



State of West Virginia  
Office of the Attorney General

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**WRITTEN DETERMINATION REGARDING THE APPOINTMENT OF OUTSIDE  
COUNSEL ON BEHALF OF WEST VIRGINIA PUBLIC BROADCASTING**

West Virginia Public Broadcasting (hereinafter "WVPB") has requested legal representation to assist with two separate legal matters:

- (1) Meeting Federal Communications Commission ("FCC") license requirements and Federal Aviation Administration ("FAA") regulations for WVPB's fifteen (15) radio and twelve (12) television transmitters and translators located throughout the state (hereinafter "FCC & FAA legal & regulatory issues"); and
- (2) Assisting with the maintenance of tower leases involving WVPB's statewide radio and television network (hereinafter "tower lease issues").

The legal services needed by WVPB have previously been performed by Akin, Gump, Strauss, Hauer and Feld, LLC (FCC & FAA legal & regulatory issues) and Ms. Afton Hutson (tower lease issues). WVPB has requested emergency permission to retain said counsel – whose legal contracts have or are about to expire – until such time as a competitive bidding process can be complete to secure future legal services.

In accordance with the Attorney General's Policy on Outside Counsel (Policy #WVAGO-004), the Office of the Attorney General has determined that it is both cost-effective and in the interest of the public to appoint outside counsel to assist WVPB with the legal matters set forth herein, based on the following factors:

- The matter at issue requires specific expertise in both telecommunications and regulatory law that is not sufficiently possessed by the Office of the Attorney General.
- It would require a significant time commitment from the Office of the Attorney General to familiarize itself with the particular issues relating to the legal matters in question, as well as the FCC and FAA rules and regulations involved.
- While Kanawha County is the geographic area where WVPB is located, the nature of the legal services allow them to be performed outside of the geographic area.

- It is critical for WVPB to maintain the legal services in question, as failure to comply with the FCC and FAA rules and regulations in question could result in thousands of dollars in fines for WVPB, or even jeopardize WVPB's ability to broadcast.
- Akin, Gump, Strauss, Hauer and Feld, LLC and Ms. Afton Huston are able to maintain the needed legal services for WVPB until a Request for Proposal process can be completed.
- It is not feasible or cost-effective for the Office of the Attorney General to provide the requested legal services at this time.

Accordingly, the Attorney General authorizes the appointment of outside counsel for each of the separate legal matters set forth above pursuant to commencement of the request for proposal process laid out in subsection (D) of Policy #WVAGO-004.

Inasmuch as the requested legal services involve an emergency situation that requires the continuation of an appointment in order to avoid disruption of pending legal matters, the Office of the Attorney General authorizes, pursuant to subsections (D)(1) & (D)(2) of Policy #WVAGO-004, the appointment of Akin, Gump, Strauss, Hauer and Feld, LLC, and Ms. Afton Huston to maintain their respective representation of WVPB until the completion of the request for proposal process cited herein.



Daniel W. Greear  
Chief Counsel

Date Signed: