

WAIVER REQUEST

Alaska Public Media (Alaska Public), the new project manager for the State of Alaska's ("SOA") LPTV/TV translator communications system, the Alaska Rural Communications System ("ARCS"), seeks waiver of Section 74.731(m) from the Federal Communications Commission ("FCC") for the upcoming July 13, 2021 digital conversion deadline and analog license cancellation provision for certain ARCS TV translators serving rural Alaska and Alaskan Bush communities.¹ Grant of this waiver would permit those ARCS stations to continue providing analog service to their communities beyond the July 13, 2021 deadline and would extend their associated digital flash cut permits for an additional period of time so as to avoid disruption in sole broadcast service to their communities.

Based on information gathered to date, Alaska Public believes that:

- Fifteen (15) ARCS stations are presently operating in analog serving their communities and cannot meet the July 13, 2021 digital conversion deadline.

Alaska Public seeks waiver for these fifteen (15) ARCS stations as listed in the attached spreadsheet.² Alaska Public submits that this waiver will serve the public interest by allowing remote communities, including Alaska Native communities, to continue to receive their only over the air broadcast television service. The requested waiver is limited in scope to a truly unique situation – a group of very rural translator stations in Alaska serving small, isolated and Alaskan bush communities that have no other free over the air broadcast service. These communities also rely on the ARCS translators to provide critical NOAA weather information as shown by <https://www.weather.gov/afc/tv>. Finally, the State of Alaska EAS Plan also relies on ARCS to disseminate EAS information to those rural communities.³

Background (provided by SOA). Since the late 1970s, the State of Alaska (SOA) has owned and operated a network of low power television/TV translator transmitters located in rural and bush Alaskan communities. This system is now called the Alaska Rural Communications System (ARCS). ARCS sites provide free, over-the-air television and radio programming, including the emergency broadcast system, across much of rural Alaska. The sites receive programming via a satellite through large dishes, and low power TV transmitters broadcast an over-the-air signal to the local communities.

The ARCS system was constructed by the state during the 1970s and 1980s and eventually consisted of over 200 sites. At present, the ARCS programming is assembled in Anchorage and sent to an uplink site at the University of Alaska Fairbanks. The uplink transmits

¹ In Alaska, the Bush typically refers to any region of the state that is not connected to the North American road network or does not have ready access to the state's ferry system. A large proportion of Alaska Native populations live in the Bush, often depending on subsistence hunting and fishing.

² Nineteen (19) ARCS stations have not responded to Alaska Public's site survey and their analog operating status is unknown; these stations cannot meet the July 13, 2021 digital conversion deadline. Based on available information, another forty-five (45) ARCS analog stations are believed to be non-operational and no longer in service. These non-responding and non-operational ARCS stations are not included in this waiver request.

³ See State of Alaska EAS Plan on file with FCC. <https://www.fcc.gov/files/ak-eas-plan.pdf>

the programming to satellite for which the State currently contracts transponder use. The satellite uplink and downlink are known as the Satellite Interconnection Project or SIP. The ARCS program content is a mix of public and commercial television network and syndicated product; Alaskan produced news and public affairs including 360 North legislative coverage, and educational and informational programs from a variety of sources. Programming is not determined by the State of Alaska. A group known as the ARCS Council makes programming decisions for the content included ARCS.

The ARCS Council is a policy committee created under authority of Alaska state statute. The ARCS Council members are selected as follows: one consumer member selected from each of the 12 regional nonprofit Native associations in Alaska; one representative from the Department of Education; one representative from the University of Alaska; one member from the Alaska Public Broadcasting Commission; a representative from the manager station for the Council; and two public members selected at large by the Governor. There are no terms set for members and they receive no compensation for serving on the Council.

The SIP downlinks television and radio programming to rural ARCS sites. The sites consist of a large satellite receive dish, a receiver, a low power transmitter (typically 10 watts) and a small transmission tower. The SIP downlink transmission is one way and there is no capability to receive information from the ground sites or monitor the sites through the SIP. The SIP transmission is open for public use and does not require any pre-authorization or payment to use.

In the past, over 200 sites may have been operational. It has been the responsibility of local communities and volunteers to maintain the ARCS rural sites.

During the mid-2000s the Federal Communications Commission (FCC) was mandated by Congress to require the conversion of television stations around the country from analog to digital transmission by a set date. LPTV/TV translator stations, like the ARCS stations, were not given a statutory conversion deadline; instead, the FCC determined the deadline and, for several reasons, the FCC has extended that deadline more than once. The current FCC deadline for converting LPTV/TV translator stations from analog to digital is July 13, 2021. Stations not converting to digital operations at that time must cease operations.⁴

Since 2013, the SOA Department of Administration (DOA) has received capital appropriations to upgrade ARCS analog transmitters to digital. In 2013, the State contractor at that time for the ARCS digital conversion projected that the digital upgrades would be completed in three to four years. The contractor for the ARCS conversion was also contracted by SOA to provide an 800 “trouble line” regarding issues with the ARCS rural television transmitters. The digital conversion project encountered many challenges, including the bankruptcy of the company originally contracted to construct the custom rural site digital transmitters.

In 2019, the prior State contractor reported that 97 ARCS sites had the digital upgrades “deployed.” It is unknown how many of these “deployed” sites were ever or are currently

⁴ See Section 74.731(m) of the FCC rules. See also Public Notice, Media Bureau Reminds Low Power Television and Television Translator Stations of July 13, 2021, Digital Transition Date, DA 21-206, released March 4, 2021.

actually operational. The State contractor did not maintain a record of the sites' operational status. Beginning in 2019, the SOA DOA expressed concern that the State contractor could not provide a definitive answer as to how many "deployed" digital upgrades were operational. The State contractor reported that there were still at least 86 communities needing deployment of the digital upgrades and that the remaining ARCS sites had conditions that made them more difficult to deploy and/or make operational.

For example, after more than thirty years of service, many of the ARCS sites – particularly the remote sites – have equipment that has become degraded by long exposure to extreme conditions. Many are suffering the effects of vandalism, corrosion, high wind damage, and shifting foundation from freeze/thaw cycles. Many sites no longer have local support for housing, power, and operational maintenance. These issues require that digital upgrades at many ARCS sites will require more than just a digital transmitter to replace the old analog transmitter - additional infrastructure repairs and operational establishment will be necessary. Additionally, most of these communities are not connected to Alaska's very limited road system and most of these communities consist of fewer than 300 residents. These facts make coordination with these localities for ARCS digital conversion upgrades very challenging.

The SOA put out an open request for proposals regarding contracting for the ARCS system operations in 2020. As of January 1, 2021, Alaska Public Media (APM) began service as the State contractor for certain ARCS operations. APM began a survey of the status of all ARCS sites in January 2021. These survey efforts are continuing, but initial results are available now and reported later on in this waiver. The maintenance of local sites continues to remain the responsibility of the localities.

Alaska Public as Project Manager. On January 1, 2021, Alaska Public was informed that it had been selected as the new ARCS project manager and that its contract started on January 1, 2021. Since that time, Alaska Public, has been conducting an ARCS site survey and compiling (and continues to compile) information on the status of conversion of the ARCS stations from analog to digital. As of today, Alaska Public has the following results from its site survey:

- **Already Converted.** Approximately 88 ARCS stations have already been converted to digital. Approximately 3 ARCS stations have digital equipment on site and available for installation, such that these 3 ARCS stations are poised to convert to digital by the deadline.
- **Never Earmarked for Conversion.** Approximately 74 ARCS analog stations were never earmarked for digital conversion by SOA in 2014 and do not have digital flash cut permits from the FCC. To the extent these stations are still operational (in analog), their analog operations can cease as of the digital conversion deadline.
- **Analog Group.** Approximately 82 ARCS analog stations were earmarked for digital conversion by SOA in 2014 and have not yet received digital equipment for the conversion. Based on available information, approximately 15 of these ARCS analog stations are operational and the status of another 19 ARCS analog

stations is unknown. Based on available information, approximately 45 ARCS analog stations are non-operational at this time.

This request seeks waiver only for the fifteen (15) operational ARCS analog stations.

Based on the available information, Alaska Public believes that there is available, in a warehouse in Alaska, sufficient equipment to convert at least sixty (60) of the ARCS analog stations to digital over time.⁵

When funding is made available by SOA, Alaska Public estimates that the shipping and installation vendor will be able to accomplish 2 installations per week over the course of multiple “Alaska summers” when weather permits such installations (approximately 12 weeks from early June to end of August each year). Thus, Alaska Public estimates a time period of approximately two (2) years, from the date funding is made available, to complete shipping and installation of the digital equipment necessary to convert at least 60 of the Group B ARCS stations to digital based on SOA’s currently available digital equipment. Alaska Public believes that the digital installations should be prioritized based on site availability, ARCS community interest and community need.

Waiver Standard. The Commission may grant a waiver for good cause shown.⁶ A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.⁷ In considering a waiver, the FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁸ A waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁹

As demonstrated in this request, good cause exists for waiver of the digital conversion deadline for the designated ARCS analog translators as there are considerations of hardship, equity and effective implementation of the underlying policy rationale. Waiver will serve the public interest by maintaining the only over the air broadcast service and NOAA weather service to remote rural and Alaskan bush communities – “broadcast service that the public has come to depend upon and enjoy.”¹⁰ Moreover, the waiver will not harm other broadcasters or users of the TV spectrum or defer the deadline for other analog translators. The waiver can be narrowly tailored to circumstances involving highly remote rural communities in Alaska that depend on the ARCS analog translator service as their only over the air broadcast service.

The purpose of this waiver is simply to continue existing broadcast service to these remote areas – the only over the air broadcast service for these citizens of the United States and residents of the State of Alaska – until the time that the digital transition can be implemented at those difficult to reach ARCS sites.

⁵ When funding is made available, the equipment needs to be bench-checked to determine whether it is still in working order before it is shipped to the designated ARCS station sites.

⁶ 47 C.F.R. § 1.3.

⁷ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁸ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

⁹ *Northeast Cellular*, 897 F.2d at 1166.

¹⁰ *See Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Replacement Digital Low Power Television Translator Stations*, MB Docket No. 08-253, Report and Order, 24 FCC Rcd 5931, 5932, para. 3 (2009) (*DRT R&O*).

The public interest would be served by waiving the digital conversion deadline in this particular unique instance. Absent a waiver, these rural and remote populations would lose their *only over the air broadcast service* as of July 13, 2021. While the FCC has sound public policy reasons for setting the digital conversion deadline for LPTV/TV translator stations for July 13, 2021, those public policy rationales would be subverted in the unique situation of the ARCS stations.¹¹ Instead of realizing the benefits of digital broadcast service, these communities would have no broadcast service at all. Waiver of the deadline would permit continuation of broadcast service to citizens of the United States that have no local broadcast stations, no broadband connections and in many instances, no roads to or from their communities. Residents in these remote communities, including children and families, benefit -- and should continue to benefit -- from the program offerings of the ARCS analog stations, from the weather notifications from NOAA, and from ARCS participation in the State of Alaska Emergency Alert System. The rural and Alaska Bush communities that would benefit from this waiver are rural, sparsely populated and, in some situations, impoverished. Population areas like these are most in need of continued broadcast television service to connect to the wider world.

For example, one of the ARCS analog stations serves Atka, Alaska, located in the east side of an island in the Aleutian chain. According to the 2010 US Census, the hamlet had a population of 61; the population is nearly entirely Aleut (Unangan) and the major industry is fishing. Another ARCS station serves White Mountain, Alaska, an Igaluimuit (Fish River tribe) Inupiat village where subsistence activities are prevalent.

For all these reasons, as project manager for SOA for the ARCS stations, Alaska Public respectfully requests that the Commission grant waivers of the digital conversion deadline for the ARCS stations listed in the spreadsheet in Attachment A to allow them to continue analog operations pending completion of their digital conversion along with extensions of their digital flash cut permits.

¹¹ Report and Order, MB Docket 03-185, Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations (2004). (the underlying public policy goal of the digital conversion deadline is to "to hasten the transition of LPTV and TV translator stations to digital operations while minimizing disruption of existing service to consumers served by analog LPTV, TV translator and Class A stations")