

*Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554*

In the Matter of:	)	
	)	
Armstrong Utilities, Inc.	)	Docket No. 12-364
	)	File No. CSR-8752-m
Carriage Complaint of Local	)	
Commercial Television Station WACP,	)	
Licensed to Atlantic City, New Jersey	)	

Directed to: Media Bureau

**COMMENTS ON NOTICE OF JOINT TEST**

Western Pacific Broadcast, LLC, licensee of television station WACP-DT, Atlantic City, NJ, (“WACP”) files its comments on the March 29, 2014, “Notice of Joint Test” filed by Armstrong Utilities, Inc. (“Armstrong”). The Notice of Joint Test related to the joint tests of the reception of the signal of WACP-DT’s signal at the Armstrong headend ordered by the Media Bureau in paragraph 28 of *Complaint for Carriage of Western Pacific Broadcast, LLC Memorandum Opinion and Order, DA 14-231 (rel. February 20, 2014)* (the “WACP Carriage Order”).

At the outset, it should be recognized that the Notice of Joint Test is an unauthorized pleading, which is not required by or contemplated by paragraph 28 of the *WACP Carriage Order*. Moreover, Armstrong neither advised WACP that it intended to file its Notice of Joint Test nor asked WACP to participate in the filing.

As to the purpose of the Notice of Joint Test, it is not clear because it does not ask the Bureau to do anything. Our concern is that the statements in it may insinuate factual conclusions that are not correct, hence the purpose of these Comments. The Notice of Joint Test states that

“The Joint Test ... has been confirmed by WACP personnel.” Nothing has been “confirmed” by WACP personnel other than the proposed test date.

Here is the sequence of communications. By email dated February 28, 2013 to WACP, Ed Hassler of Armstrong informed WACP: “Within the next seven days, I plan to send you three possible test dates and the test plan Armstrong will follow.”<sup>1</sup> Armstrong did not provide either the proposed test dates or plan within those seven days. Accordingly, on March 18, 2014, Sue Lupia of WACP sent Mr. Hassler a reminder email, saying: “please send the test dates so we can set our internal schedule. In addition, please forward Armstrong’s test plan.”<sup>2</sup> On March 19, Mr. Hassler responded to Ms. Lupia with an email saying the following: “Greg, Todd and Sue Please see the attached dates for testing your signal at the Oxford headend.”<sup>3</sup> Although the proposed test plan had been promised by with 7 days of February 28, it had not at this time been delivered to WACP. Finally, the proposed test plan, prepared by Meintel, Sgrignoli, & Wallace, was delivered by Mr. Hassler to WACP by email dated March 24, 2014.<sup>4</sup> That is the first day that WACP had any knowledge of the plan Armstrong proposed to follow, a plan developed unilaterally by Armstrong with neither any request for WACP input nor any WACP input.

The Notice of Test plan was filed just 5 days after WACP first had the opportunity to read Armstrong’s proposed test plan, and before WACP had provided – or reasonably could have been expected to provide – any critique of that test plan. Yet, the Notice of Joint Test says that “Armstrong will follow the Test protocol set forth in” Armstrong’s proposed test plan. This appears to WACP to be an attempt to exclude WACP from the process of planning the tests,

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<sup>1</sup> A copy of this email is attached as Exhibit 1.

<sup>2</sup> A copy of this email is attached as Exhibit 2.

<sup>3</sup> A copy of this email is attached as Exhibit 3.

<sup>4</sup> A copy of this email is attached as Exhibit 4.

which is contrary to both the expected “joint” nature of the tests and the spirit of cooperation the Bureau expects to surround and to guide these joint tests.

As is a matter of record in this proceeding, Meintel, Srignoli, & Wallace was retained by Armstrong to provide technical support to Armstrong. They have no connection with and were not retained by WACP. To ensure no misunderstanding, WACP files these comments to indicate that while some aspects of the Meintel, Srignoli, & Wallace’s Test Protocol are acceptable, other aspects need revision or added criteria.

Today, WACP has completed its review of the test plan proposed by Armstrong and has sent Armstrong its critique of the Armstrong-suggested plan. We are hopeful that these recommendations will be adopted and that the tests will proceed in a cooperative fashion.

Respectfully submitted,

WESTERN PACIFIC BROADCAST LLC



Mr. 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

April 3, 2014

## EXHIBIT 1

**From:** "Hassler, Ed Jr." <[ehassler@agoc.com](mailto:ehassler@agoc.com)>  
**Date:** February 28, 2014 at 14:53:27 EST  
**To:** "Kevin O'Kane ([kevinokane@wpbroadcast.com](mailto:kevinokane@wpbroadcast.com))" <[kevinokane@wpbroadcast.com](mailto:kevinokane@wpbroadcast.com)>, "[tloney@ieee.org](mailto:tloney@ieee.org)" <[tloney@ieee.org](mailto:tloney@ieee.org)>  
**Cc:** "[cccinnamon@cm-chi.com](mailto:cccinnamon@cm-chi.com)" <[cccinnamon@cm-chi.com](mailto:cccinnamon@cm-chi.com)>, "Zeltwanger, Kathryn P." <[kzeltwanger@agoc.com](mailto:kzeltwanger@agoc.com)>, "Chapman, Kelly" <[kchapman@agoc.com](mailto:kchapman@agoc.com)>  
**Subject:** AWCP Testing

Todd and Kevin:

I am beginning to coordinate internally the joint test ordered by the FCC, and I wanted to initiate communications with you both. Within the next seven days, I plan to send you three possible test dates and the test plan Armstrong will follow. Recognizing you may be participating in the NAB convention, we will select test dates during the last two weeks of March

If there are other station representatives I should be communicating with regarding the joint test, please let me know.

Ed Hassler, Jr

Edgar E. Hassler, Jr.  
V.P. Engineering  
Armstrong Utilities, Inc.  
One Armstrong Place  
Butler, PA 16001  
724-283-0925

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## EXHIBIT 2

**From:** Sue Lupia <[slupia@wpbroadcast.com](mailto:slupia@wpbroadcast.com)>  
**Date:** Tuesday, March 18, 2014 at 3:49 PM  
**To:** "Hassler, Ed Jr." <[ehassler@agoc.com](mailto:ehassler@agoc.com)>  
**Cc:** Todd Loney <[tloney@ieee.org](mailto:tloney@ieee.org)>, Greg Kraft <[gregorykraft@wacp.com](mailto:gregorykraft@wacp.com)>, "[cccinnamon@cm-chi.com](mailto:cccinnamon@cm-chi.com)" <[cccinnamon@cm-chi.com](mailto:cccinnamon@cm-chi.com)>, "[kchapman@agoc.com](mailto:kchapman@agoc.com)" <[kchapman@agoc.com](mailto:kchapman@agoc.com)>, "[kzeltwanger@agoc.com](mailto:kzeltwanger@agoc.com)" <[kzeltwanger@agoc.com](mailto:kzeltwanger@agoc.com)>  
**Subject:** Re: AWCP Testing

Hello Ed,

In response to your email below, please send the test dates so we can set our internal schedule. In addition, please forward Armstrong's test plan.

As suggested by Todd Loney, dates very close to the end of the month will work best for our engineers.

We look forward to your response.

Regards,

SUZANNE

LUPIA

Western Pacific Broadcast  
400 N. Ashley Dr.  
Suite 3010  
Tampa, FL 33602  
O: 813.579.4477



## EXHIBIT 3

**From:** <Hassler>, "Ed Jr." <[ehassler@agoc.com](mailto:ehassler@agoc.com)>  
**Date:** Wednesday, March 19, 2014 at 3:52 PM  
**To:** Todd Loney <[tloney@ieee.org](mailto:tloney@ieee.org)>, Greg Kraft <[gregorykraft@wacp.com](mailto:gregorykraft@wacp.com)>, Sue Lupia <[slupia@wpbroadcast.com](mailto:slupia@wpbroadcast.com)>  
**Cc:** "cccinnamon@cm-chi.com" <[cccinnamon@cm-chi.com](mailto:cccinnamon@cm-chi.com)>, "Zeltwanger, Kathryn P." <[kzeltwanger@agoc.com](mailto:kzeltwanger@agoc.com)>, "Chapman, Kelly" <[kchapman@agoc.com](mailto:kchapman@agoc.com)>  
**Subject:** WACP Testing

Greg, Todd and Sue Please see the attached dates for testing your signal at the Oxford headend. If there are any issues please let me know.

Ed

Edgar E. Hassler, Jr.  
V.P. Engineering  
Armstrong Utilities, Inc.  
One Armstrong Place  
Butler, PA 16001  
724-283-0925

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#### ATTACHMENT:

Greg, Todd and Sue:

I would like to schedule a time to do the joint test of your signal at the Oxford headend. We have the following times available March 26 – 27 March 31-April 1 – 2 and April 14 – 17.

Sorry for the delay Todd, however I recall you said later in the month would work best for you. This is my first day back to work as a result of a short hospital stay. We need to have this done and a joint report filed with the FCC by April 21.

If you have any questions let me know. I look forward to hearing the date that works for you.

Ed

## EXHIBIT 4

**From:** <Hassler>, "Ed Jr." <[ehassler@agoc.com](mailto:ehassler@agoc.com)>  
**Date:** Monday, March 24, 2014 at 7:28 AM  
**To:** Todd Loney <[tloney@ieee.org](mailto:tloney@ieee.org)>, Greg Kraft <[gregorykraft@wacp.com](mailto:gregorykraft@wacp.com)>, Sue Lupia <[slupia@wpbroadcast.com](mailto:slupia@wpbroadcast.com)>  
**Cc:** "cccinnamon@cm-chi.com" <[cccinnamon@cm-chi.com](mailto:cccinnamon@cm-chi.com)>, "Zeltwanger, Kathryn P." <[kzeltwanger@agoc.com](mailto:kzeltwanger@agoc.com)>, "Chapman, Kelly" <[kchapman@agoc.com](mailto:kchapman@agoc.com)>  
**Subject:** WACP Testing

Todd, Greg and Sue,

Attached please find a copy of the test plan for Monday April 14, 2014. If you have any questions let me know.

Ed

Edgar E. Hassler, Jr.  
V.P. Engineering  
Armstrong Utilities, Inc.  
One Armstrong Place  
Butler, PA 16001  
724-283-0925

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**CERTIFICATE OF SERVICE**

I, Monica Gibson-Moore, hereby certify that on this 3rd day of April, 2014, I caused a copy of the foregoing "Opposition to Petition for Special Relief" to be served via mail upon the following person shown below:

Christopher C. Cinnamon  
Cinnamon Mueller  
307 N. Michigan Avenue  
Suite 1020  
Chicago, IL 60601  
cccinnamon@cm-chi.com

  
Monica Gibson-Moore