



## Broadcasting Decision CRTC 2022-345

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Reference: Part 1 application posted on 13 June 2022

Ottawa, 20 December 2022

### **CJRO Radio**

Carlsbad Springs and Casselman, Ontario

*Public record: 2022-0256-3*

## **CJRO-FM Carlsbad Springs – New transmitter in Casselman**

### **Summary**

The Commission **approves**, on an exceptional basis, an application by CJRO Radio to amend the broadcasting licence for the low-power English- and French-language community radio programming undertaking CJRO-FM Carlsbad Springs, Ontario, in order to operate a new low-power FM transmitter in Casselman, Ontario, to rebroadcast the programming of CJRO-FM.

### **Background**

1. In Broadcasting Decision 2019-133, the Commission approved an application by Carlsbad Springs Community Association (CSCA) for a low-power English- and French-language community radio station in Carlsbad Springs, Ontario, with a rebroadcasting transmitter in Vars, Ontario, to replace its existing exempt tourist radio station. The new community radio station and its transmitter began operations on 11 January 2020.
2. In Broadcasting Decisions 2020-369 and 2021-336, the Commission approved applications by CSCA for new low-power transmitters in Embrun and Sarsfield, Ontario, to rebroadcast the programming of CJRO-FM Carlsbad Springs.
3. In Broadcasting Decision 2022-136, the Commission approved an application by CJRO Radio for authorization to acquire from CSCA the assets of CJRO-FM and its transmitters and to obtain a new broadcasting licence to continue the operation of the station.

### **Application**

4. CJRO Radio filed an application to amend the broadcasting licence for the low-power English- and French-language community radio programming undertaking CJRO-FM Carlsbad Springs in order to operate a low-power FM transmitter in Casselman, Ontario, to rebroadcast the programming of CJRO-FM.

5. The new transmitter would operate at 107.9 MHz (channel 300LP) with an effective radiated power of 2 watts (non-directional antenna with an effective height of the antenna above average terrain [EHAAT] of 26 metres).
6. CJRO Radio stated that there has been interest from the community of Casselman, including residents, local community groups and local businesses in the bilingual community radio service offered by CJRO Radio in Carlsbad Springs, Vars, Sarsfield and Embrun. CJRO Radio also stated that there is currently no local news and community information service available to the English residents of Casselman and that CJRO-FM can fill this void.

## **Interventions**

7. The Commission received one intervention in support of this application from the National Campus and Community Radio Association, and one intervention in opposition from the Radio communautaire Cornwall-Alexandria inc. (RCCA), the licensee of the French-language community radio station CHOD-FM Cornwall, Ontario.
8. In its intervention, RCCA submitted that competing with the bilingual programming of CJRO-FM can have economic consequences for CHOD-FM as a French-language radio station, due to ambiguity relating to bilingual stations. As such, it requested that the Commission not approve CJRO Radio's application.
9. Specifically, RCCA noted that there is no clear regulation that applied to the proportions of English- or French-language music that is to be broadcast on a bilingual radio station. Conversely, it stated that CHOD-FM, as a French-language radio station, is bound by regulation to devote 65% of its musical selections during the broadcast week to French-language vocal musical selections and its spoken-word content must also be in French.
10. RCCA further noted that as it is situated in a region in which nearly all Francophones are bilingual, local businesses may want to have their radio advertisements broadcast in both languages. RCCA submitted that this could have a significant impact on CHOD-FM's current and future advertising revenues.
11. In regard to CJRO Radio's rationale for the addition of a transmitter, RCCA stated that while the licensee did not claim a financial need for the application, CJRO Radio noted in its application that there was interest expressed in CJRO-FM's service by local businesses in Casselman. Therefore, RCCA stated that it is not convinced that CJRO Radio's application is not, at least partially, financially motivated and requested that CJRO Radio provide financial projections to support its application.
12. Additionally, RCCA submitted that if CJRO Radio's goal is to provide local information to Anglophone residents of Casselman, then it would be more sensible to apply for an English-language community radio station to serve that location instead.
13. RCCA requested that either the regulations for bilingual radio stations be clarified or that CJRO Radio present a new application specifying which of the two languages it would use to broadcast to Casselman.

## **CJRO Radio's reply**

14. In its reply, CJRO Radio noted that it was licensed to offer 60% English and 40% French broadcast and that it makes sure that it meets these percentages during the broadcast week.
15. In regard to advertisement, CJRO Radio noted that it does not offer advertisement in a traditional way with a fixed rate or broadcast duration for each advertisement. Instead, it offers community partnerships in exchange for services, access to facilities and funding. CJRO Radio also noted that the businesses it has partnered with have not been advertising clients of CHOD-FM.
16. CJRO Radio further noted that if its application is approved, CJRO-FM would not broadcast in eastern Ontario east of Casselman, while CHOD-FM broadcasts to all of eastern Ontario.

## **Regulatory framework**

17. The Commission has the authority, pursuant to subsection 9(1) of the *Broadcasting Act* (the Act), to issue licences subject to such conditions related to the circumstances of the licensee as the Commission deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the Act and to amend those conditions on application of the licensee.
18. When a licensee of a radio station files an application for a technical change, the Commission generally requires that the licensee present compelling technical or economic evidence justifying the technical changes. The Commission may, as an exception to this general approach, approve applications that do not provide compelling technical or economic evidence where the particular circumstances of the licensee warrant. The Commission has deviated from this approach in the past to approve applications that primarily reflect a desire to serve additional communities where it is in the public interest to do so.

## **Issues**

19. After examining the record for this application in light of the applicable regulations and policies, the Commission considers that it should address the following issues:
  - whether the proposed transmitter represents an appropriate technical solution;
  - whether the proposed frequency for the new transmitter represents an appropriate use of spectrum;
  - whether the approval of the application would result in an undue economic impact on incumbent stations; and
  - whether the approval of the application would undermine the integrity of the Commission's licensing process.

### **Appropriate technical solution**

20. The proposed amendment represents the addition of a low-power rebroadcasting transmitter in Casselman, approximately 30 kilometers southeast of its originating station.
21. CJRO Radio did not submit this amendment on the grounds of technical deficiencies within its authorized contours, but rather to provide service to a nearby community. The Commission considers that the addition of a rebroadcasting transmitter is generally an effective solution of improving coverage, and should provide sufficient service to the community.
22. In light of the above, the Commission finds that the proposed rebroadcasting transmitter constitutes an appropriate technical solution for providing coverage and sufficient service to Casselman.

### **Appropriate use of spectrum**

23. CJRO Radio proposed the use of frequency 107.9 MHz (channel 300LP) for the new rebroadcasting transmitter in Casselman.
24. There are other frequencies in Casselman which could support similar parameters to the proposed transmitter.
25. In light of the above, the Commission finds that CJRO Radio's proposal represents an appropriate use of spectrum.

### **Economic impact on incumbent stations**

26. There are currently no other services licensed to serve the township of Casselman. Moreover, the township of Casselman is not covered by the primary contour of CHOD-FM or its rebroadcasting transmitter, CHOD-FM-1 Dunvegan, Ontario, and, as such, is not included in the principal marketing area of the station.
27. Although CHOD-FM would not be considered an incumbent station in this instance, RCCA stated in its intervention that CJRO-FM's status as a bilingual community radio station would give the licensee a competitive advantage in that they can air advertisements in both official languages.
28. CJRO Radio stated that their approach to advertisement differs from most other broadcasters as they opt to exchange advertising spots on their broadcasts for services such as hosting their rebroadcasting transmitter. Due to their intrinsic bartered nature, CJRO Radio is of the view that these community partnerships pose little threat to CHOD-FM.
29. In light of the above, the Commission finds that the approval of the proposed technical amendment would not result in an undue impact on incumbent radio stations since there are no incumbent stations.

## **Integrity of the Commission's licensing process**

30. When a licensee of a radio station files an application for a technical amendment, including applications that would see a radio station's signal expand into an adjacent market by way of an additional transmitter, the licensee is generally expected to present compelling technical or economic evidence justifying the technical changes.
31. The Commission has, as an exception to this general approach, approved applications that do not provide compelling technical or economic evidence where the particular circumstances of the licensee warrant it and when it is in the public interest to do so. Such applications are evaluated on a case-by-case basis and take into account the rationale submitted by the licensee and the unique factors of each station's situation.
32. Casselman does not have a dedicated radio service and the proposed rebroadcasting transmitter would not overlap with any other English-language or bilingual community radio stations serving the Ottawa-Gatineau Central Numeris Area.
33. Moreover, the addition of the proposed rebroadcasting transmitter would allow for local bilingual news and community events to be made available to the community through the addition of Casselman-based programming to CJRO-FM's programming. The proximity of the proposed and existing transmitters would allow CJRO Radio to provide a community radio service to a combined rural area with common interests. Accordingly, the Commission is of the view that the application is in the public interest.
34. Finally, as a low-power transmitter, CJRO Radio would be required to vacate the frequency should another applicant for a regular power station receive approval for its use.
35. In light of the above, the Commission finds that the approval of this application would not undermine the integrity of the Commission's licensing process.

## **Conclusion**

36. In light of the above, the Commission **approves**, on an exceptional basis, the application by CJRO Radio to amend the broadcasting licence for the FM radio programming undertaking CJRO-FM Carlsbad Springs in order to operate a low-power FM rebroadcasting transmitter in Casselman.
37. While the Commission approves this application, it notes that technical amendments for the addition of a rebroadcasting transmitter is generally done to better serve the existing market by increasing its power or moving the antenna so the signal can be better received by listeners and the onus is on the applicant to present compelling technical or economic evidence justifying the technical changes.
38. The Commission is concerned that the current technical amendment process is increasingly being used to expand beyond the licensed market without submitting evidence to justify the technical changes and/or without submitting an application for a new service and the possible market capacity analysis that such an application could

trigger. The number of exceptions to its general approach has grown and the Commission is concerned that this type of “back door” entry into markets could undermine the integrity of the licensing process. The Commission understands that community stations in particular may have concerns about the resources required to submit an application for a new service, but the Commission also believes that technical amendments should not become a default way to access new markets.

39. Accordingly, the Commission intends to examine the process for technical amendments which seek to add rebroadcasting transmitters more closely, particularly as it relates to community and other stations with very little or no commercial potential or impact.

### **Reminder**

40. As set out in section 16 of the *Radio Regulations, 1986* (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 addition of CJRO-FM’s authorized contours resulting from the implementation of the technical changes 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 CJRO-FM, or on any rebroadcasting transmitters that may appear on the broadcasting licence for that station, be reprogrammed to properly account for the new authorized contours.

### **Related documents**

- *CJRO-FM Carlsbad Springs and its transmitters CJRO-FM-1 Vars, CJRO-FM-2 Embrun and CJRO-FM-3 Sarsfield – Acquisition of assets*, Broadcasting Decision CRTC 2022-136, 26 May 2022
- *CJRO-FM Carlsbad Springs – New transmitter in Sarsfield*, Broadcasting Decision CRTC 2021-336, 4 October 2021
- *CJRO-FM Carlsbad Springs – New transmitter in Embrun*, Broadcasting Decision CRTC 2020-369, 9 November 2020
- *Community radio station in Carlsbad Springs*, Broadcasting Decision CRTC 2019-133, 7 May 2019

Secretary General

*This decision is to be appended to the licence.*