



Broadcasting Decision CRTC 2005-596

Ottawa, 21 December 2005

Bel-Roc Communications Inc.
Haldimand County, Ontario

CHCD Inc.
Simcoe and Haldimand County, Ontario

*Applications 2005-0546-4 and 2005-0603-2
Broadcasting Public Notice CRTC 2005-77
4 August 2005*

Use of frequency 92.9 MHz by the new English-language FM radio station in Haldimand County and addition of a transmitter of CHCD-FM Simcoe in Haldimand County

*The Commission **approves** the application by Bel-Roc Communications Inc. to operate its FM radio station in Haldimand County at 92.9 MHz (channel 225B1) and to change the authorized contours of that station. The technically mutually exclusive application by CHCD Inc. to amend the broadcasting licence for CHCD-FM Simcoe, in order to add an FM transmitter in Haldimand County at 93.1 MHz is **denied**.*

The applications

1. The Commission received an application by Bel-Roc Communications Inc. (Bel-Roc) to operate its FM radio programming undertaking in Haldimand County at 92.9 MHz (channel 225B1). Bel-Roc also proposed to change the station's authorized contours, by decreasing the average effective radiated power (ERP) from 13,300 watts to an average ERP of 3,300 watts, by increasing the antenna height, and by relocating the transmitter.
2. The Commission also received an application by CHCD Inc. (CHCD) to amend the broadcasting licence for the radio programming undertaking CHCD-FM Simcoe, in order to operate a transmitter in Haldimand County at 93.1 MHz (channel 226A) with an average ERP of 1,352 watts.
3. The Commission notes that 92.9 MHz (channel 225B1) and 93.1 MHz (channel 226A) are first adjacent allotments. Accordingly, the two applications, as filed, are technically mutually exclusive.

Bel-Roc's application

4. In *English-language FM radio station in Haldimand County*, Broadcasting Decision CRTC 2005-169, 20 April 2005 (Decision 2005-169), the Commission approved an application by Bel-Roc to operate an FM radio station that would provide the first local radio service to Haldimand County. However, the Commission denied the proposed use of 106.7 MHz (channel 294B) because it was technically mutually exclusive with an application by Larche Communications (Kitchener) Inc. to use that frequency for CIKZ-FM Kitchener, Ontario¹. The Commission directed Bel-Roc to submit an application proposing the use of another FM frequency and technical parameters that were acceptable to both the Commission and the Department of Industry (the Department).
5. Bel-Roc noted that, in its original application, it had identified 92.9 MHz as its alternate choice of frequency in response to the Commission's questions. Bel-Roc also indicated that both the original application and the present application are based on drop-in frequencies located in a region where there are relatively few available frequencies.
6. Bel-Roc stated that, in the present application, it proposed technical parameters that would reduce its radio station's coverage towards Norfolk County and Brantford, Ontario, in order to protect CJBX-FM London, Ontario whose signal extends to Norfolk County and Brantford. It also noted that local broadcasters in Brantford had opposed its original application. Bel-Roc submitted that the proposed changes to the radio station's contours and the relocation of the transmitter are required in order to maximize the coverage of the proposed frequency while ensuring that the radio station complies with the Department's requirements with respect to the protection of adjacent market radio stations and of NAV/COM facilities. Consequently, approval of the present application would result in a shift of the radio station's coverage area approximately 20 kilometres east from that contemplated in the original application.

CHCD's application

7. CHCD claimed that CHCD-FM lost signal coverage in an area east of Simcoe after it was granted a licence amendment in *CHCD-FM Simcoe – Technical changes*, Broadcasting Decision CRTC 2003-490, 1 October 2003 (Decision 2003-490) to change the frequency from 106.7 MHz to 98.9 MHz and to increase the ERP from 3,420 watts to 14,370 watts. According to CHCD, the proposed transmitter in Haldimand County would restore CHCD-FM's signal to residents of Simcoe and Port Dover who commute to Nanticoke, which is located within the boundaries of Haldimand County. CHCD also argued that approval of its application would provide local coverage to Haldimand County by a locally-owned broadcaster.

¹ In *CIKZ-FM Kitchener-Waterloo – Technical change*, Broadcasting Decision CRTC 2005-168, 20 April 2005, the Commission approved an application by Larche Communications (Kitchener) Inc. to amend the broadcasting licence for CIKZ-FM Kitchener-Waterloo, by changing the frequency from 99.5 MHz to 106.7 MHz.

Interventions

8. Bel-Roc filed an intervention opposing CHCD's application, while CHCD filed an intervention opposing Bel-Roc's application. In addition, interventions in opposition to Bel-Roc's application were filed by two radio broadcasters serving Hamilton, Ontario: Burlingham Communications Inc. (Burlingham), the licensee of CIWV-FM Hamilton, and Standard Radio Inc. (Standard), the licensee of CHAM, CKOC and CKLH-FM Hamilton.

Interventions in opposition to Bel-Roc's application

9. CHCD stated that it is not opposed to Bel-Roc providing a service to Haldimand County, but that it is opposed to Bel-Roc providing a radio service that would be competitive in Norfolk County, the area that CHCD-FM is authorized to serve.
10. CHCD contended that Bel-Roc's original application to use 106.7 MHz was aimed at capturing listeners from the many Haldimand County residents who commute daily to Hamilton, and thus at generating a significant portion of its advertising revenues from the Hamilton radio market. According to CHCD, the map provided by Bel-Roc in its present application indicates that the 92.9 MHz signal would be totally impaired in Hamilton as well as on the roads between that city and Haldimand County, and that a large area of Haldimand County would not receive adequate coverage. In CHCD's view, Simcoe is the only community from which Bel-Roc could generate advertising revenues if its radio station were operating at 92.9 MHz. CHCD also expressed the opinion that it is possible that Bel-Roc would not comply with its condition of licence prohibiting it from soliciting local advertising in Simcoe.
11. CHCD alleged that Bel-Roc's present application is based on contour maps provided in the intervener's application, approved in Decision 2003-490, for the use of 98.9 MHz, and suggested that, in the crowded southern Ontario radio market, theoretical coverage is often different from actual coverage. Further, CHCD contended that Bel-Roc's revenue projections are overly optimistic.
12. For their part, Burlingham and Standard opposed Bel-Roc's application because, in their view, the proposed technical parameters would decrease the station's coverage within its authorized service area in Haldimand County and significantly increase its coverage in the Hamilton area. They contended that, if this application were approved, the number of people within the Haldimand County radio station's 0.5 mV/m contour would increase from 218,300, as proposed in the original application, to 588,718, and that the increase would come primarily from the Hamilton area.
13. Standard contended that the proposed new signal would be a "Haldimand/Hamilton" signal that would not reflect Bel-Roc's original proposal, which was for a unique local, community-based radio station to serve Haldimand County. Burlingham pointed out that Bel-Roc was authorized to provide the first radio service to Haldimand County and suggested that it seek an alternative location for its transmitter that would provide superior technical coverage of that market.

14. Burlingham also contended that, given the fact that Bel-Roc is subject to a condition of licence prohibiting it from soliciting local advertising in Brantford and Simcoe, it would seek additional advertising revenues from the Hamilton radio market at the expense of that city's incumbent radio stations. According to Burlingham, growth in advertising revenue in the Hamilton radio market has been the weakest of the top twelve Canadian radio markets over the past three years. Burlingham also noted that its own radio station, CIWV-FM, which commenced operation on 1 September 2000, is increasing its audience and advertising revenues, but has not yet achieved profitability.

Bel-Roc's replies

15. In response to CHCD, Bel-Roc submitted that the coverage map filed with its application indicates that the proposed coverage at 92.9 MHz circumvents Simcoe entirely. Bel-Roc also pointed out that it is subject to a condition of licence prohibiting it from soliciting local advertising in Simcoe. Bel-Roc contended that the proposed use of 92.9 MHz provides more than adequate coverage of the southern extremities of Hamilton. It further maintained that its revenue projections are conservative, but realistic because all of Haldimand County is within its radio station's 0.5 mV/m contour.
16. In response to Burlingham and Standard, Bel-Roc acknowledged that it did plan to augment the advertising revenues generated in its principal market of Haldimand County by soliciting additional advertising from the Hamilton radio market. However, Bel-Roc maintained that it was not seeking to attract listeners who are residents of Hamilton. With respect to the claim made by Burlingham and Standard that the number of people within the coverage area of Bel-Roc's proposed 0.5 mV/m contour would increase to over 588,000, Bel-Roc argued that the interveners had failed to deduct those people who are located below the Niagara escarpment in Hamilton and would therefore not receive any signal from the radio station.

Interventions in opposition to CHCD's application

17. Bel-Roc submitted that CHCD's request for a transmitter to be located in Haldimand County would provide CHCD with two strong 3 mV/m signals in adjacent markets. In Bel-Roc's view, the proposed transmitter is not needed because CHCD-FM's signal already provides clear coverage in its service area. Bel-Roc further alleged that CHCD's real objective is to prevent the implementation of Decision 2005-169 by means of an application that would be intentionally technically mutually exclusive with Bel-Roc's proposal.

CHCD's reply

18. In response to Bel-Roc, CHCD stated that the proposed technical changes are intended to provide coverage to a small portion of Haldimand County that lies immediately adjacent to Norfolk County and shares economic interests with Norfolk County. CHCD also indicated its willingness to accept a condition of licence prohibiting it from soliciting advertising in Haldimand County.

Commission's analysis and determination

19. In its evaluation of the Bel-Roc and CHCD applications, the Commission has considered the views of the licensees and of the interveners.
20. The Commission notes that, under the present proposal, the transmitter for Bel-Roc's radio station will be located near Cayuga, close to the centre of Haldimand County. Based on its examination of the proposed signal contour of the station, the Commission is satisfied that virtually all of the area covered by the radio station's 3 mV/m "city grade" contour will be in Haldimand County. The Commission considers that, under the proposed technical parameters, Bel-Roc's signal in Simcoe will be less competitive with CHCD-FM than the signal contemplated in its original application, and notes that Bel-Roc is subject to a condition of licence prohibiting the solicitation of local advertising in Simcoe.
21. As for the concerns raised by Burlingham regarding the potentially negative impact that Bel-Roc's station would have upon the Hamilton radio market, the Commission notes that, in 2004, the seven local radio stations serving that market reported combined total revenues of \$21.3 million. In comparison, Bel-Roc projected that its radio station would generate \$1.1 million in revenues in its second year of operation. Furthermore, in the Commission's view, the radio station's signal will be substantially weaker in Hamilton than those of the local Hamilton radio stations, and is likely to be inadequate to generate significant tuning by Hamilton residents.
22. In light of the above, the Commission is satisfied that Bel-Roc's proposed station will not have a significant negative financial impact on the Simcoe radio market, or on the Hamilton radio market.
23. Furthermore, the Commission has noted Bel-Roc's explanation that the shifting of its radio station's coverage area approximately 20 kilometres east from the coverage area contemplated in its original application is needed in order to comply with the Department's requirements. The Commission is satisfied that Bel-Roc's proposed changes in the technical parameters of its radio station are in the public interest, and that approval of this application will permit Bel-Roc to implement Haldimand County's first local radio service, as authorized in Decision 2005-169.
24. With respect to CHCD's application, the Commission notes that CHCD-FM is licensed to serve the needs and interests of Simcoe and Norfolk County. The Commission considers that, in the present application, CHCD is seeking to extend CHCD-FM's coverage into the heart of the municipality of Haldimand County, an area which it is not licensed to serve and which Bel-Roc has recently been authorized to serve.

25. In light of all of the above, the Commission **approves** the application by Bel-Roc Communications Inc. to operate its new FM radio programming undertaking in Haldimand County at 92.9 MHz (channel 225B1) and to change the authorized contours by decreasing the average ERP from 13,300 watts to an average ERP of 3,300 watts, by increasing the antenna height, and by relocating the transmitter. The proposed use of 93.1 MHz (channel 226A) by CHCD Inc., which is technically mutually exclusive with Bel-Roc's application, is **denied**.
26. The Commission reminds Bel-Roc of its commitments, as set out in Decision 2005-169, to operate its radio station as a Haldimand County station.
27. The Department has advised the Commission that, while Bel-Roc's application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
28. The Commission reminds Bel-Roc that, pursuant to section 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>