical changes

23. Rock 95 stated that it has already implemented several technical and non-technical options, including improving audio processing and offering streaming audio, in order to address problems relating to the reception of CIND-FM's signal, but that those options were not effective. The licensee submitted that, based on computer simulations, the requested power increase for the station would resolve its signal reception issues.
24. Broadcasters generally have several means at their disposal to improve the reception of radio stations signals, such as increasing transmission power, changing frequency or using rebroadcasting transmitters. Given that frequencies are a scarce resource in the Toronto radio market, the Commission considers that the only viable way for Rock 95 to address CIND-FM's signal reception issues is to increase the station's power. Accordingly, the Commission finds that the technical changes requested by the licensee for CIND-FM constitute the most appropriate means of addressing the station's signal reception issues.
25. Furthermore, CIND-FM would continue to operate on its current frequency of 88.1 MHz. As such, approval of the requested technical changes would not impact the availability of frequencies in the Toronto radio market or in adjacent radio markets. Accordingly, the Commission finds that Rock 95's proposal represents an appropriate use of spectrum.

Financial impact on incumbent stations

26. Rock 95's projected incremental revenues for CIND-FM represent a small portion of the total revenues of the Toronto radio market (less than 1% in 2018). In addition, none of the incumbent radio station operators in Toronto opposed Rock 95's requested technical changes.
27. Accordingly, the Commission finds that approval of the requested technical changes for CIND-FM would not have an undue negative financial impact on incumbent stations in the Toronto radio market.

Conclusion

28. In light of the above, the Commission **approves** the application by First Peoples Radio Inc. to change the authorized contours of the English- and Indigenous-language Type B Native radio programming undertaking CFPT-FM Toronto by increasing the average ERP from 1,014 to 1,150 watts, increasing the maximum ERP from 2,600 to 2,950 watts, and decreasing the EHAAT from 297.7 to 280.4 metres.
29. Further, the Commission **approves** the application by Rock 95 Broadcasting Ltd. to change the authorized contours of the English-language commercial radio programming undertaking CIND-FM Toronto by increasing the average ERP from 2,100 to 4,800 watts, increasing the maximum ERP from 4,000 to 12,000 watts, and increasing the EHAAT from 281 to 298 metres.
30. Pursuant to section 22(1) of the 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.
31. The transmitter for each station must be operational with implemented technical changes at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before **14 June 2021**. In order to ensure that such a request is processed in a timely manner, it should be submitted in writing at least 60 days before that date.

HD radio

32. The Commission is supportive of efforts to experiment with HD Radio, and notes Rock 95's future plans relating to this technology. In this regard, Rock 95 stated that it will register its HD Radio proposal with the Commission once it moves forward on the matter.

Secretary General

Related documents

- *CIND-FM Toronto – Technical changes*, Broadcasting Decision CRTC 2018-207, 14 June 2018
- *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
- *CIND-FM Toronto, CHES-FM Erin and CFRH-FM Penetanguishene –Technical changes and new transmitter*, Broadcasting Decision CRTC 2013-588, 1 November 2013
- *Licensing of a new radio station to serve Toronto*, Broadcasting Decision CRTC 2012-485, 11 September 2012

This decision is to be appended to each licence.