



Broadcasting Decision CRTC 2022-329

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Reference: 2022-62

Ottawa, 1 December 2022

La radio communautaire de Fermont inc.
Fermont, Quebec

Public record: 2021-0783-8

*Public hearing in the National Capital Region
12 May 2022*

Community radio station in Fermont

Summary

The Commission **approves** an application by La radio communautaire de Fermont inc. for a broadcasting licence to operate a French-language community FM radio station in Fermont, Quebec.

Application

1. La radio communautaire de Fermont inc. (Radio Fermont) filed an application for a broadcasting licence to operate a new French-language community FM radio programming undertaking in Fermont, Quebec.
2. Radio Fermont currently operates the low-power French-language community FM radio station CFMF-FM Fermont and is applying for a new licence to change from unprotected to protected status. The station would operate at 103.1 MHz (channel 276A) with an effective radiated power of 2,290 watts (non-directional antenna with an effective height of the antenna above average terrain [EHAAT] of 1.9 metres). This application was filed in accordance with the Commission's process for converting low-power stations to regular-power stations, as set out in Broadcasting Regulatory Policy 2014-554.¹
3. Radio Fermont is a not-for-profit corporation controlled by its board of directors.

¹ Under that policy, licensees of low-power radio stations who want to upgrade their stations to regular-power stations must apply for a new licence.

4. With respect to volunteer participation, the applicant indicated that it has conducted several recruitment campaigns but that no one has shown interest in participating in the station's activities. However, the applicant indicated a willingness to train and mentor volunteers should the opportunity arise.
5. Radio Fermont proposed to maintain the local programming currently broadcast on its low-power station and indicated that the station would broadcast 126 hours of programming per broadcast week, of which 118 hours and 30 minutes would be devoted to local programming, as well as 7.5 hours devoted to (non-local) wrap-around programming from the Association des radiodiffuseurs communautaires du Québec (ARCQ). Radio Fermont also emphasized its intention to broadcast Montreal Canadiens hockey games.
6. Spoken-word programming would include 15 hours of news per broadcast week, including 9 hours of pure news. Of those 15 hours, 90% would be devoted to local news and 10% to regional news. In addition, Radio Fermont committed to respect the 15% minimum of spoken-word programming per broadcast week, which represents 19 hours of programming.
7. Radio Fermont indicated that the Fermont community has little or no local talent. However, it did mention that it offers visibility to regional North Shore artists, especially Indigenous artists starting out in the music industry. When possible, artists are interviewed in the studio and their work is broadcast on the station if their musical style aligns with programs' musical format. If not, their work is still included in the station's musical programming.
8. The Commission received 60 interventions from individuals, businesses and government agencies, as well as from political figures in support of this application.

Issues

9. The Commission has the authority, pursuant to subsection 9(1) of the *Broadcasting Act* (Act), to issue and renew 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.
10. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it must address the following issues:
 - volunteer participation at the station;
 - the proposed programming;
 - the proposed frequency; and
 - instances of apparent non-compliance.

Volunteer participation at the station

11. In paragraph 12 of Broadcasting Regulatory Policy 2010-499 (Campus and Community Radio Policy), the Commission described community radio as distinguishing itself by virtue of its place in the communities served, reflection of the communities' needs and values, and the requirement for volunteers in programming and other aspects of station operations. This helps ensure that the programming is different from that of commercial and public radio in the same market.
12. As noted above, Radio Fermont has tried unsuccessfully to recruit volunteers to work at the station. In addition, according to the schedule appended to the application, the only volunteer-produced programming appears to be broadcast on Friday evenings from 6:00 p.m. to 8:00 p.m., for a total of two hours per broadcast week.
13. In response to a request for information from the Commission, the applicant provided the following explanations:
 - A team of three full-time employees and one part-time employee is responsible for the operation of the station.
 - The station's board of directors, made up of eight volunteers, oversees all the station's activities.
 - A single volunteer host is responsible for a two-hour time slot on Friday evenings. The program is produced externally (at his home in Beauce), but the content is local because the program is produced exclusively for the station.
 - The station operates in a community of workers who have atypical schedules and not much time to volunteer.

Commission's analysis

14. The Commission notes that the station has been on the air since 1979 thanks to the work of a small, stable and experienced team.
15. While the mandate of a community station requires that some local programming be produced by volunteers, the Commission notes the specific challenge of recruiting volunteers for CFMF-FM, which is located in a remote area. The Commission considers that the challenges of recruiting volunteers for creating and producing local programming appear to be largely due to a lack of interest among community members to get involved in producing programs for the station, and not to a lack of recruitment effort on the applicant's part.
16. However, the Commission notes that a two-hour program broadcast on Friday evenings is currently being produced for the station by a volunteer host who resides in the Beauce region. In addition, the applicant seems optimistic that content created by community volunteers will eventually be included.

17. The Commission also considers that the current, albeit limited, participation of eight volunteers on the board of directors and the individual who produces the two-hour weekly program meets the objectives of the Campus and Community Radio Policy with respect to the participation and representation of members of the community served by the proposed station.
18. In light of the above, the Commission finds that the level of volunteer participation is satisfactory in this case, despite the fact that it is lower than usually expected for a community radio station to ensure acceptable representation of the interests and needs of the community being served. However, the Commission reminds the licensee of the importance of volunteers within a community station and encourages the station to continue its recruitment efforts.

Proposed programming

19. Pursuant to the Campus and Community Radio Policy, the Commission expects community radio stations to provide programming differing in style and substance from that provided by other elements of the broadcasting system, particularly commercial radio stations and the Canadian Broadcasting Corporation. Such programming should consist of music, especially Canadian music, not generally heard on commercial stations (including special interest music, as well as styles of popular music seldom broadcast), in-depth spoken-word programming and programming targeted to specific groups within the community.
20. In addition, as set out in the Campus and Community Radio Policy, community radio stations
 - should broadcast a minimum of 15% of spoken-word programs (content category 1) each broadcast week (for the purposes of this requirement, these programs shall be locally produced); and
 - are not authorized to broadcast more than 80% of musical selections from content subcategory 21 (Pop, Rock and Dance) in order to provide a variety of musical selections broadcast that is not generally heard on commercial stations.

Local programming and wrap-around programming

21. In its application, Radio Fermont proposed to broadcast 118 hours and 30 minutes of local programming per week. In response to a request for information about Radio Fermont's ability to produce the proposed minimum with so little volunteer participation, Radio Fermont described the current local programming produced by the station's staff and volunteer that is broadcast on CFMF-FM and that it will continue to offer, namely:
 - three daily "live" programs;
 - pre-recorded programs;

- a two-hour program produced by a volunteer outside its studios (in Beauce), solely for the station, which airs every Friday evening; and
 - local information and locally produced music programming.
22. In its application, Radio Fermont also proposed to broadcast 7 hours and 30 minutes of wrap-around programming per broadcast week.
23. In response to a request for information from the Commission, Radio Fermont stated that it broadcasts six hours of wrap-around programming produced by the ARCQ. This programming consists entirely of spoken-word programs, and some of it allows for certain music quotas to be met (*Clic Franco*, *Frañol*, *En route vers l'ouest*), especially for music from content category 3 (Special Interest Music) and other music in content subcategory 21 (Pop, Rock and Dance).
24. Radio Fermont also stated that the following programs are produced by other external partners:
- *Vote pour la science* from Science-Pressé magazine (one hour per week);
 - *Derrière le volant* from Kréaction Media (one hour per week); and
 - *Rendez-Vous Nature* from rendez-vousnature.ca (one hour per week).
25. Finally, Radio Fermont proposed to broadcast Montreal Canadiens hockey games from CHMP-FM Montréal two to four times a week depending on the team's schedule. The programming schedule clearly indicates that Montreal Canadiens games would be broadcast where applicable. These games take precedence over scheduled programming.

Commission's analysis

26. According to Radio Fermont, CFMF-FM is the only source of local information in the region because the stations available in the community of Fremont, ICI Première (CBSI-FM-6 Fermont) and Radio One (CBMR-FM Fermont), do not broadcast programming from that community. The programming for those stations comes from Sept-Îles and focuses more on the North Shore and programming from Montréal.
27. Originally, the licensee proposed 118 hours and 30 minutes of local programming and 7 hours and 30 minutes of wrap-around programming. The Commission notes the licensee's correction of the total duration of wrap-around programming from 7 hours and 30 minutes to 6 hours per broadcast week. However, the Commission notes that the licensee did not include the three hours of programming produced by external partners (which are not considered local programming) in its calculation for non-local programming, which increases the amount of wrap-around programming offered to 9 hours and decreases the amount of local programming offered to 117 hours per broadcast week.

28. In addition, the licensee did not calculate the portion of time dedicated to broadcasting Montreal Canadiens hockey games as wrap-around programming given that it is obtained from an external source. The Commission estimates that broadcasting Montreal Canadiens hockey games would represent approximately 10 hours of wrap-around programming per week, which also has an impact on the number of hours of local programming offered. Including these 10 hours of non-local programming as wrap-around programming, the Commission estimates that the actual amount of local programming offered would be 107 hours per week when the licensee broadcasts professional hockey games, and 117 hours per week when the licensee does not broadcast hockey games.
29. While the Commission's calculation differs significantly from the licensee's original proposal with respect to its local programming (118.5 hours per week) and its wrap-around programming (7 hours and 30 minutes), the Commission is of the view that a minimum of 107 hours of local programming broadcast per week is appropriate for a community station.
30. In light of the above, the Commission finds that the programming proposed by Radio Vermont meets the requirements set out in the Campus and Community Radio Policy.

Appropriateness of broadcasting hockey games

31. In response to a request for information from the Commission regarding the appropriateness of broadcasting this type of programming on a community radio station, Radio Vermont explained that it would like to offer a variety of programming to its listeners while complying with regulatory requirements. Moreover, no other station offers this content in the Vermont market.
32. While the Commission is of the view that the broadcast of Montreal Canadiens hockey games on the station does not correspond with the objectives of the programming that a community station should typically provide, it notes that CFMF-FM is currently the only radio station providing local service in the Vermont community. The Commission also notes that no complaints have been raised in regard to the station's broadcast of Montreal Canadiens hockey games. The applicant stated that broadcasting these professional hockey games provides an important source of funding for the station and that cancelling such a sponsorship contract could have a significant financial impact on the station.
33. In light of the above, the Commission finds that Radio Vermont may continue to broadcast Montreal Canadiens games on CFMF-FM.

Proposed frequency

34. The contours of the proposed station would cover the municipality of Vermont. In addition, the Department of Industry has granted conditional technical acceptability of the proposed station. The applicant's proposal adheres to the rules governing FM spectrum coordination.

35. The Commission notes the availability of other drop-in frequencies that can be used with parameters comparable to those proposed by Radio Vermont. Therefore, the Commission considers that 103.1 MHz is not the last frequency available to serve Vermont or surrounding markets.
36. In light of the above, the Commission finds that Radio Vermont's proposal to use 103.1 MHz is technically acceptable and would have minimal impact on the availability of frequencies in Vermont and surrounding areas.

Instances of apparent non-compliance

37. Paragraph 10(1)(i) of the Act states that the Commission may, in furtherance of its objects, make regulations requiring licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify.
38. Pursuant to this authority, the Commission made subsection 9(2) of the *Radio Regulations, 1986* (Regulations), which requires licensees to file an annual return, including financial statements, by no later than 30 November of a given year for the broadcast year ending on the previous 31 August. The specific filing requirements, including the requirement to file financial statements, are set out in Broadcasting Information Bulletin 2011-795.
39. According Commission records, annual reports for the 2014-2015, 2015-2016, 2016-2017 and 2020-2021 broadcast years were either filed late or incomplete. Specifically:
 - For the 2014-2015 broadcast year, forms 1110 and 1135 were filed late, on 3 December 2015. The financial statements were also missing.
 - For the 2015-2016 broadcast year, the financial statements were missing.
 - For the 2020-2021 broadcast year, the following forms were filed late:
 - Form 1110 – filed 16 December 2021;
 - Form 1135 – filed 15 December 2021;
 - Forms 1340/1411/REP-B – filed 14 December 2021; and
 - Form 1420^B – filed 16 December 2021.
40. Radio Vermont explained that the apparent non-compliance with respect to the missing annual report for the 2014–2015 broadcast year was the result of the then-new station manager's lack of knowledge. Since the notice was probably sent to the e-mail address of the person who previously held the position, he was unable to produce the forms until a second notice was received and was unaware that the financial statements were missing. In addition, this was a time when financial controllers were struggling to provide statements on time.

41. In regard to the missing financial statements for the 2015-2016 broadcast year, Radio Fermont explained that it no longer has access to the forms, but that if the forms were re-filed in the data collection system, it would complete them and submit them to the Commission.
42. In regards to the annual report for the 2020-2021 broadcast year, Radio Fermont acknowledged that it failed to note the deadline in its calendar. However, as soon as it were notified of the delay, the forms were completed and sent to the Commission. Radio Fermont stated that it has now completed a full cycle with the Commission and now has a better understanding of what information will be requested.
43. When asked about the possibility of a shortened period for the new licence and the possible imposition of additional corrective measures, as provided for in Broadcast Information Bulletin 2014-608, Radio Fermont responded that that would be unfortunate. Aside from some delays under its previous management, its compliance record is virtually spotless. According to Radio Fermont, such a penalty would be inappropriate. The instances of non-compliance relate only to minor delays in filing statistical information, and once notified, Radio Fermont immediately met the Commission's requirements. Radio Fermont considers that it is in full compliance with its conditions of licence and that the imposition of corrective measures could be perceived negatively by its supporters.
44. In this case, the Commission has verified the licensee's compliance in relation to filing its annual reports during the current licence term. Although CFMF-FM's current licence was renewed for a period of seven years (until 31 August 2021) in Broadcasting Decision 2014-262, the Commission notes that paragraph 4 of that decision addresses an instance of non-compliance with respect to annual reports in the previous licence term. Specifically, the Commission found that the licensee was in non-compliance with subsection 9(2) of the Regulations for the 2010-2011 broadcast year, given the late filing of its annual report. The Commission was satisfied with the licensee's explanation at the time and therefore considered it appropriate to renew the licence for a full seven-year period.
45. However, as part of the current application, Radio Fermont is once again in non-compliance for not filing its complete annual reports by the deadline. This would represent a second consecutive licence term with the same non-compliance.
46. The Commission notes that the missing financial statements for the 2015-2016 broadcast year were filed with the Commission on 16 February 2022, but that the financial statements for the 2014-2015 broadcast year are still missing.
47. In light of the above, the Commission finds the licensee in non-compliance with subsection 9(2) of the Regulations for the 2014-2015, 2015-2016, 2016-2017 and 2020-2021 broadcast years.

Regulatory measures

48. The Commission's approach to radio stations' non-compliance is set out in Broadcasting Information Bulletin 2014-608. Under this approach, each instance of non-compliance is evaluated in its context and in light of factors such as the number, recurrence and seriousness of the instances of non-compliance. The Commission also considers the circumstances, the arguments provided by the licensee, as well as the actions taken to rectify the situation.
49. As set out in Broadcasting Regulatory Policy 2014-554, where a licensee is in non-compliance, the Commission may, on a case-by-case basis and according to the nature of the station's non-compliance, renew the licence for a short term, impose additional conditions of licence, call the licensee to a public hearing, issue a mandatory order requiring the licensee to comply with regulatory requirements, or even suspend the licence, not renew the licence or revoke the licence.
50. The Commission has reviewed the public record of this application and notes the applicant's willingness to ensure that the station is meeting its regulatory requirements. However, given the recurrence of Radio Fermont's non-compliance with respect to filing annual reports during the current licence term, the Commission finds that it would be appropriate for CFMF-FM's new broadcasting licence to be issued for a short term of five years, which will allow the Commission to verify the licensee's compliance with its regulatory requirements in the shorter timeframe.

Conclusion

51. In light of all of the above, the Commission is satisfied that this application complies with the provisions for community radio stations set out in Broadcasting Regulatory Policy 2010-499. Accordingly, the Commission **approves** the application by Radio Fermont for a broadcasting licence to operate a new French-language community FM radio broadcasting undertaking in Fermont, Quebec. The terms and **conditions of licence** are set out in the appendix to this decision.
52. The Commission will revoke CFMF-FM's current licence and issue a new licence once the Department of Industry has confirmed that its technical requirements have been met and Radio Fermont has informed the Commission in writing that it is ready to begin operating under the new technical parameters.

Reminders

53. Pursuant to section 22 of the Act, the broadcasting licence will become null and void upon the expiry of the broadcasting certificate issued by the Department of Industry.
54. The Commission would like to reiterate the importance of volunteers within a community station and encourages the station to continue its recruitment efforts.

55. Pursuant to section 16 of the *Radio Regulations, 1986*, all licensees of campus, community and Native radio stations must participate in the National Public Alerting System.
56. As set out in section 16 of the Regulations, licensees have obligations relating to the broadcast of emergency alert messages received from the National Alert Aggregation and Dissemination System. In regard to the new FM stations' authorized contours resulting from the implementation of the technical parameters approved in this decision, the Commission reminds the licensee that continued compliance with section 16 of the Regulations may require that any alert broadcast decoders (e.g., ENDEC) used for the purposes of broadcasting emergency alert messages on the FM stations, or on any rebroadcasting transmitters that may appear on the broadcasting licence for these stations, be programmed to properly account for the theoretical 0.5 mV/m contour of the new FM band.

Secretary General

Related documents

- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014
- *CFMF-FM Fermont – Licence renewal*, Broadcasting Decision CRTC 2014-262, 22 May 2014
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011
- *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2022-329

Terms, conditions of licence, expectation and encouragement for the French-language community FM radio station in Fermont, Quebec

Terms

The licence will expire 31 August 2027.

The station will operate at 103.1 MHz (channel 276A) with an effective radiated power of 2,290 watts (non-directional antenna with an effective height of the antenna above average [EHAAT] terrain of 1.9 metres).

Pursuant to subsection 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.

Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational 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 **1 December 2024**. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

Conditions of licence

1. The licensee shall adhere to the conditions of licence set out in *Standard conditions of licence for campus and community stations*, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012.

Expectation

Filing of ownership information

As set out in *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010, the Commission expects all community and campus licensees to file yearly updates on the composition of their boards of directors. These annual updates can be submitted at the time of submission of annual returns, following annual board of directors' elections, or at any other time. As noted in Appendix 3 to that regulatory policy, licensees may submit such documentation via the Commission's website

Encouragement

The Commission considers that community radio stations should be particularly sensitive to employment equity issues in order to reflect fully the communities they serve. It encourages the licensee to consider these issues in its hiring practices and in all other aspects of its management of human resources.