

# Agency Tracking ID:PGC2244801 Authorization Number:260465 Successful Authorization -- Date Paid: 12/6/12 FILE COPY ONLY!!

READ INSTRUCTIONS CAREFULLY BEFORE PROCEEDING  (1) LOCKBOX #979089	FEDERAL COMMUNICATIONS COMMISSION <b>REMITTANCE ADVICE</b> <b>FORM 159</b> PAGE NO 1 OF 1	APPROVED BY OMB 3060-059 SPECIAL USE FCC USE ONLY
<b>SECTION A - Payer Information</b>		
(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card) <b>Western Pacific Broadcast, LLC</b>		(3) TOTAL AMOUNT PAID (dollars and cents) <b>\$1355.00</b>
(4) STREET ADDRESS LINE NO. 1 <b>400 N. Ashley Drive</b>		
(5) STREET ADDRESS LINE NO. 2 <b>Suite 3010</b>		
(6) CITY <b>Tampa</b>	(7) STATE <b>FL</b>	(8) ZIP CODE <b>33602</b>
(9) DAYTIME TELEPHONE NUMBER (INCLUDING AREA CODE) <b>813-5794240</b>		(10) COUNTRY CODE (IF NOT IN U.S.A.) <b>US</b>
<b>FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED</b>		
(11) PAYER (FRN) <b>0020401378</b>		(12) FCC USE ONLY
<b>IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)</b>		
(13) APPLICANT NAME <b>Western Pacific Broadcast, LLC</b>		
(14) STREET ADDRESS LINE NO. 1 <b>400 N. Ashley Drive</b>		
(15) STREET ADDRESS LINE NO. 2 <b>Suite 3010</b>		
(16) CITY <b>Tampa</b>	(17) STATE <b>FL</b>	(18) ZIP CODE <b>33602</b>
(19) DAYTIME TELEPHONE NUMBER (INCLUDING AREA CODE) <b>813-5794240</b>		(20) COUNTRY CODE (IF NOT IN U.S.A.) <b>US</b>
<b>FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED</b>		
(21) APPLICANT (FRN) <b>0020401378</b>		(22) FCC USE ONLY
<b>COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET</b>		
(23A) FCC Call Sign/Other ID <b>WACP</b>	(24A) Payment Type Code(PTC) <b>TQC</b>	(25A) Quantity <b>1</b>
(26A) Fee Due for (PTC) <b>\$1,355.00</b>	(27A) Total Fee <b>\$1355.00</b>	FCC Use Only
(28A) FCC CODE 1 <b>ArmstrongUtil</b>	(29A) FCC CODE 2 <b>1</b>	
(23B) FCC Call Sign/Other ID		
(24B) Payment Type Code(PTC)		
(25B) Quantity		
(26B) Fee Due for (PTC)		
(27B) Total Fee		
(28B) FCC CODE 1		
(29B) FCC CODE 2		

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

In the Matter of: )  
)  
Carriage Complaint Against )  
)  
Armstrong Utilities, Inc. )  
)  
by ) File No. \_\_\_\_\_  
)  
Western Pacific Broadcast, LLC )  
)  
With Respect to Carriage Within the )  
Philadelphia, PA Designated Market Area, )  
of Local Commercial Television Station WACP, )  
Licensed to Atlantic City, New Jersey )

Directed to: The Chief, Media Bureau

**PETITION FOR SPECIAL RELIEF  
BY ORDER OF CARRIAGE**

Western Pacific Broadcast, LLC (“Western Pacific”), pursuant to FCC Rules 76.7 and 76.61, hereby respectfully requests that the Bureau order Armstrong Utilities, Inc. (“Armstrong”) to carry local commercial television station WACP, licensed to serve Atlantic City, NJ (“WACP”), in accordance with the Commission’s must carry rules and policies on Armstrong’s cable system(s) within the Philadelphia, PA designated market area (the “DMA”) for the remaining duration of the current must carry election cycle, expiring December 31, 2014.

In support of this petition, the following is respectfully submitted:

**I. Factual Background**

This Petition is the unfortunate culmination of frustrated attempts by Western Pacific to obtain carriage of WACP by Armstrong, in accordance with WACP’s must carry rights.

WACP is a new commercial television station, which commenced operation this summer. As a result of its status as a new station, Rule 76.64(f)(4) required it to notify local cable operators of WACP's initial election of carriage status within a window 60 days prior to commencing broadcasting and 30 days after commencing broadcasting. In accordance with that requirement, Western Pacific notified Armstrong by letter dated June 6, 2012 that WACP was commencing operation and elected mandatory carriage on Armstrong's cable systems operating in the DMA.<sup>1</sup> That letter was sent by certified mail to Armstrong's corporate offices in Butler, PA, and was received by Armstrong on June 11, 2012.<sup>2</sup> Under Rule 76.64(f)(4), that initial election took effect 90 days after it was made, which in the case of Armstrong was September 9, 2012.

Armstrong did not respond to that election letter. At the end of the 90-day notice period, it became apparent to Western Pacific that a more formal approach would be required to get Armstrong's attention. To preserve its rights to carriage, by letter dated September 14, 2012, Western Pacific demanded carriage of WACP pursuant to FCC Rule 76.61(a)(1), which states:

(1) Whenever a local commercial television station or a qualified low power television station believes that a cable operator has failed to meet its carriage or channel positioning obligations, pursuant to §§ 76.56 and 76.57, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or position such signal on a particular channel.<sup>3</sup>

Faced with Western Pacific's carriage demand letter, Rule 76.61(a)(2) required Armstrong within 30 days after it received the letter to "either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not

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<sup>1</sup> A copy of that letter appears in **Exhibit 1**. The attachment to the letter is a list of all Armstrong CUIDs within the DMA as of the date of the letter.

<sup>2</sup> A copy of the US Post Office delivery receipt appears in **Exhibit 2**.

<sup>3</sup> The demand letter appears in **Exhibit 3**.

obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of the must-carry rules.”<sup>4</sup> Armstrong did not respond to this carriage demand letter by the October 18, 2012 deadline imposed by Rule 76.61(a)(2) for its response.<sup>5</sup>

Under Rule 76.61(a)(3)(iii), Western Pacific is entitled to file this Petition within sixty days of the date that is thirty days after the date of delivery of its carriage demand letter, if the Cable Operator has failed to respond to the Carriage Request in the manner required by Rule 76.61(a)(2). A response as required by the Rule, was due by October 22, 2012. While Armstrong responded to the demand letter by declining carriage, its response was almost a month late. Under Rule 76.61(a)(3)(iii), the deadline for this petition is 60 days from the date by which Armstrong was required to respond to the carriage demand, or December 21, 2012. Accordingly, this Petition is filed within the deadline established by Rule 76.61(a)(3)(iii).

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<sup>4</sup> Rule 76.61(a)(2), states:

(2) The cable operator shall, within 30 days of receipt of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of the must-carry rules. If a refusal for carriage is based on the station's distance from the cable system's principal headend, the operator's response shall include the location of such headend. If a cable operator denies carriage on the basis of the failure of the station to deliver a good quality signal at the cable system's principal headend, the cable operator must provide a list of equipment used to make the measurements, the point of measurement and a list and detailed description of the reception and over-the-air signal processing equipment used, including sketches such as block diagrams and a description of the methodology used for processing the signal at issue, in its response.

<sup>5</sup> As shown in post office return receipt notice appearing in **Exhibit 4**, this letter was received by Armstrong on September 21.

## II. Discussion

Armstrong has the burden of showing that WACP is not entitled to carriage if WACP is a commercial television station local to the DMA.<sup>6</sup> As shown below, WACP is a commercial television station that is local to the DMA.

### *(a) Armstrong Is a Cable Operator in the DMA.*

Armstrong is a cable operator that operates one or more cable systems serving the DMA, as demonstrated by the Commission's list of community unit identification numbers for the counties within the DMA.<sup>7</sup>

### *(b) WACP Is Entitled to Mandatory Carriage on Armstrong's Cable System in the DMA.*

WACP is entitled to carriage on cable systems located in the DMA if it is a "local commercial television station," as that term is defined in Rule 76.55(c). WACP is a commercial television station that is local to the DMA. In this regard, the Station is licensed to serve the community of Atlantic City, New Jersey, which is within the same television market as the cable system(s) operated by Armstrong in the DMA.<sup>8</sup> WACP is licensed and operating on a channel regularly assigned to its community of license, channel 4.<sup>9</sup> Finally, WACP either delivers a good quality signal to the principal headend of the cable system(s), or is entitled to carriage despite the delivery of a lower quality signal due to the Western Pacific's undertaking to be responsible for the costs of delivering a good quality signal or a baseband video signal to the cable system(s). WACP has been operating within the DMA since June of this year and did not elect to reserve its

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<sup>6</sup> *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage issues*, 8 FCC Rcd 2965, 2990 ¶102 (1993).

<sup>7</sup> A list of the CUID's assigned as of June 2012 to the three Armstrong cable operators within the DMA is attached to the letter appearing in **Exhibit 1**.

<sup>8</sup> *Broadcasting & Cable Yearbook*, at B-156 (ProQuest, LLC 2009).

<sup>9</sup> Channel 4 is a DTV allotment assigned to Atlantic City by Rule 73.622(i).

retransmission consent rights with respect to any cable system or area of the DMA for the current must carry election cycle.

This Petition was preceded by both a written must carry election delivered to Armstrong and a subsequent written demand for carriage delivered to Armstrong. Armstrong responded to the carriage demand letter by letter dated November 19, 2013, by which Armstrong presented signal strength measurements and declined WACP's carriage demand because the signal received at the headend did not meet the "good quality signal" requirement of Rule 76.55(c)(3).<sup>10</sup>

Those signal test measurements should be ignored as untimely. Rule 76.61(a)(2) required Armstrong to present the results of the signal tests to WACP by 30 days after Armstrong received the carriage demand letter. That demand letter was received by Armstrong on September 21, 2012, thus requiring that Armstrong present those measurements as a defense to carriage by October 22, 2012. Armstrong delayed sending the results to WACP until November 19, 2012, even though the results recite that the tests were performed on October 2 and 3, 2012.

Moreover, the test results do not meet the substantive requirements of Rule 76.61(a)(2), as they do not contain "a description of the methodology used for processing the signal at issue...." Nor does the measurement report include a block diagram<sup>11</sup> or any indication of where the signal was measured in the various parts of the receiver system. Nor do they appear to meet the Commission's requirement of sound engineering practices. That requirement includes treating the measured signal like other TV station signals received at the tower. But, the signal measurement report does not provide any information on the other TV reception antennas on the

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<sup>10</sup> A copy of that letter and its accompanying signal test results appears in **Exhibit 5**.

<sup>11</sup> *KM Television of El Dorado, LLC v. Friendship Cable of Arkansas, Inc.*, 19 FCC Rcd 8534, ¶ 8 (2004); *Pappas Southern California License, LLC v. Communications Services*, 17 FCC Rcd 4582 ¶ 5 (2002).

tower, or the length or type of the wave guide relative to the length and type of wave guide used by Armstrong to receive other TV station signals.

If the Bureau nonetheless decides to consider these signal test results, WACP still meets the requirements for classification as a “local commercial television station” under Rule 76.55(c)(3) because the signal quality standard can be met either by proving a “good quality signal” at the principal headend, or an undertaking by the TV station to agree to be responsible for the costs of delivering a good quality signal or a baseband video signal to the cable system, and WACP stated this agreement in its carriage election letter.<sup>12</sup> Accordingly, regardless of the signal strength, Armstrong is incorrect in concluding that WACP “does not meet the definition of ‘local commercial television station’ under 47 CFR 76.5(c)(3).”

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<sup>12</sup> This letter appears in **Exhibit 1**.

**III. Conclusion**

WHEREFORE, the foregoing premises considered, Western Pacific Broadcast, LLC hereby respectfully requests that the Commission order Armstrong to carry the Station in accordance with the must carry rules and policies for the remaining duration of the current must carry election cycle, expiring December 31, 2014.

Respectfully submitted,

WESTERN PACIFIC BROADCAST LLC

By: \_\_\_\_\_

  
M. Scott Johnson  
Thomas J. Dougherty, Jr.  
Its Counsel

FLETCHER, HEALD & HILDRETH, PLC  
1300 North 17<sup>th</sup> Street, Suite 1100  
Arlington, VA 22209  
(703) 812-0400

December 6, 2012

**EXHIBIT 1**



**Fletcher, Heald & Hildreth**

1300 NORTH 17th STREET, 11th FLOOR  
ARLINGTON, VIRGINIA 22209

OFFICE: (703) 812-0400  
FAX: (703) 812-0486  
www.fhhlaw.com  
www.commlawblog.com

M. SCOTT JOHNSON  
(703) 812-0474  
SJOHNSON@FHHLAW.COM

THOMAS J. DOUGHERTY, JR.  
(703) 812-0409  
DOUGHERTY@FHHLAW.COM

June 6, 2012

Via Certified Mail, Return Receipt Requested

Mr. Dave Wittmann  
Armstrong Utilities Inc.  
One Armstrong Place  
Butler, Pennsylvania 16001

Re: Mandatory Carriage Election for WACP, Atlantic City, NJ

Dear Mr. Whittmann:

Pursuant to Section 614 of the Communications Act of 1934, as amended, and Section 76.64(f)(4) of the rules of the Federal Communications Commission, this will inform you that Western Pacific Broadcast, LLC, the licensee of Television Station WACP, Atlantic City, NJ (the "Station") hereby elects mandatory carriage of the Station's television signal pursuant to Section 76.56(b) on all cable systems operated by any one or more of Armstrong Utilities Inc. or any one or more of its direct or indirect subsidiaries or affiliates to the extent they serve the Philadelphia, PA Designated Market Area ("DMA"), including without limitation those community units listed on Exhibit A hereto. Carriage is sought solely within the DMA. The Station is a new station that is licensed to Atlantic City, NJ, which is part of the DMA. The Station is scheduled to begin commercial broadcasting on June 8, 2012. The Station will present the programming of Cannella Response Television, LLC, as well as other offerings of high quality programming. With reference to FCC Rule 76.56(b)(5), the Station will not substantially duplicate the signal of any other local commercial television station that is carried or retransmitted on your systems within the DMA and will not have a network affiliation duplicating that of a local commercial television station carried on your systems within the DMA.

The Station is assigned virtual channel 4 and elects carriage on that channel as of right under FCC Rule 76.57. Please be advised for purposes of complying with the FCC's material degradation requirement that the station will commence broadcast with one program stream employing virtually the entire bit stream (19.4 mbps) of the channel.

The Station is a local commercial television station as to all cable systems operating in the DMA, as defined in FCC Rule 76.55(c). For purposes of that definition, please be advised that in the event that the Station does not deliver an over the air signal of good quality as specified in FCC Rule 76.55 (c)(3) to the principal headend(s) [as defined in FCC Rule 76.5(pp)] of the cable systems covered by this election, the Station will be responsible for providing equipment and bearing the costs of delivering such requisite signal of good quality to those headend(s) as required to comply with FCC Rule 76.55 (c), including without limiting the foregoing, the costs for any needed specialized equipment. Please note that this correspondence is not a demand for carriage; rather it is the election notice new stations are required to make under FCC Rule 76.64(f)(4).

Mr. Dave Whittmann

June 6, 2012

Page 2

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Official correspondence in connection with this letter should be directed to the undersigned at the Fletcher, Heald & Hildreth, PLC address on this letterhead as the Station's contact person, with a copy to Mr. Bray at the address below.

Please contact the undersigned if you should have any questions concerning this matter.

Sincerely,



---

M. Scott Johnson  
Thomas J. Dougherty, Jr.  
Counsel for and Acting on Behalf of  
Western Pacific Broadcast, LLC

cc: Matthew J. Bray, Vice President  
Western Pacific Broadcast, LLC  
400 N. Ashley Dr. Suite 3010  
Tampa, FL 33602

**EXHIBIT A - ARMSTRONG UTILITIES**

<b>Comm. Unit</b>	<b>Comm. Name</b>	<b>County Name</b>	<b>Legal Name</b>	<b>PSID</b>	<b>Address</b>	<b>City</b>	<b>ST</b>
PA1994	EAST NOTTINGHAM	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA1995	OXFORD	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA2695	LOWER OXFORD	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA2703	UPPER NOTTINGHAM	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA2705	WEST NOTTINGHAM	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA3095	LONDONDERRY	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA3096	HIGHLAND	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA3097	WEST FALLOWFIELD	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA3098	ELK	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA3099	UPPER OXFORD	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA

**EXHIBIT 2**

Item 4 If Restricted Delivery is desired.  
 ■ Print your name and address on the reverse so that we can return the card to you.  
 ■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Dave Wittmann  
 Armstrong Utilities Inc.  
 One Armstrong Place  
 Butler, PA 16001

2. Article Number (Transfer from service label) 7011 0470 0000 9266 4753

3. Received by (Printed Name) *Her Kelly* C. Date of Delivery  
 Agent  Addressee  
 Yes  
 No

D. *Received*  
*6/11/2012*  
*MBG*

4. Restricted Delivery? (Cause only)  Yes  No

Merchandise

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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Certified Fee	2.95
Return Receipt Fee (Endorsement Required)	2.35
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 6.40</b>

Sent To: Mr. Dave Wittmann  
 Armstrong Utilities Inc.  
 One Armstrong Place  
 Butler, PA 16001

Postmark: ROCHESTER NY JUN 06 2012

PS Form 3800, August 2006 See reverse for instructions

7011 0470 0000 9266 4753

**EXHIBIT 3**



# **Fletcher, Heald & Hildreth**

1300 NORTH 17th STREET, 11th FLOOR  
ARLINGTON, VIRGINIA 22209

OFFICE: (703) 812-0400  
FAX: (703) 812-0486  
www.fhhlaw.com  
www.commlawblog.com

M. SCOTT JOHNSON  
(703) 812-0474  
SJOHNSON@FHHLAW.COM

THOMAS J. DOUGHERTY, JR.  
(703) 812-0409  
DOUGHERTY@FHHLAW.COM

September 14, 2012

Via Certified Mail, Return Receipt Requested

Mr. Dave Wittmann  
Armstrong Utilities Inc.  
One Armstrong Place  
Butler, Pennsylvania 16001

Re: Mandatory Carriage Election for WACP, Atlantic City, NJ

Dear Mr. Whittmann:

This letter is being delivered to you on behalf of Western Pacific Broadcast, LLC, the licensee of local commercial Television station WACP, licensed on channel 4 to serve the community of Atlantic City, NJ. This letter is a demand for carriage under FCC Rule 76.61(a)(1).

By letter dated June 6, 2012, and received by your office on June 8,<sup>1</sup> you were informed that WACP was commencing operation as a local commercial television station in the Philadelphia, PA Designated Market Area (the "DMA") and had elected mandatory carriage status.<sup>2</sup> As stated in that letter, as a cable operator within the DMA, FCC Rule 76.64(f)(4) required you to commence carriage of WACP by the date that is 90 days after that election. That 90 day period has ended, and our investigation has revealed that your system(s) within the DMA is not carrying WACP. This failure to commence continuous carriage within that 90 day period is a violation of FCC Rules, as well as the Communications Act of 1934, as amended. Although you received our carriage election notice, we have not received any communication from you indicating that you have a valid defense to carriage.

To be clear, WACP is entitled to carriage on your cable system(s) within the DMA. WACP has properly elected must carry status, and is a commercial television station which is local to the DMA.

Under FCC Rule 76.61(a)(2), you are required to respond to this letter in writing within 30 days of your receipt of this letter, and to either commence to carry the WACP signal in accordance with the terms requested in the attached carriage election letter or to state your reasons (if any) for believing that you are not obligated to carry the WACP signal.

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<sup>1</sup> See U.S. Postal Service return receipt notification and Track & Confirm attached to this letter.

<sup>2</sup> A copy of that letter is attached.

 **Fletcher, Heald & Hildreth**

Mr. Dave Whittmann

September 14, 2012

Page 2

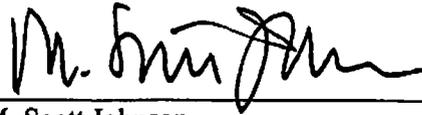
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It is our hope that carriage of the WACP signal on your cable system(s) within the DMA will commence promptly, and that this dispute will end with that carriage.

Official correspondence in connection with this letter should be directed to the undersigned at the Fletcher, Heald & Hildreth, PLC address on this letterhead as the Station's contact person, with a copy to Mr. Bray at the address below.

Please contact the undersigned if you should have any questions concerning this matter.

Sincerely,



---

M. Scott Johnson  
Thomas J. Dougherty, Jr.  
Counsel for and Acting on Behalf of  
Western Pacific Broadcast, LLC

cc: Matthew J. Bray, Vice President  
Western Pacific Broadcast, LLC  
400 N. Ashley Dr. Suite 3010  
Tampa, FL 33602

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span>  <b>X</b></p> <p>B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span></p>
<p>1. Article Addressed to:</p> <div style="border: 1px dashed black; padding: 10px; margin: 10px 0;"> <p>Mr. Dave Wittmann  Armstrong Utilities Inc.  One Armstrong Place  Butler, Pennsylvania 16001</p> </div>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label) <span style="float: right;">7011 0470 0000 9266 4876</span></p>	
<p>PS Form 3811, February 2004 <span style="margin-left: 150px;">Domestic Return Receipt</span> <span style="float: right;">102595-02-M-1540</span></p>	

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FLETCHER, HEALD & HILDRETH, P.L.C.  
1300 North 17th Street, 11th Floor  
Arlington, Virginia 22209

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Return Receipt Fee (Endorsement Required)	2.35
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 6.40</b>

Postmark Here: **ROSELYN STATE VA JUN 06 2012 ARLINGTON VA 22209-9998**

Sent To	Mr. Dave Wittmann
Street, Apt. No., or PO Box No.	Armstrong Utilities Inc.
City, State, ZIP+4	One Armstrong Place Butler, PA 16001

PS Form 3800, August 2006 See reverse for instructions

*Received  
6/11/2012  
MBG*

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

Mr. Dave Wittmann  
 Armstrong Utilities Inc.  
 One Armstrong Place  
 Butler, PA 16001

**2. Article Number**  
*(Transfer from service label)*

7011 0470 0000 9266 4753

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

B. Received by (Printed Name) C. Date of Delivery

*Her Kelly*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

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You entered: 70110470000092664753

**Status: Delivered**

Your item was delivered at 11:50 am on June 08, 2012 in BUTLER, PA 16001.  
Additional information for this item is stored in files offline.

You may request that the additional information be retrieved from the archives, and that we send you an e-mail when this retrieval is complete. Requests to retrieve additional information are generally processed within four hours. This information will remain online for 30 days.

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# **Fletcher, Heald & Hildreth**

1300 NORTH 17th STREET, 11th FLOOR  
ARLINGTON, VIRGINIA 22209

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M. SCOTT JOHNSON  
(703) 812-0474  
SJOHNSON@FHHLAW.COM

THOMAS J. DOUGHERTY, JR.  
(703) 812-0409  
DOUGHERTY@FHHLAW.COM

June 6, 2012

Via Certified Mail, Return Receipt Requested

Mr. Dave Wittmann  
Armstrong Utilities Inc.  
One Armstrong Place  
Butler, Pennsylvania 16001

Re: Mandatory Carriage Election for WACP, Atlantic City, NJ

Dear Mr. Whittmann:

Pursuant to Section 614 of the Communications Act of 1934, as amended, and Section 76.64(f)(4) of the rules of the Federal Communications Commission, this will inform you that Western Pacific Broadcast, LLC, the licensee of Television Station WACP, Atlantic City, NJ (the "Station") hereby elects mandatory carriage of the Station's television signal pursuant to Section 76.56(b) on all cable systems operated by any one or more of Armstrong Utilities Inc. or any one or more of its direct or indirect subsidiaries or affiliates to the extent they serve the Philadelphia, PA Designated Market Area ("DMA"), including without limitation those community units listed on Exhibit A hereto. Carriage is sought solely within the DMA. The Station is a new station that is licensed to Atlantic City, NJ, which is part of the DMA. The Station is scheduled to begin commercial broadcasting on June 8, 2012. The Station will present the programming of Cannella Response Television, LLC, as well as other offerings of high quality programming. With reference to FCC Rule 76.56(b)(5), the Station will not substantially duplicate the signal of any other local commercial television station that is carried or retransmitted on your systems within the DMA and will not have a network affiliation duplicating that of a local commercial television station carried on your systems within the DMA.

The Station is assigned virtual channel 4 and elects carriage on that channel as of right under FCC Rule 76.57. Please be advised for purposes of complying with the FCC's material degradation requirement that the station will commence broadcast with one program stream employing virtually the entire bit stream (19.4 mbps) of the channel.

The Station is a local commercial television station as to all cable systems operating in the DMA, as defined in FCC Rule 76.55(c). For purposes of that definition, please be advised that in the event that the Station does not deliver an over the air signal of good quality as specified in FCC Rule 76.55 (c)(3) to the principal headend(s) [as defined in FCC Rule 76.5(pp)] of the cable systems covered by this election, the Station will be responsible for providing equipment and bearing the costs of delivering such requisite signal of good quality to those headend(s) as required to comply with FCC Rule 76.55 (c), including without limiting the foregoing, the costs for any needed specialized equipment. Please note that this correspondence is not a demand for carriage; rather it is the election notice new stations are required to make under FCC Rule 76.64(f)(4).

Official correspondence in connection with this letter should be directed to the undersigned at the Fletcher, Heald & Hildreth, PLC address on this letterhead as the Station's contact person, with a copy to Mr. Bray at the address below.

Please contact the undersigned if you should have any questions concerning this matter.

Sincerely,



\_\_\_\_\_  
M. Scott Johnson  
Thomas J. Dougherty, Jr.  
Counsel for and Acting on Behalf of  
Western Pacific Broadcast, LLC

cc: Matthew J. Bray, Vice President  
Western Pacific Broadcast, LLC  
400 N. Ashley Dr. Suite 3010  
Tampa, FL 33602

**EXHIBIT A - ARMSTRONG UTILITIES**

<b>Comm. Unit</b>	<b>Comm. Name</b>	<b>County Name</b>	<b>Legal Name</b>	<b>PSID</b>	<b>Address</b>	<b>City</b>	<b>ST</b>
PA1994	EAST NOTTINGHAM	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA1995	OXFORD	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA2695	LOWER OXFORD	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA2703	UPPER NOTTINGHAM	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA2705	WEST NOTTINGHAM	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA3095	LONDONDERRY	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA3096	HIGHLAND	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA3097	WEST FALLOWFIELD	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA3098	ELK	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA
PA3099	UPPER OXFORD	CHESTER	ARMSTRONG UTILITIES INC	005004	ONE ARMSTRONG PLACE	BUTLER	PA

**EXHIBIT 4**

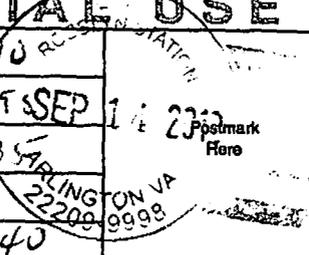
**U.S. Postal Service<sup>TM</sup>**  
**CERTIFIED MAIL<sup>TM</sup> RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

7011 0470 0000 9266 4876

Postage	\$ 1.10
Certified Fee	2.15
Return Receipt Fee (Endorsement Required)	1.35
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 6.40</b>



Sent To: Mr. Dave Wittmann  
 Street, Apt. No., or PO Box No.: Armstrong Utilities Inc.  
 City, State, ZIP+4: One Armstrong Place  
 Butler, Pennsylvania 16001

PS Form 3800, August 2006

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p>X. <i>A. Wittmann</i></p> <p>B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span></p> <p><i>Alex Kupta</i> <span style="float: right;"><b>9-17</b></span></p> <p>D. <span style="float: right;">Yes No</span></p> <p><i>Received 9/21/2012 M/S</i></p> <p>3. <span style="float: right;">merchandise</span></p> <p>4. Restricted Delivery? (Extra Fee) <span style="float: right;"><input type="checkbox"/> Yes</span></p>
1. Article Addressed to:	
<p>Mr. Dave Wittmann          Armstrong Utilities Inc.          One Armstrong Place          Butler, Pennsylvania 16001</p>	
2. Article Number (Transfer from service label)	7011 0470 0000 9266 4876

**EXHIBIT 5**

# CM CINNAMON MUELLER

*A Limited Liability Company*

307 North Michigan Avenue, Suite 1020  
Chicago, Illinois 60601  
Telephone: 312-372-3930  
Facsimile: 312-372-3939

**Washington, D.C.**  
1333 New Hampshire Ave, NW, Fl 2  
Washington, DC 20036

**St. Louis**  
1714 Deer Tracks Trail, Ste 215  
St. Louis, MO 63131

**Christopher C. Cinnamon**  
*Admitted in Illinois, Kansas, and Michigan*

November 19, 2013

Scott Johnson  
Fletcher, Heald & Hildreth  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209  
*via email [sjohnson@fhhlaw.com](mailto:sjohnson@fhhlaw.com)*

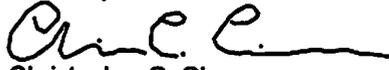
Re: Armstrong Utilities, Inc. ("Armstrong")/WACP must carry request

Dear Mr. Johnson:

On behalf of Armstrong, we respond to your September 14, 2012 letter on behalf of WACP. That letter demanded must carry on Armstrong's Oxford, PA cable system.

Based on the attached Signal Strength Test Report, WACP does not meet the definition of "local commercial television station" under 47 CFR 76.55(c)(3). Consequently, WACP is not entitled to mandatory carriage under 47 CFR 76.56(b), and Armstrong declines the station's carriage request.

Sincerely,



Christopher C. Cinnamon

Enc.

Cc: Ed Hassler, Jr.  
David R. Jamieson

## Signal Strength Test Report

Station: WACP

Channel: 4

Frequency: 66-72 MHz

Headend: Oxford, PA

WACP

Latitude: 39 46 4

39 44 5

Longitude: 76 00 52

74 50 29

Bearing to Station

(Antenna Oriented for Maximum Signal Level): 91.72°

Distance to Station: 62.39 miles

Receiving Tower Height: 100'

Receiving Antenna Height: 90'

Measuring Instrument Manufacturer: Sunrise

Make/Model: AT2500RQv

Serial #: 8541-1109

Age of Unit: 3 years

Calibration Date: 10/2/12

Antenna Manufacturer: Scientific Atlanta

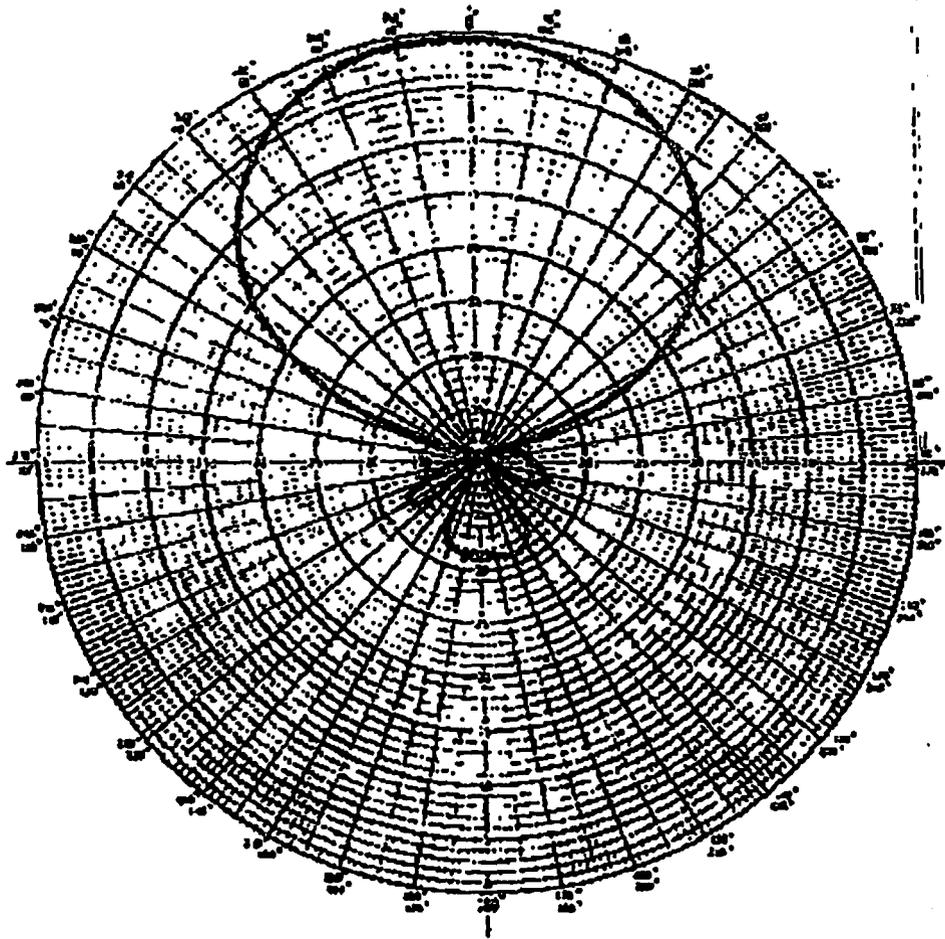
Model: QCA 2-6

Gain: 8.5 dBi

Range: \_\_\_\_\_

Radiation Pattern: Attached (attach diagram)

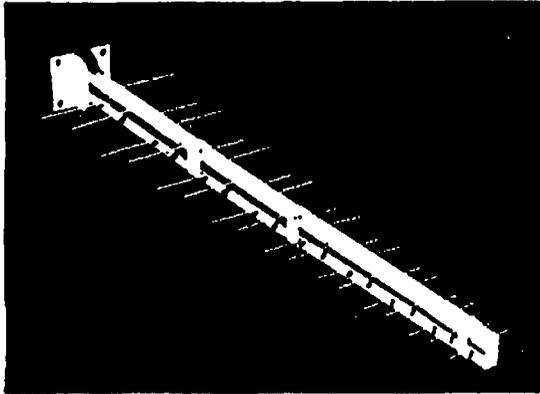
*Measurements recording on the following page.*



**QCA-2-6, -2, -4, -7**

# Off-Air Antennas

## Quadrate Channeler Log-Periodic



3909

### Single Antennas, Series QCA

For installations that require a moderately narrow beamwidth antenna, one of the Series QCA single antennas will provide superior reception through its excellent front-to-back ratio and sidelobe suppression. The wide bandwidth of this antenna permits all VHF channels to be covered by only three antennas.

Mounting hardware is available to permit no-drilling, single-point mounting on round or angle tower sections or on wooden poles. No bracing or other supports are required.

### Specifications

Minimum front-to-back ratio

25 dB (all models)

Minimum sidelobe suppression

QCA-UHF

30 dB

All others

25 dB

Output connector

Type N male (Type N to F adapter supplied)

Output impedance

50  $\Omega$  unbalanced

Wind survival at 0°C (+32°F) air temperature

No ice

160 km/h (100 mph)

Dimensions

See table

Weight

See table

	Antenna Model		
	QCA-2-6	QCA-2	QCA-4
Channel	2-6	2-3	4-6
Max VSWR	1.5:1	1.5:1	1.5:1
Min gain (dBi)	8.5	9.5	9.5
Beamwidth—H	70°	60°	60°
Beamwidth—V	95°	95°	95°

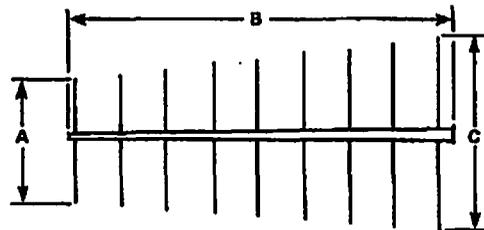
  

	QCA-7	QCA-UHF	QCA-FM
	Channel	7-13	14-83
Max VSWR	1.5:1	1.25:1	1.5:1
Min gain (dBi)	11.5	12.5	9.5
Beamwidth—H	50°	50°	60°
Beamwidth—V	65°	65°	95°

	Antenna Dimensions—mm (inches)		
	QCA-2-6	QCA-2	QCA-4
A	1295 (51)	1575 (62)	1194 (47)
B	3658 (144)	3658 (144)	3658 (144)
C	2870 (113)	2769 (109)	2362 (93)

	QCA-7	QCA-UHF	QCA-FM
	A	495 (19.5)	127 (5)
B	2413 (95)	1346 (53)	3658 (144)
C	864 (34)	330 (13)	1778 (70)



	Antenna Weights—kg (lbs)		
	QCA-2-6	QCA-2	QCA-4
Net	34 (76)	34 (76)	34 (76)
Shipping	102 (225)	102 (225)	102 (225)

	QCA-7	QCA-UHF	QCA-FM
	Net	14 (31)	9.5 (21)
Shipping	59 (130)	18 (40)	79 (175)

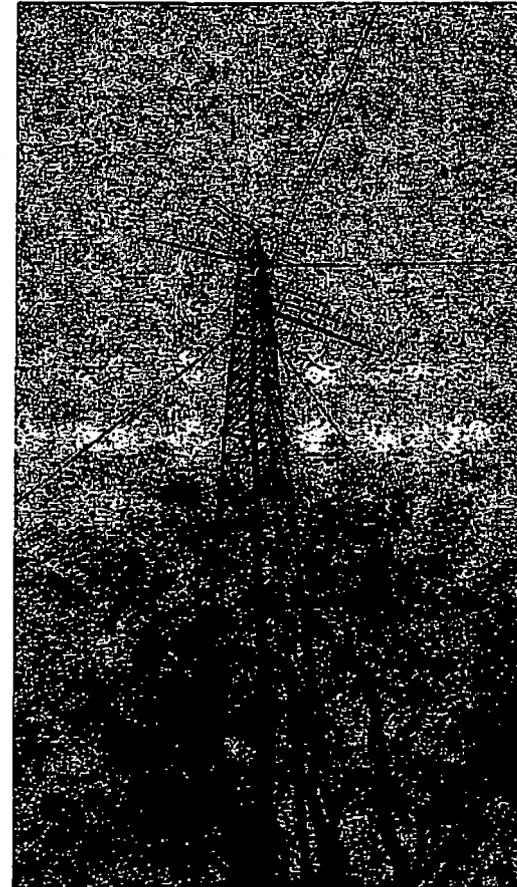
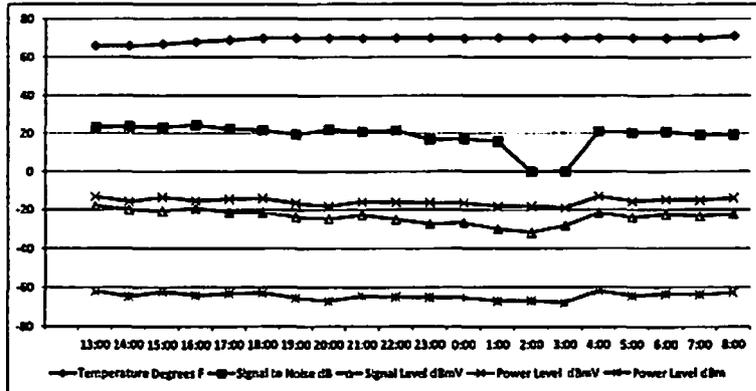
Date	Time	Temperature Degrees F	Signal to Noise dB	Signal Level dBmV	Power Level dBmV	Power Level dBm	Weather Conditions
2-Oct-12	13:00	66	23.5	-18	-13.2	-61.95	Rain/Fog
2-Oct-12	14:00	66	23.8	-19.8	-15.8	-64.55	light rain/fog
2-Oct-12	15:00	67	23.5	-20.6	-13.3	-62.05	light rain/fog
2-Oct-12	16:00	68	24.5	-19.3	-15.3	-64.05	Fog/mist
2-Oct-12	17:00	69	22.3	-21.3	-14.3	-63.05	Fog/mist
2-Oct-12	18:00	70	21.7	-21.4	-14	-62.75	Fog/mist
2-Oct-12	19:00	70	19.4	-23.8	-16.6	-65.35	Fog/mist
2-Oct-12	20:00	70	22	-24.7	-18.2	-66.95	Fog/mist
2-Oct-12	21:00	70	20.9	-22.7	-15.8	-64.55	Fog/mist
2-Oct-12	22:00	70	21.6	-25	-16.1	-64.85	Fog/mist
2-Oct-12	23:00	70	16.7	-27.5	-16.4	-65.15	Fog
3-Oct-12	0:00	70	17	-26.8	-16.5	-65.25	Fog
3-Oct-12	1:00	70	15.8	-30.1	-18.2	-66.95	Fog
3-Oct-12	2:00	70	No Loc	-31.7	-18.1	-66.85	Fog/mist
3-Oct-12	3:00	70	No Loc	-28.3	-19.1	-67.85	Fog/mist
3-Oct-12	4:00	70	21	-21.7	-13	-61.75	Fog
3-Oct-12	5:00	70	20.3	-24.1	-15.7	-64.45	Fog
3-Oct-12	6:00	70	20.8	-22.4	-14.7	-63.45	Fog
3-Oct-12	7:00	70	19.2	-23.3	-15	-63.75	Fog
3-Oct-12	8:00	71	19.3	-22.2	-13.9	-62.65	Fog/mist

Test Equipment Used

**Spectrum Analyzer**  
 Sunrise  
 Model: AT2500RDb  
 S/N: 8541-1109  
 Cal Date: 11/24/2009  
 Verified: 10/2/12

**Signal Level Meter**  
 Sunrise  
 Model: CM2000  
 S/N: 094901933  
 Cal Date: 12/10/2009  
 Verified: 10/2/12

**Receiver**  
 Tandberg  
 Model 8320  
 S/N: 07933



Antenna Peaked on WACP

**CERTIFICATE OF SERVICE**

I, Michelle Brown Johnson, hereby certify that on this 6th day of December, 2012, I caused a copy of the foregoing "Petition for Special Relief" to be served via U.S. mail, postage prepaid, and email upon the following entity:

Christopher C. Cinnamon, Esq.  
Cinnamon Mueller  
307 N. Michigan Ave., Suite 1020  
Chicago, IL 60601

cccinnamon@cm-chi.com

  
Michelle Brown Johnson