



## Broadcasting Decision CRTC 2012-201

PDF version

Route reference: 2011-694

Ottawa, 3 April 2012

**Frank Torres, on behalf of a corporation to be incorporated**  
Uxbridge, Ontario

*Application 2011-1302-6, received 21 September 2011*

*Public hearing in Calgary, Alberta*

*6 February 2012*

### English-language FM radio station in Uxbridge

*The Commission **approves** an application for a broadcasting licence to operate an English-language commercial FM radio station in Uxbridge, Ontario.*

#### Introduction

1. The Commission received an application by Frank Torres, on behalf of a corporation to be incorporated, for a broadcasting licence to operate an English-language, FM radio programming undertaking in Uxbridge, Ontario. The station would operate on frequency 105.5 MHz (channel 288A) with an average effective radiated power (ERP) of 372 watts (maximum ERP of 900 watts with an effective height of antenna above average terrain of 139.7 metres).
2. The applicant is controlled by Frank Torres, pursuant to the terms of a shareholders' agreement.
3. The proposed station would offer a Classic Hits music format. The station would broadcast 126 hours of local programming, including 19 hours 10 minutes of spoken word programming, of which 4 hours 22 minutes would be devoted to news. The local programming would also include sports, weather forecasts, traffic reports, an events calendar, business reports and special features. The applicant indicated that the station would target adults between the ages of 25 and 54.
4. The applicant proposed to exceed the basic annual contribution to Canadian content development (CCD) required by section 15 of the *Radio Regulations, 1986* (the Regulations). Specifically, the applicant committed, by condition of licence, to contribute an additional \$65,000 to CCD over seven consecutive broadcast years.
5. The applicant indicated that its proposed station would be a first radio service for the community of Uxbridge.

## **Interventions and the applicant's reply**

6. The Commission received interventions in support of this application as well as an intervention in opposition from Durham Radio Inc. (Durham). The public record for this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
7. In its intervention, Durham stated that the proposed station would not be a first service for Uxbridge given that the Township of Uxbridge is part of the Regional Municipality of Durham, an area already intensively served by Durham's three radio stations. Durham added that Uxbridge is located within the Toronto Census Metropolitan Area as defined by Statistics Canada and would therefore be part of the Toronto radio market and be served by multiple stations from Toronto. Durham also pointed out that the applicant's business plan is flawed and that its proposed format is currently offered by Durham's CKDO Oshawa.
8. In its reply, the applicant stated that its application meets the Commission's criteria for a first service. It also added that the actual community of Uxbridge is not covered by the 3 mV/m contours of any existing stations. It further indicated that CKDO had been operating as an Oldies format since 2001 and it would appear that it is still broadcasting hits from the 50s, 60s and 70s while the proposed Uxbridge station would play hits from the 70s, 80s and 90s as well as current hits.

## **Commission's analysis and decision**

9. In regards to the concerns raised by Durham regarding the potential impact of the proposed station on CKDO Oshawa, the Commission notes that although the applicant is proposing a similar Classic Hits format, the primary contours of the proposed station would not overlap with those of CKDO and only marginally overlap with those of its rebroadcasting transmitter CKDO-FM-1.
10. Furthermore, the Commission notes that Durham operates three stations in the Oshawa/Ajax market, and is well established. As such, the Commission is of the view that the proposed station would not have an undue negative impact on CKDO.
11. Where Durham's two other stations, CKGE-FM Oshawa/Whitby and CJKX-FM Ajax, are concerned, the Commission notes that the 3 mV/m contours of those stations encompass parts of the Township of Uxbridge but that they do not encompass the community of Uxbridge itself. Furthermore, although the 3 mV/m contour of the proposed station would partly intersect with those of CKGE-FM and CJKX-FM, the population in that area would represent only a minimal portion of the total population within their primary contours. As such, the Commission is of the view that the proposed station would constitute a first service to Uxbridge.

## Conclusion

12. In light of the above, the Commission **approves** the application by Frank Torres, on behalf of a corporation to be incorporated for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Uxbridge, Ontario. The terms and **conditions of licence** are set out in the appendix to this decision.
  
13. The Commission reminds the applicant that it must adhere to the requirements relating to contributions to CCD set out in section 15 of the Regulations. The Commission notes that the applicant made commitments to exceed the minimum contribution to CCD. Specifically, the applicant committed to devote, by condition of licence, over and above the basic annual contribution to CCD, a total of \$65,000 over seven broadcast years. Of this amount, 20% will be devoted to FACTOR or MUSICACTION, with the remainder being directed to eligible initiatives. A **condition of licence** to this effect is set out in the appendix to this decision.

Secretary General

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

# Appendix to Broadcasting Decision CRTC 2012-201

## Terms, conditions of licence and encouragement

### Terms

#### Issuance of the broadcasting licence to operate an English-language commercial FM radio programming undertaking in Uxbridge, Ontario

The licence will expire 31 August 2018.

The station will operate at 105.5 MHz (channel 288A) with an average effective radiated power (ERP) of 372 watts (maximum ERP of 900 watts with an effective height of antenna above average terrain of 139.7 metres).

The Department of Industry (the Department) has advised the Commission that, while this 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.

The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department 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 satisfied the Commission, with supporting documentation, that an eligible Canadian corporation has been incorporated in accordance with the application in all material respects; and
- 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 3 April 2014. 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 licence will be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. In addition to the required basic annual contribution to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, as amended from time to

time, the licensee shall make a contribution of \$65,000 to CCD to be allocated as follows over seven consecutive broadcast years upon commencement of operations:

Year 1:	\$10,000
Year 2:	\$9,500
Year 3:	\$9,500
Year 4:	\$9,000
Year 5:	\$9,000
Year 6:	\$9,000
Year 7:	\$9,000

Of this amount, the licensee shall allocate no less than 20% per broadcast year to FACTOR or MUSICACTION. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

### **Encouragement**

#### **Employment Equity**

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.