



Broadcasting Decision CRTC 2022-143

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Ottawa, 2 June 2022

Radio Nord-Joli inc.
Saint-Gabriel-de-Brandon, Quebec

Public record: 2021-0285-4

CFNJ-FM Saint-Gabriel-de-Brandon – Technical changes

Summary

The Commission **denies** an application by Radio Nord-Joli inc. to amend the authorized contours of the French-language community radio station CFNJ-FM Saint-Gabriel-de-Brandon.

Application

1. Radio Nord-Joli inc. (Radio Nord-Joli) filed an application to change the authorized contours of the French-language community radio station CFNJ-FM Saint-Gabriel-de-Brandon, Quebec. Specifically, the licensee proposed to increase the maximum effective radiated power (ERP) from 9,750 to 15,000 watts, decrease the average ERP from 9,750 to 9,043 watts, changing from a non-directional to a directional antenna, increase the effective height of the antenna above average terrain (EHAAT) from 83.9 to 150.3 metres and amend the existing coordinates of the transmitter site. Further, Radio Nord-Joli proposed to relocate the broadcasting antenna in Saint-Damien (Saint-Gabriel-de-Brandon) to a Bell Mobility site located in Saint-Félix-de-Valois.
2. Radio Nord-Joli indicated that these changes would allow it to address coverage deficiencies in Joliette and to better cover a larger section of the Lanaudière region.

Context

Decision 83-803

3. In Decision 83-803, the Commission approved an application by Radio Nord-Joli to operate a French-language FM community radio station in Saint-Gabriel-de-Brandon, as well as a rebroadcasting transmitter in Rawdon, Quebec. However, the Commission noted that the proposed frequency (103.5 MHz, channel 278A) for the rebroadcasting transmitter in Rawdon was the last available frequency in Joliette. Consequently, the Commission's approval was conditional upon the applicant finding a better use of spectrum for the frequencies, all while providing the desired coverage to serve the region

of Rawdon, given that its technical surveys showed that other frequencies could be used there.

Decision 86-1233

4. In Decision 86-1233, the Commission renewed the licence for CFNJ-FM Saint-Gabriel-de-Brandon but denied the renewal of the rebroadcasting transmitter CFNJ-FM-1 Rawdon. The Commission also denied, for technical reasons, the application by Radio Nord-Joli for a broadcasting licence to operate a rebroadcasting transmitter in Joliette. The licensee did not intend to launch the rebroadcasting transmitter CFNJ-FM-1 Rawdon should its application for a new rebroadcasting transmitter in Joliette be approved.
5. In its analysis of the licensee's application to operate a rebroadcasting transmitter in Joliette rather than in Rawdon, the Commission considered the facts that the licensed rebroadcasting transmitter in Rawdon had not been launched and that the licensee proposed the same frequency for the Joliette transmitter as it had proposed for Rawdon, namely 103.5 MHz (channel 278A), as an alternative to its proposal denied in broadcasting Decision 83-803. Moreover, during the hearing, the licensee specified that the area that it wished to serve was the Lanaudière region, and more specifically Lanaudière-Nord, that is an area extending north of Joliette, with a studio located in Saint-Gabriel-de-Brandon.
6. The Commission received two interventions in opposition from the former licensee of the CJLM Joliette radio station. In its intervention, it indicated that market fragmentation could jeopardize the viability of its station. The Commission also received an intervention in opposition from the new licensee of the CJLM station. This licensee pointed out that Radio Nord-Joli's plans for regional service were unrealistic. In its reply, Radio Nord-Joli reiterated that its goal had always been to operate a regional community station and that serving the Joliette market part of its initial application was necessary for ensuring its financial viability.
7. In the decision, the Commission indicated its willingness to allow the licensee to broaden its service area over the Lanaudière region, including the Joliette market, to enable it to provide a fully regional service. In arriving at this conclusion, the Commission took into account the capability of Joliette's advertisers and the limited impact of the community station on incumbent stations.
8. Nevertheless, while being disposed to broadening the service area for CFNJ-FM, the Commission took into account the serious technical shortcomings of the licensee's proposal, since it did not adequately utilize the potential of the last available FM frequency in Joliette. Therefore, the Commission denied, on technical ground, the application as presented to operate a rebroadcasting transmitter in Joliette and urged the licensee to examine another technical solution that would better utilize the frequency band, while offering the desired service area.

Broadcasting Decision 2003-575

9. In Broadcasting Decision 2003-575, the Commission approved an application by Radio Nord-Joli to increase CFNJ-FM's ERP from 3,000 watts to 9,750 watts and change the authorized contours. The power increase changed the CFNJ-FM transmitter from Class A to Class B1.
10. The licensee had indicated that the proposed change was intended to offer a better signal in the Lanaudière region and in the eastern part of the Mauricie region. However, the licensee did not mention the inclusion of Joliette in that application.

Broadcasting Decision 2004-475

11. In Broadcasting Decision 2004-475, the Commission approved an application by Radio Nord-Joli to add a rebroadcasting transmitter in Saint-Zénon. The licensee did not include Joliette in that application.

Interventions

12. The Commission received three interventions in support of the current application, two from individuals and one from the Joliette regional county municipality. Further, Radio Nord-Joli included thirteen supporting letters with the present application.

Arsenal's intervention

13. The Commission also received a comment from Arsenal Media Inc. (Arsenal),¹ licensee of CJLM-FM Joliette. Arsenal stated that Radio Nord-Joli's application was incomplete and raised several questions. In its view, the application is more a request to serve a new market (Joliette) than a request for technical changes to resolve reception problems in its licensed service area, since Joliette is not part of that area.
14. Arsenal added that CFNJ-FM clearly identifies itself as a Joliette station and that Radio Nord-Joli explicitly acknowledged receiving advertising revenue from the Joliette market.
15. In addition, Arsenal raised concerns about the solicitation of advertising in the Joliette market, which are addressed in paragraph 34 of the present decision.
16. Arsenal also asked that the Commission require Radio Nord-Joli to file detailed financial projections specifying the volume of advertising revenue from the Joliette market if the application were to be approved and if it were to be denied.

Reply from Radio Nord-Joli

17. In its reply to Arsenal's intervention, Radio Nord-Joli alleged that in Broadcasting Decision 86-1233, the Commission indicated that it would be prepared to allow the licensee to expand its coverage in the Lanaudière region, including Joliette and that it

¹ At the time of the filing, Arsenal Media Inc. was carrying on business as 10679313 Canada Inc.

expected the licensee to submit an application to the Commission shortly to expand CFNJ-FM's coverage in the Lanaudière region.

18. Radio Nord-Joli acknowledged that the decision dates back to 1986 but indicated that CFNJ-FM had been working nonstop to find the necessary funding and to develop solutions that could meet the Commission's expectations. Unfortunately, the changes that were made did not produce the desired results.
19. The applicant pointed out that the purpose of this application is to improve CFNJ-FM's signal in Joliette, as well as in the rest of the Lanaudière-Nord region.
20. Radio Nord-Joli noted that CFNJ-FM identifies itself as a Lanaudière station with its slogan "*Avec vous partout dans Lanaudière*" [with you everywhere in Lanaudière]. Moreover, the station has operated, in addition to its facilities in Saint-Gabriel-de-Brandon, a satellite studio and newsroom for the past three years in Joliette, where three journalists and two hosts work full-time. This represents a significant investment in the Lanaudière region and in Joliette.
21. With respect to local advertising, the licensee acknowledged that it broadcasts advertising from Joliette advertisers. It argued that broadcasting Decision 86-1233 indicated that it would be legitimate to do so and to seek an appropriate technical way to provide the signal, while respecting spectrum use policies.
22. Finally, Radio Nord-Joli indicated that the Joliette market is mature and that two local radio stations stand out (CFNJ-FM and CJLM-FM). The licensee believes that the proposed technical changes would not cause an economic imbalance in the Joliette market.

Issues

23. The Commission has the authority, pursuant to subsection 9(1) of the *Broadcasting Act* (the Act), to issue licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the Act, and to amend any conditions on application of the licensee.
24. When the licensee of a radio station files an application for technical changes, the Commission expects the licensee to demonstrate a compelling technical or economic need justifying the proposed technical changes. The Commission examines applications on a case-by-case basis and may take into consideration the details of an application and any relevant issues raised in an intervention. In addition, when assessing the requested changes, the Commission must maintain the integrity of the licensing process.
25. The Commission notes that the addition of a rebroadcast transmitter is generally done to better serve the existing market by increasing power or moving the antenna so that the signal can be better received by listeners. The addition of a transmitter may also be used to expand the licensed service area, but this type of request is generally approved only on an exceptional basis, namely when there is no technical need to justify the expansion of

the licensed market, that there is no opposition to the request, and when the Commission determines that the change will not negatively impact the market in question and that this would not undermine the integrity of the licensing process.

26. The Commission notes that this is an application for technical changes, not an application to expand the licensed market.

27. In light of the Commission's previous decisions relating to CFNJ-FM's broadcasting licence and after examining the information provided on the record for this application in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:

- whether the Joliette market is part of CFNJ-FM's service area;
- whether there are issues relating to the solicitation of advertising in the Joliette market;
- whether the approval of the requested technical changes would have an undue economic impact on incumbent stations;
- whether the applicant has demonstrated a compelling technical need justifying the requested technical changes;
- whether the proposed technical changes represent an appropriate use of spectrum;
- whether the proposed technical changes represent an appropriate technical solution; and
- whether the approval of this application would undermine the Commission's licensing process.

Whether the Joliette market is part of CFNJ-FM's service area

28. Radio Nord-Joli claimed that its current site does not adequately serve the Lanaudière region, since Joliette is outside its primary (3 mV/m) contour. As a result, the proposed technical changes would allow for greater coverage of the Lanaudière region, including Joliette and other municipalities to the south. CFNJ-FM broadcasts from Saint-Gabriel-de-Brandon, which is located northwest of Joliette. The licensee also operates a rebroadcasting transmitter from an antenna located in Saint-Zénon, 60 km north of the main antenna. That rebroadcasting transmitter extends CFNJ-FM's coverage farther north within the Lanaudière region. These primary contours do not overlap.

29. In broadcasting Decision 83-803, the Commission noted that, at the hearing, the applicant described the territory it wanted to serve as the Lanaudière region and more specifically Lanaudière-Nord, that is, a territory extending north of Joliette, with studios located in Saint-Gabriel-de-Brandon. Nevertheless, the Commission licensed Radio Nord-Joli to serve Saint-Gabriel-de-Brandon and Rawdon and not the entire Lanaudière region.

Further, the approval of the rebroadcasting transmitter in Rawdon was conditional upon the applicant finding another frequency to serve the Rawdon area, since the frequency chosen was the last available frequency in Joliette and, according to the technical surveys, other frequencies were available in the Rawdon area.

30. As noted above, in broadcasting Decision 86-1233, the Commission denied, on technical grounds, the licensee's request to add a transmitter at Joliette. The decision also indicated that the Commission would be willing to allow the licensee to expand its coverage in the Lanaudière region, including Joliette, if an appropriate technical proposal was received.
31. In the same decision, the Commission stated that it expected the licensee to submit an application to extend CFNJ-FM's coverage in the Lanaudière region. Accordingly, in broadcasting Decision 86-1233, the Commission renewed the licensee's broadcasting licence until 31 August 1991, but for technical reasons, it did not authorize the licensee to extend its primary contour into the Joliette market.
32. Licensed markets for radio stations are contained within the technical limitations of their authorized primary contour, which is the 3 mV/m contour for FM radio stations. Joliette is outside of CFNJ-FM's licensed market as defined by its authorized primary contour. Therefore, the Commission considers that the licensee should not have concluded that it had the Commission's authorization to serve the Joliette market. In addition, the licensee failed to take into account the true scope of its request in order to adequately justify it. The Commission is of the view that the record of this proceeding does not support this application to consider the Joliette market as part of the licensed market. From a technical perspective, approval of this application would result in an expansion of the station's licensed service area rather than in a service improvement in its current licensed market. Approval of this application would not be consistent with the existing regulations, policies and general practice for processing a request for technical changes. Moreover, it would be inconsistent with previous Commission decisions.
33. In light of the above, the Commission finds that the Joliette market is not within CFNJ-FM's service area, as defined by its primary contour as previously authorized by the Commission.

Whether there are issues relating to the solicitation of advertising in the Joliette market

34. In its intervention, Arsenal indicated that in decisions issued in recent years, the Commission has reiterated that when a radio station is authorized to broadcast local advertising, it must originate only from the market it is licensed to serve. Accordingly, Arsenal argued that the Commission should require the applicant to immediately cease soliciting local customers outside the market it is licensed to serve.
35. As mentioned above, in its reply to Arsenal's intervention, the licensee admitted to broadcasting advertising from Joliette advertisers. It even alleged that broadcasting Decision 86-1233 indicated that it is legitimate to do so.

36. The Commission notes that the rule to which Arsenal is referring is specific to commercial radio stations. While nothing prevents community radio stations from soliciting advertising outside their licensed market, the Commission considers that community stations, by their very nature, should seek to serve the communities within the market they are licensed to serve. Accordingly, community stations should make an effort to ensure that all the content they broadcast, including programming and advertising, is locally reflective of the communities located within the licensed market as defined in the *Radio Regulations, 1986*.

Whether approval of the application would have an undue financial impact on incumbent stations

37. The Lanaudière regional radio market currently comprises three stations serving the area of interest: CFNJ-FM Saint-Gabriel-de-Brandon, the applicant's station, CJLM-FM Joliette, a commercial station operated by Arsenal, and CHMK-FM, a Type B Indigenous station available only in Manawan.

38. The revenues of the region's broadcasters have remained stable, and the profitability of these broadcasters has even increased a little over the past five years.

39. If the requested technical changes were approved, the population covered by CFNJ-FM's primary contour would increase by 227%, while 7.5% of the population would no longer receive the signal from the current primary contour. Within this new contour, the station could reach over 50% of the population of the greater Joliette area and would encroach significantly on CJLM-FM's licensed market.

40. Considering CFNJ-FM's current annual local advertising revenue, the significant increase in the population served and the inclusion of Joliette in the proposed primary contour, the Commission considers that the approval of the application would have a not insignificant impact and would certainly have an economic impact on CJLM-FM.

41. Further, the purpose of a technical change should be to improve a service in the licensed service area, not to develop a new market.

42. In light of the above, the Commission finds that the licensee failed to take into account the true scope of its request and has failed to adequately justify it.

Whether the licensee demonstrated a compelling technical need justifying the requested technical changes

43. According to Radio Nord-Joli, the proposed changes would allow for greater coverage of the Lanaudière region, including Joliette and other municipalities to the south. Radio Nord-Joli also noted in its supplementary submission that the antenna is reaching the end of its useful life and that it intends to replace it in the near future. Radio Nord-Joli is taking this opportunity to combine this change with the changes mentioned above.

44. Radio Nord-Joli stated that its current site does not adequately serve the Lanaudière region since the city of Joliette is outside its primary contour. In support of its

application, Radio Nord-Joli submitted a signal-to-noise field strength measurement report showing that Joliette is at the usable limit of its current secondary (0.5 mV/m) contour. The Commission recognizes that the report indicates that parts of Joliette may be receiving a signal that is just below the strength expected from an accessible signal within the 0.5 mV/m theoretical contour. However, on the whole, the signal strength in the secondary contour is not sufficiently below the expected threshold to be considered exceptional circumstances in which poor reception should be considered sufficient to approve a technical change that would significantly affect the 3 mV/m and 0.5 mV/m contours.

45. In addition, the signal gaps in Joliette are not unexpected given that Joliette is outside the primary (3 mV/m) contour, i.e. outside that station's licensed market. The report did not identify any significant signal gaps in the primary contour. The Commission recognizes the imminent need to replace the existing antenna. However, no convincing argument was submitted as to why the current antenna cannot be replaced by a similar system that could reproduce its current performance.
46. Although the licensee has demonstrated a possible signal gap within its secondary (0.5 mV/m) contour, it has neither recognized nor conclusively identified a signal gap within the primary contour that defines its licensed market.
47. In light of the above, the Commission finds that the applicant has not demonstrated a compelling technical need justifying the proposed changes to relocate its existing transmission site and to allow it to serve the Joliette market and those outside its licensed service area.

Whether the requested technical changes represent an appropriate use of spectrum

48. The applicant did not propose the use of a new frequency and the current proposed technical solution would not have an impact on the availability of the frequencies in the Lanaudière region.
49. Therefore, the Commission finds that the proposal represents an appropriate use of spectrum.

Whether the requested technical changes represent an appropriate technical solution

50. In its application, the licensee did not include any additional details or other technical solutions that were explored to resolve possible technical shortcomings while maintaining the integrity of its licensed primary contour. In its reply, the licensee acknowledged that Decision 86-1233 was issued a long time ago, but it claims that since then it has been trying to find the necessary funding and to develop solutions to meet the Commission's expectations, without obtaining the desired results. The Commission notes that in Broadcasting Decision 2003-575, it approved technical changes to increase the effective radiated power of CFNJ-FM from 3,000 watts to 9,750 watts, and to change the authorized contours by increasing the power from Class A to Class B1, without mentioning including Joliette.

51. The solution proposed in this application represents a significant shift and increase in the size of the primary and secondary contours that would bring the Joliette market into the primary contour. As mentioned above, despite the licensee's assertion that it has always intended to serve the Joliette market, the Commission reiterates that it has never granted approval for CFNJ-FM to serve that market.
52. The proposed technical solution is not adequate since the goal is to address technical issues outside the station's licensed service area. Accordingly, the Commission finds that the applicant has not demonstrated that the proposed technical changes represent an appropriate technical solution to better serve the Saint-Gabriel-de-Brandon community and surrounding areas as well as Saint-Zénon, which are within its licensed service area.

Whether the proposed changes undermine the integrity of the process

53. The proposed technical changes would represent a significant increase in CFNJ-FM's primary contour to include the Joliette market, which the licensee is not currently licensed to serve, rather than serve the communities of Saint-Gabriel-de-Brandon and Saint-Zénon in an appropriate manner.
54. As noted above, approval of this application would not be consistent with the existing regulations, policies and general practice for processing a technical change application and would be inconsistent with previous Commission decisions.
55. Further, this increase could have a significant impact on CJLM-FM, the incumbent station in the Joliette market. However, the record for this proceeding does not contain sufficient information for the Commission to properly assess this impact.
56. Therefore, the Commission considers that approving this request would undermine the integrity of the Commission's licensing process. If Radio Nord-Joli would like to proceed with certain changes, it is responsible for submitting an application appropriate to the situation with all the necessary information to properly assess the application and its impact on the market.

Conclusion

57. In light of all of the above, the Commission **denies** the application by Radio Nord-Joli inc. to change the authorized contours of the French-language community radio station CFNJ-FM Saint-Gabriel-de-Brandon, Quebec.
58. The Commission would be willing to consider a new application from the licensee to resolve technical shortfalls in its licensed primary contour. Such a request should include all the information required to process it.
59. However, if the primary objective of Radio Nord-Joli is to serve the Joliette market as a licensed market, it will have to apply for a new license to operate a station there, since this municipality is outside its current licensed market. Such an application should include all the information necessary to perform thorough economic analysis. Thus,

parties interested in filing interventions will have at their disposal all relevant information regarding the potential economic impact of such a request on the Joliette market.

Reminder

60. Community radio stations should limit their local advertising solicitation activities to their authorized market, in accordance with the definition of an authorized market as defined in the *Radio Regulations, 1986*.

Secretary General

Related documents

- *CFNJ-FM Saint-Gabriel-de-Brandon - New transmitter in Saint-Zénon*, Broadcasting Decision CRTC 2004-475, 4 November 2004
- *CFNJ-FM Saint-Gabriel-de-Brandon - Technical change*, Broadcasting Decision CRTC 2003-575, 18 November 2003
- *Radio Nord-Joli Inc.*, Decision CRTC 86-1233, 30 December 1986
- *Radio Nord-Joli Inc.*, Decision CRTC 83-803, 12 September 1983

This decision is to be appended to the licence.