



## Broadcasting Decision CRTC 2020-282

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Reference: Part 1 licence renewal application posted on 31 January 2020

Ottawa, 20 August 2020

**Acadian Communications Ltd.**  
Cheticamp, Nova Scotia

*Public record for this application: 2019-1072-9*

### **CHNE-TV Cheticamp – Licence renewal**

*The Commission **renews** the broadcasting licence for the low-power, English-language independent community-based television station CHNE-TV Cheticamp from 1 September 2020 to 31 August 2025.*

*The licensee will be subject to a **condition of licence** requiring it to implement the National Public Alerting System by no later than **1 September 2022**.*

#### **Application**

1. The Commission has the authority, pursuant to Section 9(1) of the *Broadcasting Act* (the Act), to issue and renew licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act.
2. On 3 June 2019, the Commission issued Broadcasting Notice of Consultation 2019-192, which listed the television services and stations for which broadcasting licences would expire 31 August 2020 and therefore needed to be renewed in order to continue their operations. In that notice, the Commission requested that licensees of those stations and services submit renewal applications for their broadcasting licences.
3. In response, Acadian Communications Ltd. filed an application to renew the broadcasting licence for its low-power, English-language independent community-based television station CHNE-TV Cheticamp, Nova Scotia, which expires 31 August 2020.
4. The licensee stated that it would adhere to the provisions and requirements for community-based television stations set out in Broadcasting Regulatory Policy 2016-224.

5. The licensee further requested to continue to be relieved from the requirements of Sections 10(1) to 10(4) of the *Television Broadcasting Regulations, 1987* (the Regulations) with regard to the retention and submission of program logs or records.

## **Interventions**

6. The Commission received an intervention in regard to the present application from the Forum for Research and Policy and Communications (FRPC). In its intervention, the FRPC submitted that the Part 1 process used by the Commission for the renewal of the broadcasting licences for independent television stations is not appropriate given that a part 1 proceeding does not give the public sufficient notice to consider and comment on licence renewal applications for services in non-compliance.
7. The FRPC noted that non-compliance issues had been identified for CHNE-TV but considered that the station should be granted a full-term licence renewal given that it had little income and relied on volunteers. The licensee did not reply to the intervention.
8. The Commission notes that dealing with licence renewal applications under the Part 1 process is a long-standing practice that was first announced to the public and to the broadcasting industry in Broadcasting Information Bulletin 2015-116. Any party may comment on a Part 1 application and examine the licensee's correspondence with Commission staff regarding non-compliance. Moreover, this approach has served the Commission and the public well, as evidenced by the high level of compliance by licensees of television services. The issue of non-compliance with respect to the submission of annual returns is considered in the following section of this decision.

## **Non-compliance**

### **Filing of annual returns**

9. Section 10(1)(i) of the Act authorizes the Commission to make regulations in furtherance of its objects requiring licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify.
10. Consistent with this authority, section 12(1) of the Regulations requires that, on or before 30 November of each year, a licensee shall submit to the Commission a statement of accounts, on the annual return of broadcasting licensee form, for the 12-month period ending on the previous 31 August (i.e., the end of the broadcast year). As provided in Circular 404, financial statements must be filed as part of this submission, covering the same period as the annual return.
11. In regard to CHNE-TV, the annual returns for the 2015-2016 and 2016-2017 broadcast years were filed after the 30 November deadline. The annual returns for 2017-2018 have not yet been filed.

12. The licensee stated that new owners took over the company on 31 August 2018 and were not aware that the annual returns had not been properly filed. The owners have hired a new accounting firm and undertaken to correct the situation with respect to the filing of annual returns as soon as possible.
13. In light of the above, the Commission finds the licensee in non-compliance with section 12(1) of the Regulations relating to the filing of annual returns for CHNE-TV for the 2015-2016, 2016-2017 broadcast years (late filing) and the 2017-2018 broadcast year (annual returns yet to be filed). In the appendix to this decision, the Commission sets out a **condition of licence** requiring the licensee to file the annual returns for the 2017-2018 broadcast year by no later than **30 November 2020**.

#### **Participation in the National Public Alerting System**

14. Section 10(1) of the Act also authorizes the Commission to make regulations furthering its objects regarding the broadcasting of programs. In Broadcasting Regulatory Policy 2014-444, the Commission reiterated that the broadcasting system has a vital role to play in the provision of emergency alert messages to Canadians and that the duty to inform the public of imminent perils is at the core of the public service obligations of all broadcasters. Consistent with this authority the Commission made section 18 of the Regulations which requires each licensee operating a community station to participate in the National Public Alerting System (NPAS) by no later than 31 March 2016.
15. According to Commission records, the licensee has not implemented the NPAS.
16. The licensee indicated that it did not plan to implement the NPAS since it was experiencing financial difficulties and implementing alerting would be crippling to the station. The licensee further submitted, as part of its response to questioning on the matter, that 20 hours per day of CHNE-TV's programming consists of a community billboard accompanied by audio from CKJM-FM, the local radio station. Since CKJM-FM provides alerts, the licensee argued that CHNE-TV is compliant with the requirement to provide NPAS for most of the broadcast day. The licensee further stated that it believed that it was exempt from alerting requirements given that the service is completely analog with approximately 300 customers. In this regard it noted that terrestrial broadcasting distribution undertakings (BDUs) with fewer than 20,000 subscribers are not required to provide the NPAS.
17. The Commission considers that the exception for terrestrial BDUs does not apply to CHNE-TV since CHNE-TV is a television station, not a BDU. The Commission has not granted any exceptions for television stations since the implementation of the NPAS participation requirement. The Commission recognizes that this small community station operates with very low revenues and therefore has limited financial resources. It also notes that CHNE-TV rebroadcasts the signal of the local radio station when it does not broadcast its own programming. However, for the NPAS to be effective, the full participation of broadcasters is required. The

Commission is of the view that it would not be harmful to the station if it were required to implement the NPAS within a two-year time frame

18. In light of the above, the Commission finds the licensee in non-compliance with section 18 of the Regulations. A **condition of licence** requiring the licensee to implement the NPAS by no later than **1 September 2022** and setting out reporting requirements related to the NPAS implementation is set out in the appendix to this decision. The Commission further notes that the licensee must include the NPAS system implementation date in Form 1411, which is submitted as part of its annual returns.

### **Continued relief from logging requirements**

19. Also consistent with the authority set out in section 10(1)(i) of the Act, section 10 of the Regulations requires licensees to maintain and submit logs and records regarding the programming that they broadcast.
20. The licensee is currently relieved from sections 10(1) to 10(4) of the Regulations, which set out requirements regarding program logs and records. The licensee requested that this exception be continued during the upcoming licence term.
21. The Commission considers that it is appropriate to maintain the exception from logging requirements due to the small size and limited resources available to CHNE-TV. A **condition of licence** to this effect is set out in the appendix to this decision.

### **Conclusion**

22. Since 2010, it has been the Commission's general practice to renew television licences for five years to allow it to more regularly assess the performance of licensees as well as the criteria used to assess such performance. The Commission finds that such a term is appropriate in this case.
23. In light of all of the above, the Commission **renews** the broadcasting licence for the low-power, English-language independent community-based television programming undertaking CHNE-TV Cheticamp from 1 September 2020 to 31 August 2025. The terms and **conditions of licence** are set out in the appendix to this decision.

### **Reminders**

24. The timely filing of complete annual returns, including financial statements, is a basic and fundamental regulatory obligation. Compliance with this requirement not only allows the Commission to effectively monitor licensees' performance and compliance with various regulations and obligations, but also enables it to effectively assess, supervise, and regulate the television broadcasting industry as a whole. Accordingly, the late or incomplete filing of annual returns and financial statements is considered to be a serious matter.

25. The full participation of the broadcasting industry is important for the NPAS to be effective in safeguarding and warning Canadians. As such, the Commission holds that compliance is mandatory and that timely compliance by stations will be closely monitored. If the licensee is not compliant with NPAS requirements by the prescribed date, the Commission may call it to a public hearing to show cause why additional regulatory measures should not be imposed.
26. The licensee is still required to retain a clear and intelligible audio-visual recording of all its programming, and provide it, upon request, to the Commission pursuant to sections 10(5) and 10(6) of the Regulations.

Secretary General

### **Related documents**

- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2019-192, 3 June 2019
- *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016
- *New procedure for licence renewal applications*, Broadcasting Information Bulletin CRTC 2015-116, 31 March 2015
- *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
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010
- *Requirements for the filing of Financial Statements with the Broadcasting Annual Return*, Circular No. 404, 23 August, 1994

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

## Appendix to Broadcasting Decision CRTC 2020-282

### Terms, conditions of licence, expectations and encouragements for the low-power, English-language independent community-based television programming undertaking CHNE-FM Cheticamp, Nova Scotia

#### Terms

The licence will expire 31 August 2025.

#### Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for community television stations set out in Appendix 2 to *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. As an exception to sections 10(1) to 10(4) of the *Television Broadcasting Regulations, 1987* (the Regulations), the licensee is relieved of the requirements set out therein with regard to the retention of program logs or records. The Commission reminds the licensee that it must retain a clear and intelligible audio-visual recording of all its programming, and provide it, upon request, to the Commission, pursuant to the requirements of sections 10(5) and 10(6) of the Regulations.
3. In order to comply with the requirements set out in section 18 of the *Television Regulations, 1987* and *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, the licensee shall implement the National Public Alerting System (NPAS) by no later than **1 September 2022**. As part of this requirement:
  - a) The licensee must file with the Commission a letter attesting to the implementation date of its NPAS within 14 days after the installation. In this letter, the licensee must confirm whether maintenance, testing and updating procedures have been adopted for its automated emergency alert message distribution equipment.
  - b) The licensee must file with the Commission the results of its first NPAS tests, as scheduled by the relevant alerting authorities, within two weeks after the occurrence of such system tests.
  - c) The licensee must file a report on its progress with respect to the implementation of NPAS every six months, beginning **1 March 2021**.

4. The licensee shall file annual returns for the 2017-2018 broadcast year by no later than **30 November 2020**.

### **Expectations**

The standard expectations applicable to this licensee are set out in Appendix 2 to *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016.

### **Encouragements**

The standard encouragements applicable to this licensee are set out in Appendix 2 to *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016.