



## Broadcasting Decision CRTC 2023-40

PDF version

Reference: Part 1 application posted on 19 October 2022

Ottawa, 22 February 2023

**Kootenay Cooperative Radio**  
Nelson, British Columbia

*Public record: 2022-0874-3*

### CJLY-FM Nelson – Technical changes

#### Summary

The Commission **approves** an application to change the authorized contours of the English-language community FM radio station CJLY-FM Nelson, British Columbia, and to relocate that station's transmitter.

#### Background

1. In an administrative decision dated 14 April 2022, the Commission approved an application (2022-0134-1) by Kootenay Cooperative Radio (KCR) to change the technical parameters of the English-language community radio station CJLY-FM Nelson, British Columbia, by increasing the effective height of the antenna above average terrain (EHAAT) from -761.0 to 20.0 metres and amending the existing coordinates. All other technical parameters remained unchanged.
2. In that application, KCR noted that its licensed transmitter site on the top of Kootenay Lake District Hospital was no longer available for insurance reasons, and that it was requesting to move its antenna to a tower on Hall Street in Nelson on an interim basis. It added that upon approval of that application, it would begin preparing a new application for a different site and different parameters that would be suitable for long-term use.

#### Application

3. KCR filed an application to change the authorized contours of CJLY-FM by increasing the effective radiated power (ERP) from 70 watts to 330 watts, increasing the EHAAT from -846.6 to 432.4 meters,<sup>1</sup> and changing the class of the station's transmitter from A1 to B1, and to relocate the transmitter from its current location in the City of Nelson to a

---

<sup>1</sup> KCR indicated that there was an error in the application that led to the issuance of the above-noted 14 April 2022 administrative decision. Specifically, the EHAAT specified in that application was 20 metres, whereas it should have been -846.6 metres. The licensee requested that the Commission accept the EHAAT specified in the engineering brief for the present application as the correct figure.

permanent location on Mount Nelson, British Columbia. All other technical parameters would remain unchanged, including those for the station's rebroadcasting transmitter, CJLY-FM-1 Kootenay Bay, British Columbia.

4. The Commission received an intervention in support of this application from the National Campus and Community Radio Association (NCRA). Further, in support of the requested technical changes, KCR provided as part of its application 10 listener complaints from community members in Nelson relating to signal issues with CJLY-FM.
5. KCR stated that the proposed technical changes would allow it to move the main transmitter for CJLY-FM to a permanent location on Mount Nelson within the vicinity of the City of Nelson. It submitted that approval of its application would also result in better signal transmission from CJLY-FM to CJLY-FM-1, improve reception within the station's protected contours and on local highways and ferries, eliminate anticipated further reception issues in the City of Nelson, expand the station's protected contours to reach communities that are considered local, but are not currently part of the area the station is licensed to serve, and allow the station to move from mono to stereo broadcasting mode.
6. KCR added that approval of the requested technical changes would ensure that CJLY-FM's service contours better reflect the licensee's identity as a regional broadcaster. In this regard, the licensee stated that although it is a regional broadcaster in terms of its volunteer base and news and community affairs coverage, it is not yet a regional broadcaster in terms of offering a high-quality and consistent signal to listeners in its region.
7. Finally, the licensee indicated that with CJLY-FM, it aims to entertain and inform listeners through its commitment to innovative broadcast journalism and high-quality programming, and use its facilities, initiative and skills of its members to create a medium for the balanced expression of the varied perspectives of the community of Nelson.

## **Regulatory framework**

8. 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 the Commission deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the Act, as well as to amend those conditions on application of the licensee.
9. When a licensee of a radio station files an application for technical changes, the Commission generally requires the licensee to present compelling technical or economic evidence justifying the requested technical changes. Applications are reviewed on a case-by-case basis, taking into account the particulars of the application and any relevant issues raised in interventions.
10. As set out in *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010, the Commission considers that campus and community

radio distinguishes itself by virtue of its place in the communities served, the reflection of the communities' needs and values, and the requirement for volunteers in programming and other aspects of station operations. Further, the programming provided by campus and community radio should meet the needs and interests of the communities served by these types of stations in ways that are not met by commercial radio stations and the Canadian Broadcasting Corporation (CBC).

## **Issues**

11. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it should address the following issues:

- whether the licensee has demonstrated a compelling technical need for the requested technical changes;
- whether the requested technical changes represent an appropriate technical solution;
- whether the requested technical changes represent an appropriate use of spectrum;
- whether approval of the requested technical changes would result in an undue economic impact on other incumbent stations in the market; and
- whether approval of the requested technical changes would undermine the integrity of the Commission's licensing process.

## **Compelling technical or economic need**

12. In applying the test for technical or economic need identified above, the Commission notes that KCR, in its application, did not cite an economic need for the requested technical changes and did not consider that approval of its application would result in a change in its financial projections. Accordingly, the Commission assessed the present application on the basis of technical need and the merits of the application.

13. The Commission acknowledges that KCR is currently broadcasting from a temporary site that will not be feasible going forward, and that the primary reason for the present application is to establish its tower on a more permanent site and with parameters that are suitable for long-term use to allow the station to serve the community of Nelson.

14. KCR submitted that the requested technical changes would serve to improve radio reception within CJLY-FM's current primary (3 mV/m) service contour within the City of Nelson and its immediate surrounding area. Of the listener complaints filed by the licensee with its application, two were from complainants located within the station's primary service contour, which lends credence to the licensee's claim that the station's primary service contour could currently be experiencing signal reception issues. In KCR's view, approval of the present application could solve the station's current and anticipated signal deficiencies within that city.

15. The licensee added that the requested technical changes would serve to improve the signal that travels from CJLY-FM's main transmitter to its rebroadcasting transmitter CJLY-FM-1. It noted that although other options were explored, none were either feasible or sufficient for addressing the station's signal reception issues.
16. KCR further submitted that eliminating the use of a remote radio receiver/Studio Transmitter Link (STL) to CJLY-FM-1 would make it possible to reduce operating costs. In this regard, the licensee indicated that the current remote radio receiver/STL is subject to power outages, line-of-sight transmission blockages from trees and vegetation growth, and access issues. Although multiple solutions, including replacing the remote radio receiver/STL, were considered, the licensee determined that the new equipment would be subject to the same issues that hinder the current equipment. In the Commission's view, the existing remote radio receiver/STL is not a reliable solution for the future operation of CJLY-FM.
17. In its application, KCR also submitted that using a stereo signal for CJLY-FM at the station's current ERP and transmission site is not feasible as it would cause reception issues on the edges of the station's service contours. However, no technical evidence was submitted to support this claim. Accordingly, the Commission finds that the licensee has not demonstrated that a stereo signal could not be received within CHLY-FM's current primary (3 mV/m) and secondary (0.5 mV/m) service contours.
18. In light of all of the above, and based on the evidence before it, the Commission finds that KCR has demonstrated a compelling technical need for the requested technical changes.

#### **Appropriate technical solution**

19. As noted above, KCR indicated that the requested technical changes would improve radio reception within CJLY-FM's current primary service contour in the City of Nelson and its immediate surrounding area.
20. In regard to the establishment of a permanent broadcasting site, the Commission notes that the licensee explored three other tower solutions before settling on the proposed site as the best choice, for both technical and economic reasons, and that the proposed site would meet the need of establishing a permanent broadcasting site going forward.
21. In the Commission's view, the proposed technical changes would serve to improve CJLY-FM's signal strength within its current service contours, allow the licensee to establish a permanent broadcasting site for its transmitter, and adequately serve the community of Nelson. Further, they would eliminate the need for a remote radio receiver/STL to CJLY-FM-1.
22. In light of the above, the Commission finds that KCR's proposal for CJLY-FM constitutes an appropriate technical solution for improving the station's signal strength within its existing service contours, establishing a permanent broadcasting site for its main transmitter, and serving the community of Nelson.

### **Appropriate use of spectrum**

23. KCR did not propose to use a frequency different from that it is currently using for CJLY-FM. As such, the requested technical changes would not have an impact on the availability of frequencies in adjacent markets. Accordingly, the Commission finds that the requested technical changes represent an appropriate use of spectrum.

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

24. Nelson, a community with a population of around 11,000, is located in the British Columbia interior, 165 kilometres southeast of Kelowna. The Nelson radio market consists of one community radio station (CJLY-FM) and two commercial radio stations: CHNV-FM Nelson, operated by Vista Radio Ltd. (Vista), and CKKC-FM Nelson, operated by Bell Media Inc. (Bell Media). KCR submitted that, should its application be approved, it does not anticipate an undue economic impact on other stations in the region.
25. KCR indicated that approval of the proposed technical changes would result in the population served by CJLY-FM's primary contour increasing by 8,177, or 73%. While this would represent a significant increase in listenership, the increase would be contained within the City of Nelson and the surrounding rural areas and would not encroach upon any adjacent radio markets as defined by Numeris, or upon the existing service contours of a radio station serving a market other than the City of Nelson. Further, the licensee stated that it is not seeking to increase local advertising revenues for CJLY-FM, and that approval of its application would not result in a change to its financial projections for the station.
26. In regard to the potential economic impact on the two commercial stations in Nelson, the Commission notes that, as a community station, CJLY-FM's footprint in the Nelson advertising market is small. Moreover, neither Vista nor Bell Media submitted interventions opposing the present application.
27. In light of the above, the Commission finds that approval of the requested technical changes for CJLY-FM would not result in an undue economic impact on the incumbent stations in the market.

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

28. When the licensee of a radio station files an application for technical changes, it is important for the Commission to ensure that approval of the application would not undermine the integrity of its licensing process, particularly where the applicant is seeking to expand its licensed area beyond that which it was originally licensed to serve.
29. KCR submitted that approval of the proposed technical changes would allow it to establish a permanent site for CJLY-FM's main transmitter, which would allow the station to serve the City of Nelson with an improved signal that can be better received by listeners. Although the evidence provided by the licensee demonstrated a technical need to move its transmitter to a permanent location, the proposed technical solution would also allow CJLY-FM's primary contour to reach areas that the licensee considers to be

local, but that it is not currently licensed to serve. As such, the Commission is concerned that the proposed technical solution could constitute a “back-door” entry into a market the station is not licensed to serve.

30. The Commission notes that the above-noted increase in the population that would be served by CJLY-FM in its primary service contour would be contained within Nelson and the surrounding rural areas and would not encroach upon any adjacent radio markets as defined by Numeris, or upon the existing service contours of a radio station serving a market other than Nelson. Further, as CJLY-FM is a community station, the expansion of its service area would have little to no economic impact. The Commission also considers that approval of the present application would be in the public interest as it would allow CJLY-FM, the only community radio station licensed to serve Nelson, to incorporate unserved adjacent rural communities into its licensed service area and provide a community service to communities that otherwise would not likely be able to sustain their own community stations.
31. In light of the above, the Commission finds that approval of KCR’s application would not undermine the integrity of the Commission’s licensing process.

## Conclusion

32. In light of all of the above, the Commission **approves** the application by Kootenay Cooperative Radio to change the authorized contours of the English-language community radio programming undertaking CJLY-FM Nelson, British Columbia, by increasing the ERP from 70 watts to 330 watts, increasing the EHAAT from -846.6 to 432.4 meters, and changing the class of the station’s transmitter from A1 to B1, and to relocate the transmitter from its current location in the City of Nelson to a permanent location on Mount Nelson, British Columbia.
33. Pursuant to subsection 22(1) of the Act, this authority will be effective only when the Department of Industry notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.
34. The licensee must implement the technical changes by no later than **22 February 2025**. To request an extension, the licensee must submit a written request to the Commission at least 60 days before that date, using the form available on the Commission’s website.
35. 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 changes to CJLY-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 this radio station, 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.

Secretary General

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