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June 27, 2012

Ms. Marlene Dortch
Office of the Secretary
Federal Communications Commission.
445 12th St. SW
Room TW-A325,
Washington, DC 20554.

Received & Inspected
JUN 28 2012
FCC Mail Room

Re: Allegiance Communications, LLC
Request for Waiver of Section 11.56 ("Request")
Attention: Chief, Public Safety and Homeland Security Bureau

Dear Ms. Dortch:

On behalf of Allegiance Communications, LLC ("Allegiance") we hereby submit an original and four (4) copies of the above referenced Request for Waiver.

Enclosed is a copy of this letter and a copy of the first page of the Request. Please date-stamp the two pages and return in the enclosed envelope to the undersigned.

We request confidential treatment for certain information in the Request and for the documents in Attachments A and B to the Request.

Pursuant to 47 C.F.R §0.459, the Company requests that the information and documents contained in Attachments A and B and certain information provided in the Request be treated in a confidential manner and not be made available for public inspection. Certain information in the Request and Attachments A and B have been separated from the Request and are hereby provided separately in an envelope marked Confidential Material in accordance with 47 C.F.R §0.459 (a).

Company seeks confidential treatment of these materials as they consist of trade secret financial information and system information, which are confidential and not routinely available for public inspection consistent with 47 C.F.R. §0.457(d). This data is customarily guarded from competitors and Company would suffer substantial competitive harm if it were disclosed; financial data in the hands of competitors provides those competitors with opportunity for significant competitive advantage. Company treats this information as confidential internally and takes measures to maintain its

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confidentiality – the materials are maintained under lock and key with only key Company officers provided with access. The information is not available to the general public and has not previously been disclosed to third parties with the exception of Company officers. Company seeks confidential treatment for these materials indefinitely. For these reasons, Company respectfully submits that it has made an adequate showing pursuant to 47 C.F.R. §0.459 (a) and (b) and, therefore, requests the Commission to grant its request to treat these materials as confidential trade secret financial data and withhold them from public inspection.

Please contact the undersigned if you have any question regarding this matter.

Cordially,

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

Stephen Ross,
Attorney for Allegiance Communications, LLC

cc: Gregory.Cooke@fcc.gov

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Allegiance Communications, LLC)
Request for Waiver of 47 C.F.R. Section 11.56,) EB Docket No. 04-296
pursuant to Sections 1.3 and 11.52(d)(4) of the)
Commission's Rules.)

CERTIFICATION OF WILLIAM L. HAGGARTY

I, William L. Haggarty, Chief Executive Officer of Allegiance Communications, LLC, certify under penalty of perjury that the response provided herein in the above-referenced matter number is true and correct to the best of my knowledge and that the information and/or documents requested which are in the Company's possession, custody, control or knowledge and have been produced.



William L. Haggarty, Chief Executive Officer
Allegiance Communications, LLC

Executed on: 6/25/2012

NON-CONFIDENTIAL VERSION

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Allegiance Communications, LLC)
Request for Waiver of 47 C.F.R. Section 11.56,)
pursuant to Sections 1.3 and 11.52(d)(4) of the)
Commission's Rules)

EB-Docket No. 04-296

To: Chief, Public Safety and Homeland Security Bureau

REQUEST FOR WAIVER

Pursuant to Sections 1.3 and 11.52(d)(4) of the Commission's Rules, 47 C.F.R. Sections 1.3 and 11.52(d)(4), Allegiance Communications, LLC ("Allegiance") respectfully requests the Commission to grant a waiver of Section 11.56 of the Commission's Rules, 47 C.F.R. Section 11.56 to the extent set forth in this petition. Said waiver is in best the interest of the public and Allegiance's subscribers in particular and will not diminish Congress's and the Commission's goals for the delivery of emergency alert communications to the public. Accordingly, the waiver is in the public interest and should be granted.

- 1. THE GRANT OF A WAIVER IS ESSENTIAL FOR THE CONTINUED ABILITY OF ALLEGIANCE, A SMALL RURAL CABLE TELEVISION OPERATOR TO PROVIDE VITAL SERVICES TO ITS SUBSCRIBERS.**

The Commission's proposed modification of the Emergency Alert System Rules in its recent Order (Emergency Alert System Fifth Report and Order (EB Docket 04-296. Fifth Report and Order, 27 FCC Rcd 642 (2012) (the "Fifth Report and Order")), which is referred to as the "CAP-EAS requirement" (the "CAP-EAS Requirement"), places an extreme burden on Allegiance, which is hereby requesting a waiver of the CAP-EAS Requirement for those of its systems that currently comply with "legacy" EAS rules but do not comply with the CAP-EAS Requirement. A list of those systems where a waiver is requested is provided in Attachment A.

Allegiance is an operator of some one hundred fourteen (114) headends serving some _____ subscribers in one hundred seventy four (174) mostly small rural communities operating in Oklahoma, Kansas, Missouri, Arkansas and Texas.¹ At present, _____ of the headends serving about ___ percent (___%) of the total Allegiance subscribers are operating under the "legacy" EAS rules. None of these headends have access to wireline broadband service nor could they obtain wireline broadband service without a substantial capital investment which is beyond Allegiance's ability to make. _____ headends serving about (___%) of the total Allegiance subscribers are compliant with the CAP EAS Requirement. Therefore, the requested waiver is for the _____ headends without wireline broadband service affecting approximately _____ of Allegiance's subscriber base.

While many of the Allegiance systems have been expanded from 330 MHz to between 550 MHz and 860 MHz, some _____ systems still have 330 MHz or lower capacity. The average number of subscribers per headend is _____ and _____ headends

¹ Thirty seven (37) of Allegiance's headends provide high speed internet services and thirty six (36) of those headends provide digital telephone service.

have one hundred (100) or fewer subscribers. Seven (7) of those have single digit subscriber counts. Allegiance is currently analyzing _____ the _____ headends with less than _____ subscribers and the Commission's conclusion with regard to this waiver request will be material and even determinative in some cases.

Allegiance recognizes that the Commission has set an extremely high bar for parties seeking a waiver of Section 11.56 to continue to utilize legacy EAS equipment. The Commission in the Fifth Report and Order (Paragraph 152) stated that "the physical unavailability of a broadband Internet service offers a presumption in favor of a waiver and those waivers "likely would not exceed six months."

The Commission has also recognized financial hardship as a basis for waivers of its rules. In one of its most recent decisions Charter Communications, DA07-2008, Released May 4, 2007 (the "Charter Decision"), the Commission made it very clear that under the general waiver provisions of Section 76.7, a waiver was justified because of Charter's "dire financial straits" and that such a waiver would serve the public interest.² "A precise showing of this financial hardship demonstrated by negative cash flow over multiple years, due in part to the predominately rural customer base, resulting in higher distribution costs and a greater ratio of headends per subscriber, warrants a limited one year waiver which may be extended on a further showing of non-speculative financial difficulties."³

Allegiance previously made a showing of financial hardship to the Commission, which was sufficient to lead the Commission to grant Allegiance a waiver of the ban on integrated set-top boxes set forth in Section 76.1204(a)(1) of the Commission's rules

² See Paragraph 18 of the Charter decision noted above.

³ Id at Paragraphs 19-20.

(“Allegiance Set-top Box Waiver”).⁴ Allegiance’s financial situation has deteriorated since the Commission granted the Allegiance Set-top Box Waiver in 2009 (CSR7351-Z) and the Commission has granted additional extensions of the original waivers to Allegiance through April 6,2012 (DA 11-621, Released April 6,2011). A further extension request is now pending with the Media Bureau of the Commission based on the extreme financial hardship Allegiance continues to face.

Therefore, the specifics of Allegiance showing support of its request for a waiver are as follows:

a. Non-speculative financial difficulties as outlined herein, including an estimated _____ in capital and an estimated _____ in annual service fees to comply with the CAP-EAS Requirement in the proposed waiver communities listed in Attachment A; and

b. The public benefit provided by video programming and high speed internet and telephone where feasible to small rural communities.

Allegiance seeks a general financial hardship waiver of one (1) year or such time as the Commission deems reasonable.

2. **ALLEGIANCE’S HISTORY AND PRESENT OPERATIONAL STATUS.**

Allegiance was formed on October 23, 2003, and commenced operations on April 15, 2004, with the acquisition of a series of cable systems. On September 18, 2006, the company acquired an additional series of cable systems. The systems are spread out over Arkansas, Kansas, Missouri, Oklahoma and Texas and serve some _____ subscribers in

⁴ In the Matter of Allegiance Communications, LLC Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules (24 FCC Rcd 9273) (2009) (“Allegiance Set-Top Box Waiver”)

one hundred seventy four (174) communities from _____ headends. The average number of subscribers per headend is _____, and _____ have one hundred (100) or fewer subscribers. Despite all of these challenges, Allegiance has upgraded a number of systems from 330 MHz to between 550 MHz and 860 MHz and now provides digital video services utilizing HITS to all its headends, high speed internet services to thirty seven (37) headends and digital telephone service to thirty six (36) headends. It still has some _____ systems with 330 MHz or less.

3. **ALLEGIANCE'S DIRE FINANCIAL STRAITS AND THE COST OF COMPLIANCE JUSTIFY A WAIVER UNDER THE GROUNDS SET FORTH IN THE FIFTH REPORT AND ORDER AND THE CHARTER DECISION.**

As noted above, Allegiance has operated these rural systems for eight (8) years and has sustained negative free cash flow this entire period while incurring debt of almost _____. Attached as Attachment B please find the Financial Statements for calendar years 2010 and 2011. As noted in the Charter Decision, Allegiance's over eight (8) years of negative free cash flow is similar to the showing considered in determining whether a station is a "failed station" for purposes of a waiver of the Commission's local TV ownership rules.⁵

Compliance with the CAP-EAS Requirement for Allegiance would mean relying on satellite or wireless service as none of the _____ headends that need upgrades from their present legacy EAS capabilities has access to wireline broadband. These _____ headends serve _____ subscribers. The cost of the EAS equipment varies from \$4,483 to \$5,698 per headend, an additional \$695 for the equipment to receive a satellite signal for high speed data, plus installation cost of ten hours at \$75 per hour per headend. If we use

⁵ See footnote 67 of Charter Communications, DA07-2008, Released May 4, 2007.

an average per headend cost of \$4,810 for EAS equipment, \$695 for satellite equipment and \$750 for installation, the average per headend cost is \$6,255. Multiplied by the ___ affected headends, the estimated total capital cost of compliance is _____ or about \$___ per subscriber. There is also a monthly charge per headend for the satellite internet connection of between \$79 and \$99 per month, depending upon the speed needed, or \$_____ annually. Even if we only use the monthly cost of the satellite service, the average cost in many cases exceeds one dollar (\$1.00) per month per subscriber.

In the case of Allegiance, its financial condition is highly precarious. Allegiance has significant negative cash flow for its entire history and substantial debt. The kind of cost that Allegiance outlined above for providing a satellite or other wireless internet connectivity should be sufficient for a one (1) year waiver with possible extensions.

One additional factor alone should justify a waiver - Allegiance will almost certainly determine it must shut down certain systems in the near term. We would ask the Commission to grant a waiver of up to 18 months for any systems designated for shut-down to allow the orderly removal of property and the transfer of customers to other providers, while of course maintaining the legacy EAS equipment during this process.

4. CONCLUSION AND REQUEST FOR RELIEF PURSUANT TO THE WAIVER PROVISIONS OF SECTIONS 1.3 and 11.52(d)(4).

For the reasons stated above, Allegiance requests a waiver of 12 to 18 months from the requirement that it comply with the CAP-EAS requirements set forth in Section Part 11 and specifically Section 11.56 of the Commission's Rules. The grant of this waiver will promote ongoing cable service to numerous small rural communities which will service the public interest consistent with the Communications Act of 1934, as amended.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. R. Ross", with a long horizontal flourish extending to the right.

Stephen R. Ross, Esq.
3015 Fernwood Avenue
Los Angeles, CA 90039
Attorney for Allegiance Communications, LLC
Phone #: 323-661-7755

ATTACHMENT A

ATTACHMENT B