



Broadcasting Decision CRTC 2023-344

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Reference: 2023-49

Ottawa, 19 October 2023

Skigin Radio Incorporated

Woodstock First Nation, New Brunswick

Public record: 2022-0912-1

Public hearing in the National Capital Region

11 May 2023

Low-power, Indigenous FM radio station in Woodstock First Nation

Summary

The Commission **approves** an application by Skigin Radio Incorporated for a broadcasting licence to operate a low-power, Indigenous (Type B Native) FM radio station in Woodstock First Nation, New Brunswick.

Application

1. Skigin Radio Incorporated (Skigin) filed an application for a broadcasting licence to operate a low-power, Indigenous (Type B Native)¹ FM radio station in Woodstock First Nation, New Brunswick, to serve the Maliseet People of the Wolastoqiyik territory.
2. Skigin is a non-profit organization controlled by its board of directors.² It is a corporation without share capital whose chief executive officer and board of directors are Canadians as defined in the *Direction to the CRTC (Ineligibility of Non-Canadians)*.³ Skigin is therefore eligible to hold a broadcasting licence.
3. The station would operate at 107.7 MHz (channel 299LP) with an effective radiated power (ERP) of 50 watts (omnidirectional antenna with an effective height of the antenna above average terrain [EHAAT] of -19.0 metres).

¹ Type B Native stations, as defined in Public Notice 1990-89 (the Policy), are referred to as Indigenous stations in this decision.

² As defined in the Policy, an Indigenous undertaking is owned and controlled by a non-profit organization whose structure provides for board membership by the Indigenous population of the region served.

³ SOR/97-192, 8 April 1997.

4. Skigin proposed to broadcast 112 hours of local programming and 14 hours of wrap-around programming⁴ per broadcast week. Of that programming, 104 hours would be devoted to musical content, 20% of which would be musical selections performed or composed by Indigenous creators. The remaining 22 hours would be devoted to spoken word programming targeting children and youth as well as educational, religious, news and public affairs programming. During each broadcast week, Skigin proposed to devote 100 hours to English-language programming, 20 hours to programming in various Indigenous languages (Wolastoqey, Mi'kmaq and Ojibway) and 6 hours to French-language programming.
5. Skigin indicated that it would broadcast programming developed for and recorded by the Indigenous population that the proposed station would serve. Further, Skigin would support Indigenous content development, including by broadcasting Indigenous-created music, granting opportunities for studio recording time to Indigenous artists and showcasing such talent at on- and off-reserve events. Skigin would also promote Indigenous talent online, in pamphlets and in a newsletter.
6. In support of this application, Skigin provided several letters of support, including one from the Chief and Council of Woodstock First Nation.⁵ Skigin also provided the results of a local survey conducted among Woodstock band and community members in 2020 that showed unanimous support for a proposed on-reserve radio station from the respondents, the majority of whom reported listening often to the radio and expressed a willingness to volunteer in some capacity.
7. The Commission received an intervention in support of this application from the National Campus and Community Radio Association (NCRA).

Issues

8. The Commission has the authority, pursuant to subsections 9(1) and 9.1(1) of the *Broadcasting Act*, to issue and renew licences and to make orders imposing conditions on the carrying on of a broadcasting undertaking that it considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*.
9. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it must address the following issues:
 - whether the use of the frequency 107.7 MHz by the applicant for its proposed station would represent an appropriate use of spectrum;

⁴ “Wrap-around programming” refers to blocks of programming that originate from other radio stations (often distant commercial stations), the use of which eliminates the need for the Indigenous station to sign off at the end of limited daily programming.

⁵ The letter was provided at the beginning of the application process but was signed by the person who is still, as of the date of publication of this decision, the incumbent chief.

- whether approval of this application would have an undue economic impact on incumbent stations; and
- whether this application satisfies the requirements for Indigenous radio stations as per Public Notice 1990-89 (the Policy) and Public Notice 2001-70 as well as the provisions of the *Broadcasting Act*.

Appropriate use of spectrum

10. The Department of Industry (also known as Innovation, Science and Economic Development Canada) has granted conditional technical acceptability of the proposed station. As such, the applicant's proposal adheres to the rules governing FM spectrum coordination.
11. Given that the proposed service would be a low-power FM station, its use of the proposed frequency would not remove the availability of that frequency and would therefore have a negligible impact on the availability of frequencies in Woodstock and surrounding areas.
12. In light of the above, the Commission finds that the use of the frequency 107.7 MHz by the applicant for its proposed radio station would represent an appropriate use of spectrum.

Economic impact on incumbent stations

13. The proposed station's FM service contours would encompass Woodstock First Nation and surrounding areas. According to the applicant, the proposed station would be supported by government grants or funding, its Band Council, advertising revenues and fundraising.
14. The proposed station's primary contour would be entirely encompassed by that of Bell Media Radio Atlantic Inc.'s commercial station CJCJ-FM Woodstock. However, the population in the overlapping area would comprise only 6.4% of the population within CJCJ-FM's primary contour.
15. In light of the above, and given the nature of the proposed service, the Commission finds that approval of this application would not have an undue economic impact on any incumbent stations.

Requirements and provisions for Indigenous radio stations

16. Under the new *Broadcasting Act* the broadcasting policy set out in subsection 3(1) places particular emphasis on Indigenous programming and Indigenous languages. Notably, subparagraphs 3(1)(d)(iii) and 3(1)(d)(iii.1) provide that the Canadian broadcasting system should, through its programming and the employment opportunities arising out of its operations, serve the needs and interests of all Canadians and reflect their circumstances and aspirations, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the

special place of Indigenous Peoples and languages within that society, as well as provide opportunities to Indigenous Peoples to produce programming in Indigenous languages, English or French, or in any combination of them and to carry on broadcasting undertakings. Subparagraph 3(1)(i)(ii.2) also provides that the programming provided by the Canadian broadcasting system should reflect the importance of Indigenous language revitalization by supporting the production and broadcasting of Indigenous language programming.

17. Under paragraphs 5(2)(a) and 5(2)(e) of the new *Broadcasting Act*, the Canadian broadcasting system should be regulated and supervised in a flexible manner that takes into account the different characteristics of English-, French- and Indigenous-language broadcasting and the different conditions under which broadcasting undertakings that provide programming in these languages operate, as well as the specific needs and interests of Indigenous Peoples. It should also facilitate the provision to Canadians of Canadian programs created and produced in both official languages, and in Indigenous languages.

Ownership structure

18. The Policy requires that an Indigenous undertaking be owned and controlled by a non-profit organization whose structure provides for board membership by the Indigenous population of the region served.
19. Skigin is a non-profit corporation controlled by its board of directors, all of whom are elected by the members of that corporation.
20. The current by-laws of the corporation provide that membership in the corporation is limited to status members of the Woodstock First Nation Band and any community member of the Woodstock First Nation Band who is interested in furthering the objects and purposes of the company.
21. In light of the above, the Commission finds that Skigin's corporate structure meets the Policy's requirements relating to ownership and control.

Programming

22. As per the Policy, the Commission expects the programming of Indigenous radio stations to be specifically oriented to the interests and needs of the Indigenous audiences that the stations are licensed to serve. These stations have a distinct role in addressing the specific cultural and linguistic needs of their audiences and creating an environment in which Indigenous music and spoken word creators can develop and flourish.
23. Skigin stated that the proposed station would broadcast programming developed by and for the local Indigenous population and would devote 20 hours per broadcast week to programming in various Indigenous languages.

24. According to Skigin, the proposed station would help strengthen the culture and preserve the traditional languages of the area. To that end, Skigin proposed recording and sharing traditional stories, songs, recipes, medicines and more, all of which would be broadcast in relevant traditional languages. Skigin also indicated that it would encourage individuals to record stories, legends and history for broadcast.
25. Skigin added that conversations in the Maliseet language are rare, despite it being the first language of a number of the members of the community, including the community's Elders. Further, the applicant submitted that Maliseet is a language at risk of becoming extinct. In Skigin's view, it is therefore imperative to provide as many opportunities as possible for people to be exposed to their traditional language, and radio is one means of doing so.
26. The Commission acknowledges the applicant's commitment to local reflection, to broadcasting original programming and to furthering the preservation of Indigenous language and cultures through the broadcast of programming that would be offered in traditional languages and that would address Indigenous cultural elements.
27. The Commission also considers that the broadcast of such programming would not only further the objectives set out in the *Broadcasting Act* but would also be consistent with the Government of Canada's commitment to support the reclamation, revitalization, maintenance and strengthening of Indigenous languages set out in the *Indigenous Languages Act*.
28. In light of the above, the Commission finds that this application is consistent with the requirements for Indigenous radio stations as per the Policy and Public Notice 2001-70 as well as the provisions set out in the *Broadcasting Act* (subparagraphs 3(1)(d)(iii), 3(1)(d)(iii.1) and 3(1)(i)(ii.2) and paragraphs 5(2)(a) and 5(2)(e)).

Conclusion

29. In light of all of the above, the Commission **approves** the application by Skigin for a broadcasting licence to operate a low-power, Indigenous FM radio programming undertaking in Woodstock First Nation, New Brunswick.

Conditions of service

30. The Commission notes that there are standard conditions of service which apply to all undertakings of a particular class. In this case, the Commission considers it appropriate that the licensee should adhere to the standard conditions of service for Indigenous stations.
31. Accordingly, and pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Skigin Radio Incorporated, by **condition of service**, to adhere to

conditions of service, the specifics of which are set out in the appendix, which require the licensee to

- a. devote, in each broadcast week, no less than 35% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety;
 - b. adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code* and *Broadcast Code for Advertising to Children* if the licensee creates 42 or more hours of original programming in any broadcast week; and
 - c. implement the National Public Alerting System (NPAS) by the station's launch date to comply with the various related requirements and to file a letter with the Commission attesting to the implementation date within 14 days after the installation.
32. Further, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Skigin Radio Incorporated, by **condition of service**, to adhere to all applicable requirements set out in the *Radio Regulations, 1986* (the Regulations), that were made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act*.⁶
33. The *Online Streaming Act*, which amended the *Broadcasting Act*, received royal assent on 27 April 2023. While this application was filed and processed prior to the coming into force of the new *Broadcasting Act*, the hearing was held under the new *Broadcasting Act*. Given that interested parties had an opportunity to comment on the issues as part of that process, the Commission considers this proceeding sufficient to achieve the purposes of the publication and consultation requirement set out in subsection 9.1(4) of the new *Broadcasting Act* in this case.
34. The terms as well as the specifics of the **conditions of service** identified above are set out in the appendix to this decision.
35. The Commission notes that the formal broadcasting licence document issued to a licensee may set out additional requirements for the undertaking, relating to, for example, technical parameters or prohibitions on transfer. Pursuant to subsection 9(1), the licensee shall, therefore, adhere to any such requirements set out in the broadcasting licence for the undertaking.

⁶ Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.

Reminders

36. The Commission reminds the licensee that it must comply at all times with the requirements set out in the *Broadcasting Act*, the Regulations, its licence and its conditions of service.

National public alerting system

37. 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. The Commission reminds the licensee that compliance with section 16 of the Regulations will require that any alert broadcast decoders (e.g., ENDEC) used for the purposes of broadcasting emergency alert messages be installed and programmed to properly account for the authorized contours of the radio station.

38. Furthermore, as set out in subsection 9(2) of the Regulations,⁷ on or before 30 November of each year, a licensee shall submit to the Commission a statement of accounts, on the annual return of the broadcasting licensee form, for the year ending on the previous 31 August. This annual return contains the form “1411 - Emergency alert implementation report”, where the licensee must answer questions pertaining to their implementation of emergency alerting, including verifying their participation in the receipt and distribution of bi-annual public test alerts issued by alerting authorities, as defined in Telecom Decision 2019-239.

Secretary General

Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2023-49, 2 March 2023
- *Senior Officials Responsible for Emergency Management – Application to modify the wireless public alerting visible test schedule*, Telecom Decision CRTC 2019-239, 8 July 2019
- *Changes to conditions of licence for certain native radio undertakings*, Public Notice CRTC 2001-70, 15 June 2001
- *Native Broadcasting Policy*, Public Notice CRTC 1990-89, 20 September 1990

This decision is to be appended to the licence.

⁷ As per subsection 49(2) of the *Online Streaming Act*, this requirement is now deemed to be a condition of service pursuant to subsection 9.1(1) of the *Broadcasting Act*.

Appendix to Broadcasting Decision CRTC 2023-344

Terms, conditions of service and encouragement for the low-power Indigenous (Type B Native) FM radio programming undertaking in Woodstock First Nation, New Brunswick

Terms

The licence will expire 31 August 2030.

The station will operate at 107.7 MHz (channel 299LP) with an effective radiated power (ERP) of 50 watts (omnidirectional antenna with an effective height of the antenna above average terrain [EHAAT] of -19.0 metres).

Pursuant to subsection 22(1) of the *Broadcasting Act*, no licence may be issued until the Department of Industry (also known as Innovation, Science and Economic Development Canada, hereafter referred to as the Department) notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

Furthermore, the Commission will only issue a licence for this undertaking 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 **19 October 2025**. To ensure that such a request is processed in a timely manner, it should be submitted in writing at least 60 days before this date.

The Department's *BPR-3: Application Procedures and Rules for FM Broadcasting Undertakings* specifies that a low-power FM radio station is considered a secondary assignment operating on an unprotected channel. Should an FM station or transmitter with protected status be granted a frequency incompatible with that used by the low-power station considered in this decision, the applicant may need to cease the operation of that low-power station or file an application to change its frequency and/or technical parameters.

Conditions of service

1. The licensee shall adhere to all applicable requirements set out in the *Radio Regulations, 1986*, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.⁸

⁸ Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.

2. The licensee shall devote, in each broadcast week, no less than 35% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety.

For the purposes of this condition of service, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meanings as those set out in the *Radio Regulations, 1986*. A musical selection by an Indigenous creator who resides in Canada is considered a Canadian selection.

3. If the licensee creates 42 or more hours of original programming in any broadcast week, the licensee shall adhere to the Canadian Association of Broadcasters’ *Equitable Portrayal Code*, as amended from time to time and approved by the Commission, and to the *Broadcast Code for Advertising to Children*, as amended from time to time and approved by the Commission.
4. The licensee shall implement the National Public Alerting System (NPAS) by the **station’s launch date** to comply with the requirements set out in subsections 16(2) and 16(3) of the *Radio Regulations, 1986*, and in *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014.

As part of this requirement, the licensee must file a letter with the Commission to attest to the implementation date of its NPAS within **14 days after** the installation. This letter should also contain evidence that the system is properly configured to receive and distribute alerts from the National Alert Aggregation and Dissemination (NAAD) System (e.g., an attestation by a CEO, president or person exercising a similar supervisory role in the licensee’s operations, as to the installation of a functioning alerting equipment).

Encouragement

Where the licensee intends on carrying wrap-around programming, the Commission encourages it to use programming from another Indigenous station or network.