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*Of Counsel*  
Pamela C. Cooper\*

\*Admitted in DC and VA

July 7, 2006

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: Station WSST-TV, Cordele, Georgia  
Sunbelt South Tele-Communications, Ltd.  
Facility ID No. 63867  
MB Docket No. 03-15  
**REQUEST FOR WAIVER OF**  
**“USE-IT-OR-LOSE-IT” DEADLINE**

Dear Ms. Dortch:

Sunbelt South Tele-Communications, Ltd. (“Sunbelt”), licensee of Station WSST-TV, Cordele, Georgia (“Station”), by its attorneys and pursuant to the FCC’s direction in Public Notices No. DA 06-1255, released June 14, 2006 and DA 06-1372, released June 29, 2006, hereby seeks a waiver of the July 1, 2006 “Use-it-or-lose-it” deadline established by the Commission for licensees to construct and operate digital facilities in order to retain replication/maximization interference protection within their certified service areas. Sunbelt is currently operating the Station at reduced power from that authorized to it in FCC File No. BMPCDT-20000501ABJ (“CP”) and pursuant to Special Temporary Authority (“STA”). Sunbelt has filed for an extension and modification of its STA in FCC File No. BSTA-20060630AHJ. Good cause exists for the Commission to grant Sunbelt’s requested waiver and its previously filed request for modification and extension of its STA.<sup>1</sup> In support thereof, Sunbelt submits the following:

**Background**

Sunbelt received its initial authority to construct DTV facilities on Channel 51 at Cordele in December of 1999 in FCC File No. BPCDT-19991015AAH.<sup>2</sup> Sunbelt began

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<sup>1</sup> On June 30, 2006, Sunbelt filed for an extension of and modification to its Special Temporary Authority in FCC File No. BST-20060630AHJ. The modified STA seeks to permission to operate the Station at increased power.

<sup>2</sup> Sunbelt subsequently modified this CP in BMPCDT-2000501ABJ. This modification application to

fulfilling its commitment to DTV operations and in 2002 purchased and took delivery of a digital transmitter from EMCEE Broadcast Products, Inc. at a cost of \$177,389.41. However, as installation began and testing commenced, problems with the equipment quickly became apparent. As has been detailed in Sunbelt's earlier requests for special temporary authority, faulty and damaged equipment was delivered by EMCEE and over the course of several months and at great further expense to Sunbelt, engineers and personnel from EMCEE came to Cordele to attempt to repair the equipment. Sunbelt was able to commence digital operations in July of 2003 pursuant to an STA at a lesser power than authorized by its CP because the faulty equipment did not function consistently at full power. Meanwhile negotiations with EMCEE continued to seek repair of the faulty equipment. Finally, in March of 2003, Sunbelt learned that EMCEE had filed for Chapter 7 liquidation in Bankruptcy Court. Sunbelt contacted the bankruptcy trustee who advised that the warranties on the EMCEE equipment would not be honored and no further repairs were possible by EMCEE employees.

Sunbelt's operation under STA has at all times maintained city grade coverage of its community of license. The persistent problems with the EMCEE equipment, and difficulty locating technicians that could work to repair the equipment, have limited Sunbelt's ability to complete its build out and commence operation at the full power authorized by the CP.

### **RECENT DEVELOPMENTS**

In 2005, Sunbelt made the business decision that it would re-purchase the equipment necessary to complete its DTV facilities from a different vendor, specifically a new digital transmitter. The company negotiated with Harris Corporation and has purchased a new Harris Diamond Series Solid State digital transmitter. The transmitter has been installed and a Proof-of-Performance has been run. The transmitter is capable of running at an effective radiated power of 91 kW. This power will allow the Station to replicate its analog coverage and in fact, almost double it. And it will provide a signal that will serve more than 111,000 additional viewers. To this end and pursuant to Commission direction, a request for modified Special Temporary Authority to operate at this improved power was filed on behalf of Sunbelt on June 30, 2006. See FCC File No. BSTA-20060630AHJ.

However, this improved operation is still below the 200 kW authorized in its current construction permit and there are significant additional costs that Sunbelt must incur to allow for it to complete full construction under its DTV permit. Specifically, the Station would require a new antenna and upgrades to its transmission system that would cost in excess of \$200,000. As is detailed below, Sunbelt is not in a financial position at this time to expend another \$200,000 or more, but fully intends to do so as soon as practicable.

## **REQUEST FOR WAIVER OF 'USE-IT-OR-LOSE-IT' DEADLINE**

In recognition of the financial and technical difficulties that stations would have in transitioning to digital service, the Commission allowed licensees to commence digital operations pursuant to a DTV STA, by which they provided minimal initial DTV facilities to serve their community of license. See, First DTV Periodic Review MO&O, 16 FCC Rcd 20594 (2001). Stations were permitted to continue to operate under these STAs until such time as the Commission set a firm deadline requiring construction of full replication or maximization facilities or risk relinquishing their interference protection. The Commission established the July 1, 2006 replication/maximization deadline for commercial and noncommercial DTV licensees not affiliated with the top-four networks in markets 1-100 in the Second DTV Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, 19 FCC Rcd 18279 (2004).

In its June 14, 2006 Public Notice, the Commission recognized that there may still be some stations that will not be able to meet the July 1, 2006 "use-it-or-lose-it" deadline and has established a mechanism by which stations may seek a waiver of the interference protection deadline. Licensees seeking a waiver must demonstrate that severe financial constraints or circumstances beyond their control warrant an extension of the deadline.

Sunbelt was one of the stations permitted to operate pursuant to a DTV STA. Through no fault of its own, Sunbelt has been unable to complete the build out of its fully authorized digital facilities despite its diligent efforts, which include spending to date of hundreds of thousands of dollars on the purchase -- twice -- of new equipment, repair costs and installation. Initially, Sunbelt spent nearly \$200,000 on digital equipment to complete its build out that was faulty from a manufacturer that then declared bankruptcy -- EMCEE Broadcast Products. Despite many months and many dollars spent attempting to repair the original equipment, Sunbelt has been forced to abandon the original equipment, and basically start from scratch.

A new transmitter and associated equipment have been purchased from Harris Corporation at a cost to the company of \$208,000.<sup>3</sup> Sunbelt has made deposit payments on the new digital transmitter and payments through May 31, 2006 total \$184,378.70 (see Attachment 1, Statement from Sunbelt accountant, Susan Moore). The new transmitter will allow Sunbelt to make further steps toward completion of the digital conversion of the Station. For example, the new transmitter will allow the Station to operate at an effected radiated power of 91 kW, below that authorized in its outstanding construction permit, but significantly greater than its present operation at 7.177 kW. Moreover, this improvement will allow the station to nearly double the Station's analog signal, exceeding its replication requirements and providing service to an additional 110,000 people.

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<sup>3</sup> The complete cost estimates/invoices from Harris Corporation are available for Commission review but are not submitted with the instant waiver request as the licensee considers the information contained therein proprietary. Should the Commission wish to review these documents, copies can be made available from the undersigned counsel.

However, in order to complete its existing 200 kW construction permit, Sunbelt will need to spend a significant amount of additional money to further upgrade its new transmitter system. As is detailed in the attached quote from Harris Corporation, the upgrade would cost an additional \$226,553.80.<sup>4</sup> Requiring Sunbelt to make these additional expenditures at this time would cause it serious financial hardship. Due in large part to the costs associated with its digital upgrade (that have been incurred twice) Sunbelt's financial condition is tenuous. Attachment 1 hereto, is a statement from Ms. Susan Moore, Certified Public Accountant with Cooke, Moore & Helms. Ms. Moore's firm has compiled the financial statements for Sunbelt for the past several years and she reports from those statements that at year end 2004, the company had a net income of \$4,531 with no distributions to the partners. At December 31, 2005, the company had a net loss of \$18,782 and modest distributions of \$4,531 to the partners. Moreover, the company holds notes payable in the amount of \$295,162 as of the end of 2005, so borrowing additional funds is unlikely at this time.<sup>5</sup>

Sunbelt must improve its financial position before it can spend the further significant funds necessary to complete the facilities authorized in the CP. It estimates that an additional 60 months to complete construction will allow Sunbelt to pay off the business development loan it has with the City of Cordele as well as the loan taken to purchase the second round of new equipment from Harris. Although additional borrowing may be necessary to buy the upgrade equipment, it would be more manageable if some of the existing debt is reduced or eliminated.

The Station is in a very small, rural television market and while the financial burden of replacing all of the equipment to convert to digital at one time has been daunting, Sunbelt has done all it can to comply with the conversion requirements. It is the only independent station in its market, the other stations being owned by large, group owners. Moreover, there are still only a few stores that offer digital receivers and HD television sets affordable to many of the residents in the Station's viewing area, but the number is increasing. It was recently reported that the local Walmart, for instance, has started selling digital-ready television sets that are nearing the financial reach of Station viewers.<sup>6</sup> Sunbelt is hopeful that by the time it is in a financial position to operate at its maximum allotted capacity under the CP that there will be enough digital receivers in the coverage area to justify the expense to go to full power.

In sum, Sunbelt respectfully requests that the Commission grant it a waiver of the replication/maximization interference protection deadline and allow it additional time

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<sup>4</sup> The complete cost estimates/invoices from Harris Corporation are available for Commission review but are not submitted with the instant waiver request as the licensee considers the information contained therein proprietary. Should the Commission wish to review these documents, copies can be made available from the undersigned counsel.

<sup>5</sup> The complete financial statements for Sunbelt for the years ending 2003-04 and 2004-05, prepared by Cooke, Moore & Helms are considered proprietary by the licensee but are available upon Commission request.

<sup>6</sup> When the Station first started its digital build out, the monitors had to be special ordered and shipped because no HDTV receivers were available in the counties the Station serves.

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within which to complete construction of its outstanding construction permit for completion of its digital facilities on Channel 51. Sunbelt has been exceptionally diligent in its efforts to comply with the Commission's construction deadlines, but has been thwarted in its efforts by reasons beyond its control, namely the failure of equipment and subsequent bankruptcy of its initial equipment manufacturer. Because of this misadventure, Sunbelt has been forced to put its financial footing at risk in order to comply with its digital conversion requirements by re-investing in new equipment necessary to make further steps toward completion of construction. However, Sunbelt believes that the improvements in its signal that it will be able to make at this time will enable it to improve its financial condition through its expanded viewership allowing it to attract additional advertisers and potentially increased revenues as a result.

Should there be any questions concerning this matter or should the Commission require additional information, please contact the undersigned counsel to Sunbelt Tele-Communications, Ltd.

Sincerely,

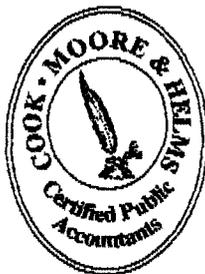
A handwritten signature in black ink, appearing to read "Scott C. Cinnamon", with a long horizontal flourish extending to the right.

Scott C. Cinnamon  
Pamela C. Cooper

cc: Shaun Maher (via email)

**Attachment A**

SUSAN C. MOORE, C.P.A.  
CHARLES W. HELMS, C.P.A.  
PARKER L. COOK, C.P.A., CONSULTANT



115 East 14th Avenue  
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June 27, 2006

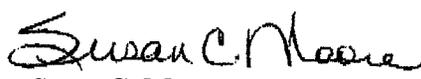
To Whom it May Concern

Our firm has **compiled** the financial statements for Sunbelt **South Telecommunications, Ltd.** for the past several years. At December 31, 2004, the **company's** balance sheet reflected cash in the amount of **\$1 19,639** and notes payable in the amount of **\$340,690**. At December 31, 2005, the company's balance sheet reflected cash in the **amount** of \$77,822 and notes payable in the amount of **\$295,162**. In 2004, there was net income of **\$4,531** and no distributions to the partners. In 2005, there was a net loss of **\$1 8,782** and distributions to the partners in the amount of **\$4,531**.

In 2002, the company purchased a digital transmitter in the amount of **\$ 177,389.41**. The vendor that sold them this transmitter failed to get it running properly and the vendor eventually went bankrupt. **In** 2005 the company decided to purchase a new digital transmitter. The company has been making deposit payments on a new digital transmitter and the total paid on the new transmitter through May 31, 2006 is \$184,378.70 according to the company's financial records.

If further documentation of this information is need, please let us know.

Sincerely,

  
Susan C. Moore