

Hearing Date: April 6, 2005
Hearing Time: 1:00 p.m.
Objection Deadline: April 6, 2005 at 12:00 p.m.
PORTLAND

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:)	Chapter 11
)	
PEGASUS SATELLITE TELEVISION, INC., et al.,)	Case No. 04-20878
)	
Debtors.)	(Jointly Administered)

DEBTORS' MOTION FOR AN ORDER PURSUANT TO 11 U.S.C. SECTIONS 105, 363(b) AND 365 AND BANKRUPTCY RULE 9019 AUTHORIZING AND APPROVING (I) THE FIRST AMENDMENT TO THE MASTER SITE AGREEMENT AND REPLACEMENT SITE AGREEMENTS WITH SPECTRASITE BROADCAST TOWERS, INC., (II) THE ASSUMPTION OF THE MASTER SITE AGREEMENT, AS AMENDED, AND (III) THE SETTLEMENT OF SPECTRASITE BROADCAST TOWERS, INC.'S DAMAGE CLAIM; AND (IV) GRANTING RELATED RELIEF

Pegasus Satellite Television, Inc. and its subsidiaries and certain of its affiliates, each a debtor and debtor-in-possession herein (collectively, the "Debtors"),¹ hereby file this motion (the "Motion")² requesting entry of an order pursuant to sections 105(a), 363(b) and 365 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, 6006 and 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") authorizing and approving: (1) the Debtors' entry into that certain First Amendment to the Master Site

¹ The Debtors are: Argos Support Services Company, Bride Communications, Inc., B.T. Satellite, Inc., Carr Rural TV, Inc., DBS Tele-Venture, Inc., Digital Television Services of Indiana, LLC, DTS Management, LLC, Golden Sky DBS, Inc., Golden Sky Holdings, Inc., Golden Sky Systems, Inc., Henry County MRTV, Inc., HMW, Inc., Pegasus Broadcast Associates, L.P., Pegasus Broadcast Television, Inc., Pegasus Broadcast Towers, Inc., Pegasus Media & Communications, Inc., Pegasus Satellite Communications, Inc., Pegasus Satellite Television of Illinois, Inc., Pegasus Satellite Television, Inc., Portland Broadcasting, Inc., Primewatch, Inc., PST Holdings, Inc., South Plains DBS, LP., Telecast of Florida, Inc., WDSI License Corp., WILF, Inc., WOLF License Corp., and WTLH License Corp.

² Capitalized terms used herein but not otherwise defined shall have the meanings given to such terms in the Master Site Agreement or the First Amendment thereto (each as defined below), as applicable.

Agreement (the “First Amendment”) and the Replacement Site Agreements with Spectrasite Broadcast Towers, Inc. (“Spectrasite”); (2) the Debtors’ assumption of the Master Site Agreement, as amended by the First Amendment; (3) the Debtors’ settlement of Spectrasite’s damage claim; and (4) granting related relief. In support of the Motion, the Debtors respectfully represent as follows:

STATUS OF THE CASE

1. On June 2, 2004, (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. On the Petition Date, the Debtors also jointly filed motions or applications seeking certain typical “first day” orders, including an order to have these cases jointly administered.

2. The Debtors are continuing in possession of their properties and are operating and maintaining their businesses as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On June 10, 2004, the United States Trustee for the District of Maine appointed an official committee of unsecured creditors pursuant to section 1102(a) of the Bankruptcy Code (the “Committee”).

4. No request has been made for the appointment of a trustee or examiner in these cases.

5. On January 7, 2005, the Debtors filed the Debtors’ Joint Chapter 11 Plan (the “Plan”) and accompanying Disclosure Statement for the Debtors’ Joint Chapter 11 Plan (the “Disclosure Statement”), each dated January 7, 2005. By orders dated February 9, 2005 (collectively, the “Orders”), the Court, among other things, approved the Disclosure Statement

and set the hearing on confirmation of the Plan for March 24, 2005 at 10:30 a.m. (prevailing Eastern time). The Plan contemplates that there may be a sale of the Broadcast Assets (as defined below) pursuant to a PCC Court Approved Bid or an Alternative Court Approved Bid (as such terms are defined in the Plan) or that the Committee, in consultation with the Debtors, may determine not to pursue such a sale. Copies of the Plan, Disclosure Statement and the Orders are available at the Debtors' website at www.pgtv.com/283cc/legal.htm.

JURISDICTION

6. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

7. The statutory predicates for the relief sought herein are sections 105(a), 363(b) and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006 and 9019 and D. Me. LBRs 6004-1 and 6006-1.

BACKGROUND TO THE RELIEF REQUESTED

A. Overview.

8. As of the Petition Date, the Debtors' principal operating business was their direct broadcast satellite ("DBS") business. At that time, the Debtors were the largest independent distributor of DIRECTV ® DBS services with approximately 1.1 million subscribers and the exclusive right to distribute certain DIRECTV services to approximately 8.4 million rural households in certain territories within 41 states.

9. On August 26, 2004, this Court entered an order authorizing and approving a global settlement (the "Global Settlement") by and among the Debtors, DIRECTV, Inc. ("DIRECTV"), National Rural Telecommunications Cooperative ("NRTC"), Pegasus

Communications Corporation (“PCC”) and certain members of the Committee. In addition to resolving numerous disputes between the parties, as an integral component of the global settlement, the Court authorized the Debtors to (i) sell, transfer and convey to DIRECTV substantially all of the assets that comprised the Debtors’ DBS business free and clear of all liens, claims, encumbrances and other interests, pursuant to sections 363(b) and 363(f) of the Bankruptcy Code, and (ii) provide certain assistance in the transitioning of their DBS business to DIRECTV.

10. The closing of the sale of the DBS assets to DIRECTV occurred on August 27, 2004. In exchange for the sale of the DBS business and the settlement of certain claims under the terms of the Global Settlement, the Debtors’ estates received in excess of \$900 million dollars in consideration (the “Satellite Sale Proceeds”). Pursuant to a stipulation and order of this Court entered on September 17, 2004, the Debtors paid the undisputed claims of their prepetition secured lenders from the Satellite Sale Proceeds. See Docket No. 555. Pursuant to a stipulation and order of this Court entered on February 8, 2005, the Debtors paid the remaining claims of their prepetition secured lenders from the Satellite Sale Proceeds and the secured lenders agreed to withdraw their claims filed in these chapter 11 cases. See Docket No. 968.

11. Since the closing of the Satellite sale, the Debtors primary business has been the operation of their broadcast television assets (collectively, the “Broadcast Assets”).³

³ The Debtors own and operate six broadcast television stations, they have the contractual right to act as the advertising sales agent for two cable television stations, and they have the right to control the programming and operate an additional three television stations owned by KB Prime Media, LLC (“KB Prime”) and one additional station owned by an indirect non-Debtor subsidiary of PCC, which is the non-debtor parent of Debtor Pegasus Satellite Communications, Inc. (“PSC”).

B. The Broadcast Business and Tower Leases.

12. Following the sale of their DBS business to DIRECTV, the assets related to the Debtors' broadcast television business—the Broadcast Assets—comprise substantially all of the Debtors' remaining assets. The Broadcast Assets are necessary to the operation of the Debtors' broadcast television business, and include, but are not limited to, certain Federal Communications Commission (“FCC”) authorizations and licenses, real property, agreements to operate television stations, rights to purchase television stations, time brokerage agreements, lease agreements with respect to studio facilities and other contract rights and working capital.

13. The Broadcast Assets include the Debtors' rights under that certain Master Site Agreement, dated as of July 17, 2000 (the “Master Site Agreement”) by and between Spectrasite and Pegasus Broadcast Television, Inc. (“PBT”). The Master Site Agreement was executed in connection with that certain (i) Asset Purchase Agreement dated as of April 18, 2000 by and among, inter alia, Spectrasite and PBT (the “Asset Purchase Agreement”) and (ii) Site Development and Build-to-Suit Agreement dated as of July 17, 2000 by and between Spectrasite and PBT (the “Development Agreement”).

14. The Master Site Agreement established the general terms and conditions under which PBT leases or subleases space on Spectrasite's antenna towers in order to place, operate and maintain the Debtors' analog and digital broadcast communications equipment in connection with the operation of the Debtors' broadcast television business. Pursuant to the terms of the Master Site Agreement, Spectrasite and PBT have entered into sixteen (16) individual site agreements (each, an “Existing Site Agreement”, and collectively, the “Existing Site Agreements”) for space on various antenna towers owned by Spectrasite.

15. Spectrasite has claimed that the Debtors owe past rent for digital antenna space available to the Debtors under the Asset Purchase Agreement and Existing Site Agreements. The Debtors disagree with that assertion and believe that they do not and will not have an obligation to pay rent for digital antenna space until they commence digital operations as required by the FCC.

16. Under the Master Site Agreement, Spectrasite has also claimed that it is entitled to reimbursement for the costs of certain improvements that may be necessary at tower sites where the Debtors lease space. The Debtors disagree with that assertion and do not believe that Spectrasite has incurred any such expenses that would be reimbursable under the Master Site Agreement.

17. On October 12, 2004, Spectrasite filed a general, unsecured, non-priority claim (proof of claim no. 871) in the amount of \$9,122,503.88 in respect of amounts it claims are owed by PBT under the Asset Purchase Agreement and the Master Site Agreement. Under the terms of the First Amendment, the parties have agreed to resolve this claim on terms which the Debtors believe are favorable. In addition, the Debtors expect that the Replacement Site Agreements will allow them additional flexibility in occupying the tower spaces needed to operate their broadcast television business, and for that occupancy to occur at an overall reduced cost, compared to the existing arrangements. For that reason, and for the reasons set forth below, the Debtors believe that their entry into the First Amendment and the Replacement Site Agreements is in their estates' and creditors' best interests.

18. Under the terms of the First Amendment, the Debtors will pay approximately \$307,000 to Spectrasite and convey to Spectrasite all of its interest in 10,333 warrants held by Pegasus Towers, Inc. (a PBT subsidiary) to purchase Spectrasite common stock

(the “Warrants”) to settle any amounts owing under the Asset Purchase Agreement and Master Site Agreement (the “Settlement Amount”). As of the filing of this Motion, the Debtors estimate that the Warrants have a value of approximately \$967,169.

19. The Debtors have identified the amendment and assumption of the Master Site Agreement, the termination of the Existing Site Agreements and their entry into the Replacement Site Agreements as material factors that will enable them to both better operate their broadcast television business and successfully market and sell their Broadcast Assets to PCC or another purchaser.

C. Summary of Terms of the First Amendment.

20. The First Amendment to the Master Site Agreement is attached hereto as Exhibit A (the “First Amendment”).

21. Significant terms of the First Amendment include the following:⁴

- a. Settlement Amount. PBT will (i) pay Spectrasite \$307,517.88 and (ii) convey to Spectrasite the Warrants.
- b. Termination of Development Agreement and Rights and Obligations under the Asset Purchase Agreement. Upon the effectiveness of the First Amendment, the Development Agreement will be terminated and will be of no further force or effect and no party to the Asset Purchase Agreement shall have any further or continuing rights or obligations thereunder.
- c. Termination of Existing Site Agreements. Spectrasite will terminate, without further liability, all Existing Site Agreements effective as of January 31, 2005.
- d. Replacement Site Agreements.
 1. Term. Concurrently with the effectiveness of the First Amendment and the termination of all Existing Site

⁴ This is only a summary of certain terms and conditions of the First Amendment. In the event of any inconsistency between this summary and the First Amendment, the terms and conditions of the First Amendment shall control.

Agreements, Spectrasite and PBT will enter into the Replacement Site Agreements (as defined in the First Amendment). The monthly rents payable by the Debtors under each of the Replacement Site Agreements is anticipated to be lower than the amount that would be payable under the Existing Site Agreements. The initial term for each Replacement Site Agreement shall be 15 years (180 months) commencing as of February 1, 2005. PBT will have the option to extend the initial term under any Replacement Site Agreement for 5 additional 10 year terms.

2. Reduction of Initial Term. At certain tower sites involved, PBT has the right to lease space for both a “Primary Antenna” and, to accommodate digital broadcasting, a “Secondary Antenna.” For each full calendar month during the Initial Term of a Replacement Site Agreement that PBT pays rent for more than one antenna at a site, then the Initial Term of the applicable Replacement Site Agreement shall be reduced by one calendar month, provided, that in no event shall the initial term for any Replacement Site Agreement be reduced to less than 10 years (120 months).
 3. Rent. The minimum amount of rent that PBT shall be required to pay under each Replacement Site Agreement shall be the “Primary Antenna Base Rent” as specified in each Replacement Site Agreement.
- e. Amendment to Master Site Agreement. The Master Site Agreement will be amended to provide that PBT may assign its entire interest in the Master Site Agreement or in one or more Replacement Site Agreements (along with its interest under the Master Site Agreement related to an assigned Replacement Site Agreement), without the prior consent of Spectrasite, to PCC or an affiliate of PCC. Otherwise, the terms of the existing Master Site Agreement apply, allowing PBT to assign its entire interest in the Master Site Agreement or in one or more Replacement Site Agreements (along with its interest under the Master Site Agreement related to an assigned Replacement Site Agreement) to an assignee, other than PCC, with the prior written consent of Spectrasite, which consent shall not be withheld or delayed if the financial statements of the proposed assignee reasonably demonstrate such proposed assignee’s ability to perform the obligations to be assigned to it, through the remainder of the then applicable term.

- f. Releases. Except for their respective obligations under the First Amendment and the Replacement Site Agreements, each of Spectrasite and PBT release each other from any and all claims and liabilities relating in any manner to the Master Site Agreement, the Existing Site Agreements, the Asset Purchase Agreement and the Development Agreement.
- g. Withdrawal of Proof of Claim. Upon the effectiveness of the First Amendment and payment of the Settlement Amount, Spectrasite will withdraw with prejudice any claims it has filed against the Debtors in these chapter 11 cases, and stipulates to the satisfaction in full of any scheduled claim.
- h. Conditions to Effectiveness. The effectiveness of the First Amendment and all Replacement Site Agreements is contingent upon entry of an order by this Court approving the First Amendment and such order having become final and unappealable.

RELIEF REQUESTED

22. To improve the Debtors' ability to operate their broadcast television business, to facilitate a sale of the Broadcast Assets and the Debtors' ability to obtain the highest and otherwise best offer for such assets, by this motion the Debtors request that the Court enter an order, pursuant to sections 105(a), 363 and 365(a) of the Bankruptcy Code and Rule 9019 of the Bankruptcy Rules: (i) authorizing and approving the Debtors' entry into the First Amendment and the Replacement Site Agreements, (ii) authorizing and approving the Debtors' assumption of the Master Site Agreement, as amended by the First Amendment; (iii) authorizing and approving the settlement of Spectrasite Broadcast Towers, Inc.'s damage claim; and (iv) granting related relief.

APPLICABLE LAW

23. The Debtors respectfully submit that their entry into the First Amendment and Replacement Site Agreements and the assumption of the Master Site Agreement, as amended, to the extent executory, satisfy the standards governing such actions in this Circuit.

A. Amendment to the Master Site Agreement and Entry Into the Replacement Site Agreements.

24. The Debtors seek entry of an order granting the relief requested herein pursuant to section 363(b)(1) of the Bankruptcy Code which provides that the “trustee, after notice and hearing, may use, sell, or lease, other than in the ordinary course of business, property, of the estate.” 11 U.S.C. § 363(b)(1). Although stated various ways, courts generally hold that a debtor’s decision to enter into a transaction and dispose of estate assets outside of the ordinary course of business is governed by the “business judgment test.” 3 Collier on Bankruptcy ¶ 363.01[1][f] (15th ed. rev. 2003); see also In re Phoenix Steel Corp., 82 B.R. 334, 335-36 (Bankr. D. Del. 1987) (concluding that a sale under Section 363 of the Bankruptcy Code is appropriate when “there is a good business reason for completing the sale and the transaction is in good faith[.]”); In re Delaware & Hudson Rwy. Co., 124 B.R. 169, 175-76 (Bankr. D. Del. 1991) (stating that a sale under section 363 of the Bankruptcy Code is appropriate if there is a “sound business purpose for conducting the sale” and the purchase price is fair and reasonable).

25. The business judgment rule shields a debtor’s management from judicial second-guessing. See Comm. of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.), 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) (“[T]he [Bankruptcy] Code favors the continued operation of a business by a debtor and a presumption of reasonableness attaches to a Debtor’s management decisions.”). Once the debtor articulates a

valid business justification, “[t]he business judgment rule is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company.” Official Committee of Subordinated Bondholders v. Integrated Resources, Inc. (In re Integrated Resources, Inc.), 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting Smith v Van Gorkom, 488 A.2d 858, 872 (Del. 1985)).

26. The Debtors, in exercising their sound business judgment, believe that their entry into the First Amendment and the Replacement Site Agreements are more than warranted for several reasons. First, because Spectrasite is the primary entity from which the Debtors lease antenna tower space for all but one of their stations, maintaining their contractual relationship with Spectrasite under the Master Site Agreement is vital to the Debtor’s continued operation of their broadcast television business.

27. Second, the termination of the Existing Site Agreements and the entry into the Replacement Site Agreements will result in a net cash savings that will allow for a greater distribution to the creditors of these estates. Under the terms of the First Amendment, PBT will dispose of claims asserted to be in excess of \$9 million by paying Spectrasite a termination fee of approximately \$307,000 plus the return of the Warrants to Spectrasite.⁵

28. Third, the Debtors’ entry into the Replacement Site Agreements will enhance the value of their Broadcast Assets. The Debtors maintain that the rent costs under the Existing Site Agreements are above market. The Debtors believe that if the economic terms of those agreements are not modified, then interest in the Broadcast Assets in connection with the upcoming 363 or post-Effective Date sale process would be depressed and they would not be able to obtain fair value for those assets. By obtaining more favorable economic terms under the

Replacement Site Agreements, the Debtors will have a greater opportunity to increase the proceeds they will receive from any sale of their Broadcast Assets for the benefit of their estates and all creditors.

B. Assumption of the Master Site Agreement.

29. Section 365(a) of the Bankruptcy Code authorizes a debtor to assume and/or assign its executory contracts and unexpired leases, subject to the approval of the Bankruptcy Court. A debtor's decision to assume or reject an executory contract or unexpired lease must only satisfy the "business judgment rule" and will not be subject to review unless such decision is clearly an unreasonable exercise of such judgment. See, e.g., NLRB v. Bildisco & Bildisco, 465 U.S. 513, 523 (1984); Lubrizol Enters., Inc. v. Richmond Metal Finishers, Inc. (In re Richmond Metal Finishers, Inc.), 756 F.2d 1043, 1046-47 (4th Cir. 1985); Eagle Ins. Co. v. Bankvest Capital Corp. (In re Bankvest Capital Corp.), 290 B.R. 443, 447 (1st Cir. B.A.P. 2003); In re Leroux, No. 92-20403-WCH, 1997 WL 375677, *8 (Bankr. D. Mass., June 30, 1997). If a debtor's business judgment has been reasonably exercised, a court should approve the assumption or rejection of the unexpired contract. Butler v. Resident Care Innovation Corp., 241 B.R. 37, 45-46 (D.R.I. 1999); In re Logical Software, Inc. 66 B.R. 683, 686-87 (Bankr. D. Mass. 1986).

30. The Debtors' rights under the Master Site Agreement are important assets and retaining them is essential to their estates. Spectrasite is the primary entity from which the Debtors lease antenna tower space in connection with the operation of most of their broadcast television business. In some of the markets in which the Debtors operate their broadcast television business, there are no alternative providers of antenna space. For those reasons, the

⁵ The cash payment and return of the Warrants are together a post-petition administrative expense which is properly

Debtors' ability to continue a stable contractual relationship with Spectrasite is vital to maintaining the value of their Broadcast Assets and necessary for them to be able to continue operation of their broadcast television business pending a sale.

31. The Debtors' Broadcast Assets will likely be the subject of a bankruptcy court-approved section 363 sale process in the near future. Because the Debtors' require antenna space to operate their broadcast television business, the Debtors also believe that the assumption of the Master Site Agreement is essential to obtaining the greatest possible value for their Broadcast Assets in that sale process. The Debtors believe that no prospective purchaser would pay fair value for the Broadcast Assets if the Debtors did not have rights to dedicated antenna tower space. Put simply, if the Debtors do not maintain dedicated antenna space enabling them to transmit signals, there would not be a broadcast television business to operate, or to sell.

32. In order to obtain the highest and best offers for the Broadcast Assets, the Debtors must first assume the Master Site Agreement, as amended by the First Amendment, so that it can then be assigned pursuant to Section 14(a) thereof to the ultimate purchaser of the Broadcast Assets. In light of the foregoing, the Debtors believe that sound business justifications exist for the Debtors' assumption of the Master Site Agreement, as amended by the First Amendment.

C. The Settlement Amount Should be Approved Because It Is Fair and Equitable and in the Best Interests of the Debtors' Estates.

33. Bankruptcy Rule 9019(a) provides, in pertinent part, that "[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement." 11 U.S.C. § 9019(a). Compromises are favored by bankruptcy courts. In re Greenacre, 103 B.R. 1, 5 (Bankr. D. Me. 1989) (citations omitted); Fogg v. Sherman Homes, Inc. (In re Sherman

payable before Plan confirmation.

Homes, Inc.), 28 B.R. 176, 177 (Bankr. D. Me. 1983); In re C.P. Del Caribe, 140 B.R. 320 (Bankr. D. P.R. 1992); In re Hydronic Enter., Inc., 58 B.R. 363, 365 (Bankr. D. R.I. 1986). Approval of a compromise “is within the sound discretion of the bankruptcy judge.” Jeffrey v. Desmond, 70 F.3d 183, 185 (1st Cir. 1995). Before approving a settlement under Bankruptcy Rule 9019, a court must determine that the proposed settlement is in the best interests of the debtor’s estate. Greenacre, 103 B.R. at 5 (citation omitted). To reach this determination, the court must assess the value of the claim that is being settled and balance it against the value to the estate of the approval of the settlement. Hicks, Muse & Co., Inc. v. Brandt (In re Healthco Int’l, Inc.), 136 F.3d 45, 50 (1st Cir. 1998); Jeffrey, 70 F.3d at 185.

34. The standard by which courts should evaluate the reasonableness of a proposed compromise and settlement is well established and includes consideration of the following four factors: “(i) the probability of success in the litigation being compromised; (ii) the difficulties, if any, to be encountered in the matter of collection; (iii) the complexity of the litigation involved, and the expense, inconvenience and delay attending it; and (iv) the paramount interest of the creditors and a proper deference to their reasonable views in the premise.” Jeffrey, 70 F.3d at 185 (citation omitted); Greenacre, 103 B.R. at 5 (citations omitted); Sherman Homes, 28 B.R. at 177 (citation omitted). Furthermore, the bankruptcy court should not “decide the numerous questions of law and fact raised by appellants but rather. . . canvass the issues and see whether the settlement ‘falls below the lowest point in the range of reasonableness.’” Healthco, 136 F.3d at 51 (quoting Cosoff v. Rodman (In re W.T. Grant Co.), 699 F.2d 599, 608 (2d Cir. 1983)).

35. The standard set forth above is clearly met in this case. By agreeing to the Settlement Amount, the parties have agreed to resolve numerous complex disputes surrounding

Spectrasite's damage claim. The payment by the Debtors of the Settlement Amount will satisfy all of the Debtors' pre-petition obligations under section 365(b) of the Bankruptcy Code in respect of the Master Site Agreement, and will enable the Debtors to restructure their contractual obligations in order to obtain the highest and best offers for the Broadcast Assets.

NO PRIOR REQUEST

36. No prior motion for the relief requested herein has been made to this or any other court.

NOTICE

37. Notice of this Motion has been given to (i) the Office of the United States Trustee for the District of Maine; (ii) counsel to the Committee; (iii) all parties on the All Notices List as required by (and as defined in) this Court's Order Establishing Case Management Procedures and Hearing Schedule, dated July 9, 2004 (the "Case Management Order"); and (iv) to each entity known to the Debtors to claim a lien, security interest, or other interest in the Broadcast Assets. The Debtors submit that in light of the Case Management Order and the nature of the relief requested, no further notice is required.

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form attached hereto as Exhibit B: (i) authorizing and approving the Debtors' entry into the First Amendment and the Replacement Site Agreements; (ii) authorizing and approving the Debtors' assumption of the Master Site Agreement, as amended, (iii) approving the settlement of Spectrasite's damage claim; and (iv) granting related relief as is just and proper.

Dated: Portland, Maine
March 31, 2005

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EXHIBIT A

First Amendment

(attached hereto)

FIRST AMENDMENT TO MASTER SITE AGREEMENT

THIS FIRST AMENDMENT TO MASTER SITE AGREEMENT ("*First Amendment*") is entered into and made effective as of February 1, 2005 ("*Effective Date*"), by and between SPECTRASITE BROADCAST TOWERS, INC. ("*SpectraSite*"), a Delaware corporation and PEGASUS BROADCAST TELEVISION, INC., a Pennsylvania corporation ("*User*"). Any capitalized terms used in this First Amendment that are not defined herein shall have the meanings ascribed thereto in the MSA (as defined herein).

RECITALS:

A. SpectraSite and User entered into and executed that certain Master Site Agreement dated July 17, 2000 (the "*MSA*");

B. The MSA was executed contemporaneously with that certain Asset Purchase Agreement by and among SpectraSite, SpectraSite, Inc., a Delaware corporation, f/k/a SpectraSite Holdings, Inc., Pegasus Towers, Inc., a Pennsylvania corporation, and User, dated as of April 18, 2000 (as amended, the "*Asset Purchase Agreement*");

C. The MSA and Asset Purchase Agreement were executed contemporaneously with that certain Site Development and Build-To-Suit Agreement by and among SpectraSite and User dated as of July 17, 2000 (the "*Development Agreement*");

D. The MSA established the general terms and conditions whereby User would lease or sublease Primary Space or Secondary Space on SpectraSite's Towers in order to place, operate and maintain its analog and digital broadcast communications equipment in connection with the operation of User's Broadcast Business;

E. SpectraSite and User have entered into sixteen (16) individual Site Agreements under the MSA (the "*Existing Site Agreements*");

F. User filed for protection under Chapter 11 of the United States Bankruptcy Code on June 2, 2004, Case No. 04-20864 (the "*Bankruptcy Filing*"), in the United States Bankruptcy Court for the District of Maine (the "*Court*");

G. User has requested and SpectraSite has agreed (i) to terminate the Existing Site Agreements, subject to the payment of the Termination Fee (as defined in paragraph 3.a. below) and the terms and conditions contained in this First Amendment, and (ii) to enter into eight (8) Replacement Site Agreements (as defined under paragraph 4.a. below) under the MSA, as amended by this First Amendment; and

H. The parties have agreed to terminate the Development Agreement and to agree that they shall hereafter have no further rights or obligations under the Asset Purchase Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, SpectraSite and User hereby agree as follows:

1. **Effectiveness of First Amendment.** Notwithstanding anything to the contrary contained in this First Amendment, this First Amendment and all Replacement Site Agreements

executed in connection herewith shall not be effective until the date upon which an order entered by the Court approving this First Amendment has become a final non-appealable order (the "Final Approval Order Date").

2. **Termination of Development Agreement and Rights and Obligations under Asset Purchase Agreement.**

a. The Development Agreement is hereby terminated in full and shall be of no further force or effect.

b. Each party hereto agrees that from and after the date hereof, no party to the Asset Purchase Agreement shall have any further or continuing rights or obligations thereunder.

3. **Termination Fee; Termination of Existing Site Agreements.**

a. *Termination Fee.* In consideration of SpectraSite's agreement to terminate the Existing Site Agreements, User hereby agrees to remit, transfer, and convey the following (the "Termination Fee") to SpectraSite within 10 days following the Final Approval Order Date:

- i. \$307,517.88 in cash to be paid by wire transfer of immediately available funds in accordance with the instructions set forth on **Exhibit A**;
- ii. all of User's interest in 10,333 warrants to purchase shares of SpectraSite, Inc. common stock, at an exercise price of \$32.00 to purchase a unit consisting of two shares (the "Warrants").

User hereby certifies and warrants to SpectraSite that (i) User is the lawful owner of the Warrants, and the Warrants are free and clear of any liens, encumbrances or other restrictions on transfer, and (ii) User will not pledge, assign or in any way encumber User's interest in the Warrants prior to conveyance hereunder. User and SpectraSite hereby agree to cooperate with each other to take all actions and execute any and all paperwork or filings which need to be completed to consummate the transfer of the Warrants to SpectraSite or SpectraSite's designee and to otherwise carry out the terms of this First Amendment.

b. *Termination of Existing Site Agreements.* Subject to the occurrence of the Final Approval Order Date and User's payment and conveyance of the Termination Fee, all Existing Site Agreements are hereby terminated effective January 31, 2005, and shall be of no further force or effect. SpectraSite acknowledges and agrees that User has paid all amounts due under the Existing Site Agreements.

4. **Replacement Site Agreements.**

a. *Execution and Commencement of Replacement Site Agreements.* Eight (8) Site Agreements utilizing the form attached hereto as **Exhibit "B"** (the "Replacement Site Agreements") shall be executed simultaneously with the execution of this First Amendment, which shall replace the Existing Site Agreements terminated hereunder. Subject to the termination of the Existing Site Agreements, each Replacement Site Agreement shall commence as of the Effective Date of this First Amendment.

b. *Terms and Conditions of Replacement Site Agreements.* Notwithstanding anything to the contrary in the MSA, the following terms and conditions shall be applicable to the Replacement Site Agreements.

i. Initial Term; Renewal Terms. The initial term for each Replacement Site Agreement shall begin on February 1, 2005 (the "**Site Commencement Date**") and shall continue for fifteen (15) years (subject to reduction as set forth in paragraphs 4.b.iii. and 4.b.iv. below), unless earlier terminated pursuant to Section 18 of this MSA (the "**Initial Term**"). User shall have the option of extending the term of a Replacement Site Agreement for five (5) additional ten (10) year terms (the "**Renewal Terms**"). Such renewal options shall be exercised by written notice delivered by User to SpectraSite at least ninety (90) days prior to the expiration of the then current term. Within sixty (60) days after the end of each calendar year during the Initial Term and as otherwise mutually agreed upon by SpectraSite and User, User shall deliver to SpectraSite a written notice setting forth, with respect to each Replacement Site Agreement, (i) the expiration date of the Initial Term, (ii) any reductions in the duration of the Initial Term made pursuant to paragraphs 4.b.iii. and 4.b.iv. below, and (iii) the Secondary Antenna Reservation Expiration Date (as defined in paragraph 4.b.iv. below), taking into account any extensions made thereto. In the event SpectraSite disagrees with any information contained in such notice received from User, SpectraSite shall have sixty (60) days to respond in writing to User, after which time the dates set forth in User's notice shall be binding on SpectraSite and User. Any such responsive notice provided by SpectraSite shall set forth in reasonable detail the basis for SpectraSite's disagreement. If User disagrees with the information set forth in SpectraSite's responsive notice, User and SpectraSite shall each make a good faith, reasonable effort to resolve their dispute within thirty (30) days.

ii. Base Rent under Replacement Site Agreements. User and SpectraSite hereby acknowledge and agree that as of the Site Commencement Date, User shall be obligated to pay the Primary Antenna Base Rent under each Replacement Site Agreement on a monthly basis by or before the first day of each calendar month. Effective as of the date that User installs the Secondary Antenna, prorated for any partial months, User shall be obligated to pay the Secondary Antenna Base Rent, including any escalations applicable thereto. User hereby agrees to send SpectraSite written notice of such installation within 10 days of same. User shall remain obligated to pay the Secondary Antenna Base Rent as well as the Primary Antenna Base Rent until User removes either the Primary Antenna or Secondary Antenna. Effective as of the date User removes either the Primary Antenna or Secondary Antenna, User shall no longer be obligated to pay the Secondary Antenna Base Rent, but shall remain obligated to pay the Primary Antenna Base Rent. User shall notify SpectraSite in writing of the date either the Primary Antenna or Secondary Antenna is removed from the Tower within 10 days of such removal. With respect to any overpayment of Base Rent, User shall receive a credit against future amounts due or a prompt refund if there are no future amounts accruing under such Replacement Site Agreement. As used herein, "Primary Antenna" refers to User's antenna which is located on the Tower as of the Effective Date, which User acknowledges is an analog antenna. As used herein, "Secondary

Antenna” refers to an antenna in addition to the Primary Antenna, which User installs on the Tower subsequent to the Effective Date. The parties agree that it is expected that the Secondary Antenna shall be a digital antenna, provided however, that the terms of this First Amendment shall apply regardless of whether such Secondary Antenna is an analog or digital antenna.

iii. Reduction in Initial Term. For each full calendar month that the Secondary Antenna Base Rent is in effect under a Replacement Site Agreement and is paid by User, the Initial Term of such Replacement Site Agreement shall be reduced by one calendar month. The Initial Term of each Replacement Site Agreement shall not be reduced for any partial months when the Secondary Antenna Base Rent is in effect. Anything to the contrary contained herein notwithstanding, the Initial Term of each Replacement Site Agreement may only be reduced pursuant to this paragraph and paragraph 4.b.iv. by up to an aggregate sixty (60) months, regardless of whether the Secondary Antenna Base Rent, or any portion thereof, is in effect for greater than sixty (60) months.

iv. Reservation of Centerline Antenna Height for Secondary Antenna. SpectraSite shall reserve the Centerline Antenna Height as specified under the applicable Replacement Site Agreement for User’s Secondary Antenna (the “**Secondary Antenna Centerline Antenna Height**”), if applicable, for the period (the “**Reservation Period**”) ending on the date set forth in each Replacement Site Agreement (in each case the “**Secondary Antenna Reservation Expiration Date**”). User may extend the Reservation Period for up to twenty four (24) months beyond the initial Secondary Antenna Reservation Expiration Date (such period, the “**Extension Period**”). If User elects to extend the Reservation Period, User must notify SpectraSite in writing prior to the initial Secondary Antenna Reservation Expiration Date. If User so elects to extend the Reservation Period, during the first twelve (12) months of the Extension Period, User shall be obligated to pay SpectraSite 33.34% of the Secondary Antenna Base Rent, including any escalations applicable thereto, which amount shall be paid in the same manner and at the same time as Base Rent. For each full calendar month that the foregoing Reservation Fee is in effect under a Replacement Site Agreement and is paid by User, the Initial Term of such Replacement Site Agreement shall be reduced by 10 days, or four (4) calendar months for the payments for entire twelve (12) month period. If User elects to further extend the Reservation Period for an additional twelve (12) months following the first extension of the Reservation Period, User shall notify SpectraSite prior to the end of the first extension of the Reservation Period and, during the second twelve (12) month extension of the Reservation Period, User shall be obligated to pay SpectraSite 50.00% of the Secondary Antenna Base Rent, including any escalations applicable thereto, which amount shall be paid in the same manner and at the same time as Base Rent. For each full calendar month that the foregoing Reservation Fee is in effect under a Replacement Site Agreement and is paid by User, the Initial Term of such Replacement Site Agreement shall be reduced by fifteen (15) days, or six (6) calendar months for the payments for entire twelve (12) month period. Upon each of User’s elections to extend the Reservation Period as provided for herein, User shall remain obligated to pay the foregoing reservation payments during the respective twelve

(12) month extension period, except that User shall not remain obligated to pay such reservation payment if User installs User's Secondary Antenna during such period or is deemed to have installed User's Secondary Antenna pursuant to paragraph 4.b.v. hereinbelow. Upon such installation User shall be obligated to pay the Secondary Antenna Base Rent then in effect in full in accordance with paragraph 4.b.ii. of this First Amendment. The amounts User shall pay to extend the Reservation Period are hereinafter referred to as the "Reservation Fee".

v. User's Right of First Refusal during the Reservation Period.

During any Extension Period, if applicable, under each Replacement Site Agreement, but prior to the installation of the Secondary Antenna at such Site, if another Paying Customer (as hereinafter defined) desires to use the Secondary Antenna Centerline Antenna Height (which includes any necessary vertical separation as determined by SpectraSite) (the "**Trigger Condition**"), SpectraSite hereby reserves the right to require User to decide in User's sole discretion whether to (i) waive all rights to the Secondary Antenna Centerline Antenna Height or (ii) agree to deem the Secondary Antenna to be installed. Upon the Trigger Condition occurring, SpectraSite may notify User in writing (the "**Right of First Refusal Notice**") that the Trigger Condition has occurred. Within 20 days of User's receipt of the Right of First Refusal Notice, User will be required to inform SpectraSite in writing of its election either to (A) waive all rights to the Secondary Antenna Centerline Antenna Height or (B) elect to deem the Secondary Antenna to be installed. If SpectraSite fails to receive notice from User within such 20 day period as to whether User elects option (A) or (B), then User shall be deemed conclusively to have elected option (A). If User elects option (B), the Secondary Antenna shall be deemed to be installed as of the 20th day after User receives the Right of First Refusal Notice, at which time User shall be obligated to pay the Secondary Antenna Base Rent in accordance with paragraph 4.b.ii. User hereby acknowledges that it shall not be entitled to a refund of any Reservation Fee paid prior to such date. For purposes of this paragraph, a "**Paying Customer**" is a paying broadcaster, carrier or potential licensee of Lessor which, through a written application or offer, offers to monetarily compensate Lessor for the right to use or occupy the applicable Secondary Centerline Antenna Height.

vi. Priority for Interference.

(A) Definitions. For purposes of the Replacement Site Agreements (1) the term "**Prior User**" shall not have the meaning set forth in Section 11(b) of the MSA, but shall instead refer to the use by any user of a Tower of equipment with respect to which User's priority has not been maintained under this paragraph 4.b.vi.; (2) the term "**Subsequent User**" shall not have the meaning set forth in Section 12(d) of the MSA, but shall instead mean any user of a Tower who is not a Prior User, including any existing collocation tenant pursuant to a Collocation Agreement assigned from User to SpectraSite in accordance with the Asset Purchase Agreement; and (3) the term "**Current User**" shall mean (for purposes of paragraph 4.b.vi.D., paragraph 4.b.vi.E., and paragraph 4.vi.F. below) any user of the Tower that has entered into an agreement with SpectraSite to install equipment on the Tower (whether

such user has installed such equipment or not) prior to the submission by User of a proposed change in Exhibit C-2 with respect to the Tower.

(B) User's Priority as of the Effective Date. For purposes of Section 11(b) of the MSA, as of the Effective Date there shall be no Prior Users with respect to User's Equipment that is currently installed on each Tower (as described on Exhibit C-1 to each Replacement Site Agreement) or with respect to the Secondary Antenna Equipment to be installed on each Tower (as described on Exhibit C-2 to each Replacement Site Agreement), including the related Centerline Antenna Heights and any necessary vertical spacing. Such priority shall be maintained with respect to the Equipment listed on each such Exhibit from and after the Effective Date so long as (1) the User does not change the Equipment on such Exhibit (excluding necessary repairs and replacements with equipment having the same make and model) installed or to be installed, and/or frequency at which it is operating (or is to be operating) or (2) such priority is maintained pursuant to the provisions contained in paragraph 4.b.vi.C., paragraph 4.b.vi.D. or paragraph 4.vi.E. below (in connection with a change in the Equipment described on Exhibit C-2 made in accordance with any such paragraph).

(C) Secondary Antenna Equipment Changes Prior to Installation. The provisions in paragraph 4.b.vi.D. and paragraph 4.b.vi.E. below (but not the priority previously established thereunder) shall expire and be of no further effect with respect to each Replacement Site Agreement as of the earlier of (1) the date User installs Secondary Antenna Equipment at such Site or (2) the expiration of the Reservation Period, including any Extension Period(s), as applicable, under such Replacement Site Agreement. The provisions in paragraph 4.b.vi.D. and paragraph 4.b.vi.E. below shall not apply to any Replacement Site Agreement that does not provide for a Reservation Period, as evidenced by the inclusion of a Secondary Antenna Reservation Expiration Date under paragraph 9.c. of the Replacement Site Agreement.

(D) New Use of Tower. Subject to paragraph 4.b.vi.C. above, SpectraSite hereby agrees to provide User with written notice prior to entering into (x) an agreement for the use of a Tower with a user not using the Tower as of the Effective Date, or (y) an amendment to the agreement of another user of the Tower (whether such new or existing user is using the Tower as of the Effective Date or begins using the Tower subsequent to the Effective Date) which amends the equipment such new or existing user may install on the Tower, provided that such notice shall not contain any information regarding the identity of such new or existing user, the equipment it intends to install on such Tower, or any other information concerning such new or existing user's potential agreement or amendment with SpectraSite. Within 45 days of User's receipt of the foregoing notice, User shall notify SpectraSite in writing if User elects to amend Exhibit C-2 to modify the Secondary Antenna Equipment User is entitled to install under such Replacement Site Agreement, and if so, User shall provide a full description of such proposed Secondary Antenna Equipment. If SpectraSite reasonably determines that such proposed Secondary Antenna Equipment will not interfere with the existing or currently specified use of the Tower by any Current User (determined as of the date SpectraSite receives such notice from

User and without giving effect to the new use proposed by the new or existing user), then SpectraSite and User shall promptly enter into an amendment, subject to paragraph 4.b.vi.F. below, to such Replacement Site Agreement, replacing Exhibit C-2 with such proposed Secondary Antenna Equipment and User's priority as set forth in paragraph 4.b.vi.B. shall be maintained. If SpectraSite reasonably determines that the proposed Secondary Antenna Equipment would interfere with the existing or currently specified use of the relevant Tower by any Current User (determined as of the date SpectraSite receives such notice from User and without giving effect to the new use proposed by the new or existing user), then User shall not be permitted to amend the Replacement Site Agreement as provided in the previous sentence. If SpectraSite does not receive a written reply to its notice within the foregoing 45 day time period, then it shall be conclusively deemed that User does not intend to make any changes to the Secondary Antenna Equipment described on Exhibit C-2 to the Replacement Site Agreement.

(E) User Initiated Secondary Equipment Changes.

Subject to paragraph 4.b.vi.C. above, User may elect to amend Exhibit C-2 to amend the Secondary Antenna Equipment that User is entitled to install under such Replacement Site Agreement, by providing SpectraSite with a written notice that includes a complete description of such proposed amended Secondary Antenna Equipment. If SpectraSite reasonably determines that the proposed Secondary Antenna Equipment described in User's notice will not interfere with the existing or currently specified use of the relevant Tower by any Current User (determined as of the date SpectraSite receives such notice from User), then SpectraSite and User shall promptly enter into an amendment, subject to paragraph 4.b.vi.F. below, to such Replacement Site Agreement, revising Exhibit C-2 to include such proposed Secondary Antenna Equipment, and User's priority as set forth in paragraph 4.b.vi.B. shall be maintained. If SpectraSite reasonably determines that the proposed Secondary Antenna Equipment would interfere with the existing or currently specified use of the relevant Tower by any Current User (determined as of the date SpectraSite receives such notice from User), then SpectraSite shall notify User in writing of such determination within 60 days after receipt of User's notice and the Replacement Site Agreement shall not be amended at such time in the manner described in User's notice. If User does not receive such written notice from SpectraSite within such 60-day time period, then it shall be conclusively deemed that the modified Secondary Antenna Equipment would not interfere with the existing or currently specified use of the Tower by any Current User; and SpectraSite and User shall promptly enter into an amendment, subject to paragraph 4.b.vi.F. below, to such Replacement Site Agreement, revising Exhibit C-2 to include such proposed Secondary Antenna Equipment, and User's priority as set forth in paragraph 4.b.vi.B. shall be maintained.

(F) Base Rent: Related Structural Enhancements.

SpectraSite and User hereby acknowledge and agree that the potential amendment(s) to Exhibit C-2 of a Replacement Site Agreement shall not result in a change in the Secondary Antenna Base Rent so long as such amended Exhibit C-2 has substantially the same or lesser size, weight, wind and structural loading of the equipment described on Exhibit C-2 to the Replacement Site

Agreement as of the Effective Date. SpectraSite hereby reserves the right to condition its agreement to so amend Exhibit C-2 to a Replacement Site Agreement upon an increase in Base Rent if such amended Exhibit C-2 has a substantially greater size, weight, wind or structural loading than the equipment described on Exhibit C-2 to the Replacement Site Agreement as of the Effective Date. If a Replacement Site Agreement is amended pursuant to this paragraph 4.b.vi., the determination of whether User will be responsible for any structural enhancements necessary to accommodate the Secondary Antenna Equipment shall be determined in accordance with paragraph 4.b.vii hereof, giving effect to the equipment of any Current User, but without giving effect to the addition or modification proposed by any new or existing user that is the subject of a notice under paragraph 4.b.vi.D. above, if applicable.

(G) The last sentence of Section 11(b) of the MSA is hereby deleted in its entirety.

vii. Tower Capacity. Notwithstanding anything contained in Section 8(b)(i) and 8(c) of the MSA, so long as User has not modified the Equipment installed at the Primary Antenna Centerline Antenna Height subsequent to the Effective Date (or if User has so modified the Equipment installed at the Primary Antenna Centerline Height so long the alteration resulted in such Equipment being of substantially the same or lesser size, weight, wind and structural loading of the equipment described on Exhibit C-1 to the Replacement Site Agreement), User shall not be obligated to pay the cost of any structural enhancements necessary to accommodate the Secondary Antenna Equipment, as specifically described on Exhibit C-2 to the Replacement Site Agreement, or if User installs equipment in the Secondary Antenna Centerline Antenna Height which differs from that which is described on Exhibit C-2 to the Replacement Site Agreement so long as the alteration is of substantially the same or lesser size, weight, wind and structural loading of the equipment described on Exhibit C-2 to the Replacement Site Agreement, provided that User shall be obligated to pay the cost of any structural enhancements necessary to accommodate the Secondary Antenna Equipment described on Exhibit C-2 to the Replacement Site Agreement or otherwise, to the extent that such structural enhancement is necessary as a result of a change in applicable law after the Effective Date.

5. Modification of MSA Terms.

a. *Assignment by User*. Section 14(a) of the MSA is hereby amended by inserting the phrase “(or any portions hereof related to an assigned Site Agreement)” immediately after the first use of the word “hereunder” in the first sentence thereof. Section 14(a) of the MSA is hereby further amended by inserting the following after the last sentence: “Notwithstanding anything to the contrary contained herein, User may assign its entire interest in this MSA (or any portions hereof related to an assigned Site Agreement) or in one or more Site Agreements without the prior consent of SpectraSite to Pegasus Communications Corporation or an Affiliate of Pegasus Communications Corporation (collectively, “PCC Assignee”). As used herein “Affiliate” means (i) any person or entity which controls, is controlled by, or is under common control with User, (ii) any person or entity which is fifty percent (50%) or more owned by User, (iii) any person or entity resulting from the merger, reorganization or consolidation of User, or (iv) any person or entity which acquires all or substantially all of the assets or equity of User.”

MSA:

b. *Insurance.* The following is hereby inserted as Section 15(f) of the

“(f) SpectraSite’s Insurance. At all times during the term of a Site Agreement and for each individual Site, SpectraSite shall maintain the coverages specified below until the Site Agreement expires or is terminated:

- (i) Commercial General Liability Insurance with limits of not less than \$2,000,000 per occurrence and in the aggregate.
- (ii) All Risk Insurance with Replacement Value coverage of the Tower and SpectraSite’s other real and personal property located on the same leased or owned parcel as the Tower (“**Property**”).”

c. *Indemnification.*

i. The sixth line of Section 16(a) of the MSA is hereby amended by deleting “the Sites or”, inserting “of any Site by User” after the words “the use”, and deleting “thereof”.

ii. The fifth and sixth lines of Section 16(b) of the MSA is hereby amended by deleting “the Sites or”, inserting “or rental of any Tower or Property by SpectraSite” after the words “the use”, and deleting “thereof”.

d. *Default; Remedies.*

i. Section 17(b)(i) of the MSA is hereby amended by deleting the period at the end thereof and inserting the following: “, provided, however, that the foregoing shall not be deemed to waive SpectraSite’s common law obligation to mitigate SpectraSite’s damages.”

ii. Section 17(b)(ii) of the MSA is hereby amended by deleting the period at the end thereof and inserting the following: “, provided that, notwithstanding anything to the contrary contained in Section 14(a) of this MSA, at such time User may sublet User’s interest under the Site Agreement, so long as User remits all amounts received from such subtenant under such sublease to SpectraSite, which amounts SpectraSite will credit against User’s monetary obligations under such Site Agreement, and further provided that the foregoing shall not reduce User’s monetary obligations except to the extent of such sublease receipts remitted to SpectraSite, or effect User’s other obligations under such Site Agreement.”

e. *Termination.* Section 18(b) of the MSA is hereby modified to insert the following after the first sentence: “If such failure was due to the fault of SpectraSite or beyond User’s reasonable control and not resulting from the misconduct of User or omission of User, then at User’s option, User may terminate the Site Agreement upon written notice to SpectraSite with no further Base Rent accruing thereunder. Otherwise...”. The following sentence is hereby inserted at the end of Section 18(b): “The foregoing shall not be deemed to waive SpectraSite’s

common law obligation to mitigate SpectraSite's damages." The final sentence of Section 18(b) shall be deleted in its entirety and replaced with the following sentence: "If SpectraSite cannot provide an acceptable substitute Site for User, User shall have the option either (i) to continue to pay to SpectraSite the rental amount in accordance with the Site Agreement for the Site where User is unable to conduct User's Broadcast Business, provided that (A) at such time, notwithstanding anything to the contrary contained in Section 14(a) of this MSA, User may sublet User's interest under the Site Agreement, so long as User remits all amounts received from such subtenant under such sublease to SpectraSite, which amounts SpectraSite will credit against User's monetary obligations under such Site Agreement, and (B) the foregoing shall not reduce User's monetary obligations except to the extent of such sublease receipts remitted to SpectraSite, or effect User's other obligations under such Site Agreement, or (ii) to pay to SpectraSite a termination fee in the amount of the then present value of all Base Rent which would otherwise be due under the applicable Site Agreement which would otherwise have been due SpectraSite absent SpectraSite's inability to provide an acceptable substitute Site for User, discounted by an annual percentage rate equal to five percent (5%), provided, however, that the foregoing shall not be deemed to waive SpectraSite's common law obligation to mitigate SpectraSite's damages."

f. *Limitation of SpectraSite's Liability.*

- i. Section 21(a) of the MSA is hereby deleted in its entirety.
- ii. Section 21(b)(ii) of the MSA is hereby deleted in its entirety and the following is hereby inserted in lieu thereof: "User's sole right and remedy in any action or proceeding concerning whether SpectraSite exercised reasonableness (where the same is required hereunder with respect to any consent or approval under this MSA) will be an action for declaratory judgment and/or specific performance, provided that User shall not be obligated to make a showing of irreparable harm to obtain such remedy."

g. *SpectraSite Address.* SpectraSite's address set forth in Section 28 of the MSA shall be deleted in its entirety and replaced with the following:

SpectraSite Communications, Inc.
100 Regency Forest Drive, Suite 400
Cary, NC 27511
Att: Property Management Broadcast Division

with a copy to: SpectraSite Communications, Inc.
100 Regency Forest Drive, Suite 400
Cary, NC 27511
Att: Associate General Counsel – Wireless Division

h. *Replacement Site Agreement" in MSA.* In each and every place where the term "Site Agreement" or "Site Agreements" appears in the MSA, such term shall hereinafter be deemed to include in each case to a "Replacement Site Agreement" or "Replacement Site Agreements", respectively.

m. *Deleted Sections of MSA.* All text in each of the following sections of the MSA shall be deleted in its entirety and replaced with the word "Reserved": Section 6; Section 7(a); Section 7(b); Section 8(a); and Section 8(b).

6. **Release.**

a. *Release of User.* SpectraSite and SpectraSite, Inc., each for itself and its predecessors, subsidiaries, affiliates, officers, directors, partners, stockholders, agents, service employees, members, managers, successors, assigns, owners and trustees and all other persons acting on behalf of or claiming under it (collectively, the "***SpectraSite Parties***"), does hereby remise, unconditionally release and forever discharge User and Pegasus Towers, Inc. and each company's respective predecessors, subsidiaries, affiliates, agents, service employees, officers, directors, partners, stockholders, members, managers, heirs, successors, assigns, owners and trustees and all other persons acting on behalf of or claiming under it (collectively, the "***User Parties***") from any and all claims, lawsuits, liabilities, demands, actions or causes of action of any kind or character whatsoever, whether at law or in equity, whether known or unknown, asserted or unasserted, which SpectraSite (i) had, now has or may have arising out of any conduct or any alleged acts or omissions of any nature whatsoever, relating in any manner whatsoever to the Existing Site Agreements, Asset Purchase Agreement, and the Development Agreement, and (ii) had or now has arising out of any conduct or any alleged acts or omissions of any nature whatsoever, relating in any manner whatsoever to the MSA and occurring prior to the Effective Date.

b. *Release of SpectraSite.* User and Pegasus Towers, Inc., each for itself and its predecessors, subsidiaries, affiliates, officers, directors, partners, stockholders, agents, service employees, members, managers, successors, assigns, owners and trustees and all other persons acting on behalf of or claiming under it (collectively, the "***User Parties***"), does hereby remise, unconditionally release and forever discharge SpectraSite and SpectraSite, Inc., and each company's respective predecessors, subsidiaries, affiliates, agents, service employees, officers, directors, partners, stockholders, members, managers, heirs, successors, assigns, owners and trustees and all other persons acting on behalf of or claiming under it (collectively, the "***SpectraSite Parties***") from any and all claims, lawsuits, liabilities, demands, actions or causes of action of any kind or character whatsoever, whether at law or in equity, whether known or unknown, asserted or unasserted, which User (i) had, now has or may have arising out of any conduct or any alleged acts or omissions of any nature whatsoever, relating in any manner whatsoever to the Existing Site Agreements, Asset Purchase Agreement, and the Development Agreement, and (ii) had or now has arising out of any conduct or any alleged acts or omissions of any nature whatsoever, relating in any manner whatsoever to the MSA and occurring prior to the Effective Date.

c. *Withdrawal of Proof of Claim.* Subject to the occurrence of the Final Approval Order Date and the payment of the Termination Fee, SpectraSite hereby agrees to withdraw that certain proof of claim filed on October 12, 2004, in the amount of \$9,122,503.88 and having claim no. 871, which SpectraSite filed with the Court in connection with the Bankruptcy Filing, and to take such other actions and make such filings as necessary to conform the outcome (including the deletion of any amounts scheduled for payment to SpectraSite except under this First Amendment) of the related proceedings to this First Amendment.

7. **Entirety; Inconsistencies; Amendment.** This First Amendment, together with the MSA and the Replacement Site Agreements, constitute the entire agreement among the undersigned parties hereto. In the event of a conflict or inconsistency between the terms of this First Amendment and the MSA, the terms of this First Amendment shall govern and control. Any modification to this First Amendment must be in writing, signed, and delivered by authorized representatives of the affected parties in order to be effective.

8. **Counterparts; Scanned Copies.** This First Amendment may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute one instrument. The parties agree that a scanned or electronically reproduced copy or image of this First Amendment shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence hereof notwithstanding the failure or inability to produce or tender an original, executed counterpart of this First Amendment and without the requirement that the unavailability of such original, executed counterpart of this First Amendment first be proven.

9. **Authority.** Each party hereto represents and warrants to the other that all necessary corporate authorizations required for execution and performance of this First Amendment and all Replacement Site Agreements to be executed hereunder have been given and that the undersigned officer of a party is duly authorized to execute this First Amendment and the Replacement Site Agreements and bind the party for which it signs.

10. **Headings.** Paragraph headings in this First Amendment are included for the convenience of reference only and shall not constitute a part of this First Amendment for any other purpose.

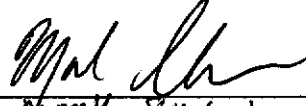
11. **Governing Law.** Notwithstanding anything to the contrary in Section 27 of the MSA, the Court shall retain jurisdiction over disputes arising under this First Amendment or any Replacement Site Agreements until the Bankruptcy Filing is marked closed by the Court.

[SIGNATURE PAGE AND EXHIBITS FOLLOW]

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the dates written below.

SPECTRASITE:

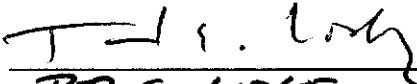
SPECTRASITE BROADCAST TOWERS, INC., a Delaware corporation

By: 
Printed Name: MARK SURVEN
Title: CFO
Signature Date: 3/29/05



User:

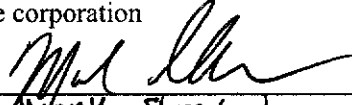
PEGASUS BROADCAST TELEVISION, INC., a Delaware corporation

By: 
Printed Name: TED S. LODGE
Title: PRESIDENT
Signature Date: 3/25/05

JOINDER

SpectraSite, Inc., a Delaware corporation f/k/a SpectraSite Holdings, Inc., and Pegasus Towers, Inc., a Pennsylvania corporation, each hereby joins in the execution of this First Amendment for the sole purpose of agreeing to the terms of paragraphs 2.b. and 6 hereof.

SPECTRASITE, INC., a Delaware corporation

By: 
Printed Name: MARK SURVEN
Title: CFO
Signature Date: 3/29/05

PEGASUS TOWERS, INC., a Pennsylvania corporation

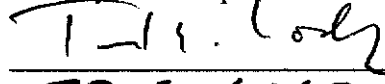
By: 
Printed Name: TED S. LODGE
Title: PRESIDENT
Signature Date: 3/25/05

EXHIBIT A

SPECTRASITE'S WIRING INSTRUCTIONS

[TO BE INSERTED]

SpectraSite Broadcast Towers, Inc.
Wire Instructions
Effective 4/15/2004

Bank Name: Wachovia

Account Name: SpectraSite Broadcast Towers, Inc.

Routing Number: 053000219

Account Number: 2000017272298 - Checking

EXHIBIT B

FORM OF REPLACEMENT SITE AGREEMENT

REPLACEMENT SITE AGREEMENT

THIS REPLACEMENT SITE AGREEMENT (the "Site Agreement") is made as of the latter signature date hereof (the "Execution Date"), by and between SPECTRASITE BROADCAST TOWERS, INC., its successors and assigns (hereinafter referred to as "SpectraSite") and PEGASUS BROADCAST TELEVISION, INC. (hereinafter referred to as "User"). Unless otherwise defined herein, capitalized terms shall have the meaning set forth in the Master Site Agreement between SpectraSite and User, dated July 17, 2000, as amended by the First Amendment to Master Site Agreement, dated February 1, 2005 (the "MSA"). The parties agree that except as otherwise set forth herein, the terms and conditions of the MSA shall govern the relationship of the parties under this Site Agreement and the MSA is incorporated herein by reference. In the event of a conflict or inconsistency between the terms of the MSA and this Site Agreement, the terms of this Site Agreement shall govern and control.

- | | | |
|-----|---|---|
| 1. | <u>Legal Description</u> | <u>See Exhibit A</u> |
| 2. | <u>SpectraSite Site Name/Number:</u> | |
| 3. | <u>User Site Name/Number:</u> | _____ |
| 4. | <u>Name of User:</u> | Pegasus Broadcast Television, Inc. |
| 5. | <u>Name of Prime Landlord:</u> | See <u>Exhibit A-1</u> |
| 6. | <u>Date of Prime Lease/License:</u> | See <u>Exhibit A-1</u> |
| 7. | <u>Site Address:</u> | _____ |
| 8. | <u>Site Latitude and Longitude:</u> | _____ |
| 9. | <u>Centerline Antenna Height:</u> | |
| | a. Primary Antenna | _____ |
| | b. Secondary Antenna | _____ |
| | c. Secondary Antenna Reservation
Expiration Date | _____ |
| 10. | <u>Base Rent:</u> | |
| | a. Primary Antenna | \$_____ per month, subject to an annual
increase of two and three quarter percent
(2 ¾%) over the prior year's Base Rent
for the Primary Antenna, on the |

anniversary of the Site Commencement Date of this Site Agreement.

b. Secondary Antenna \$_____, per month subject to an annual increase of two and three quarter percent (2 ¾%) over the prior year's Base Rent for the Secondary Antenna, on the anniversary of the Site Commencement Date of this Site Agreement.

11. Site Commencement Date. February 1, 2005
12. Initial Term: fifteen (15) years commencing on the Site Commencement Date, subject to reduction per the MSA.
13. Renewal Term: five subsequent terms of 10 years each.
14. Site Cost Reimbursement Amount: N/A
15. Square Feet of Ground Space: _____
16. SpectraSite Contact for Emergencies: SpectraSite NOC 1-877-750-9592
17. SpectraSite Address for Payments:

SpectraSite Broadcast Towers, Inc.
PO Box 60828
Charlotte, NC 28260-0828

***USER MUST INCLUDE THE SPECTRASITE SITE NUMBER ON EACH RENT CHECK**

18. User Contact for Emergencies:
19. User's Building Space:
See Exhibit B
20. Description of User's Tower Equipment and Transmitter Equipment:
- a. Primary Antenna Equipment. See Exhibit C-1.
- b. Secondary Antenna Equipment. See Exhibit C-2.

21. Site Specific Provisions:

a. SpectraSite hereby agrees to use commercially reasonable efforts to separately meter User's electricity at this Site within six (6) months of the Site Commencement Date, at SpectraSite's sole cost. User shall be liable for all electricity User uses under such separate meter, which amount shall be remitted to either SpectraSite or the utility company, depending on whether User receives such bills directly from the utility company or not. Until such time as User's electricity is separately metered, or if SpectraSite is unable to have User's electricity separately metered due to a third party or for a reason outside of SpectraSite's control, SpectraSite shall be solely responsible for payment of costs of utilities servicing the Property. User shall reimburse SpectraSite for **[TO BE COMPLETED ON A SITE BY SITE BASIS]**% (subject to adjustment, with the reasonable prior consent of User, based on the number of full power broadcasters operating at the Property) of all utilities costs paid on the Property, such reimbursement to be due and payable within 10 days of SpectraSite's giving to User a written invoice for same.

b. Notwithstanding anything to the contrary contained in this Site Agreement, a condition precedent to the Site Commencement Date is the termination of the Existing Site Agreements pursuant to the First Amendment of the MSA.

c. User hereby agrees that SpectraSite shall be obtaining, at User's sole cost and expense, a single structural analysis and wind load analysis of the Tower which includes any existing loads of current users (including the loads that such users have the right to place on the Tower) as well as the Primary Antenna Equipment and Secondary Antenna Equipment, including all cabling and appurtenances, prior to User's installation of the Secondary Antenna Equipment. User shall reimburse SpectraSite for the cost of such structural analysis within thirty (30) days of SpectraSite's delivery to User of the structural analysis and wind load analysis and a written invoice for same.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the signature date set forth below.

SpectraSite:

SpectraSite Broadcast Towers, Inc., a Delaware corporation

By: EXHIBIT – NOT FOR SIGNATURE
Printed Name: _____
Title: _____
Signature Date: _____

User:

Pegasus Broadcast Television, Inc., a Delaware corporation

By: EXHIBIT – NOT FOR SIGNATURE
Printed Name: _____
Title: _____
Signature Date: _____

[Site Agreement exhibits to follow]

EXHIBIT B

Form of Order

(attached hereto)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

_____)	
In re:)	Chapter 11
)	
PEGASUS SATELLITE TELEVISION, INC., et al.,)	Case No. 04-20878
)	
Debtors.)	(Jointly Administered)
_____)	

**ORDER PURSUANT TO 11 U.S.C. SECTIONS
105, 363(b) AND 365 AND BANKRUPTCY RULE 9019 AUTHORIZING AND
APPROVING (I) THE FIRST AMENDMENT TO THE MASTER SITE AGREEMENT
AND REPLACEMENT SITE AGREEMENTS WITH SPECTRASITE BROADCAST
TOWERS, INC., (II) THE ASSUMPTION OF THE MASTER SITE AGREEMENT, AS
AMENDED, (III) THE SETTLEMENT OF SPECTRASITE BROADCAST
TOWERS, INC.'S DAMAGE CLAIM; AND (IV) GRANTING RELATED RELIEF**

Upon the Debtors' Motion for Order Pursuant to 11 U.S.C. Sections 105, 363(b) and 365 and Bankruptcy Rule 9019 Authorizing and Approving (I) the First Amendment to the Master Site Agreement and Replacement Site Agreements with Spectrasite Broadcast Towers, Inc., (II) the Assumption of the Master Site Agreement, as Amended, (III) the Settlement of Spectrasite Broadcast Towers, Inc.'s Damage Claim; and (IV) Granting Related Relief (the "Motion")¹ of Pegasus Satellite Television, Inc. and its subsidiaries and certain of its affiliates, each a debtor and debtor in possession herein (collectively, the "Debtors")² pursuant to sections 105(a), 363(b) and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006 and 9019; and it appearing that the Court has jurisdiction to consider the Motion and the relief

¹ Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Motion.

² The Debtors are: Argos Support Services Company, Bride Communications, Inc., B.T. Satellite, Inc., Carr Rural TV, Inc., DBS Tele-Venture, Inc., Digital Television Services of Indiana, LLC, DTS Management, LLC, Golden Sky DBS, Inc., Golden Sky Holdings, Inc., Golden Sky Systems, Inc., Henry County MRTV, Inc., HMW, Inc., Pegasus Broadcast Associates, L.P., Pegasus Broadcast Television, Inc., Pegasus Broadcast Towers, Inc., Pegasus Media & Communications, Inc., Pegasus Satellite Communications, Inc., Pegasus Satellite Television of Illinois, Inc., Pegasus Satellite Television, Inc., Portland Broadcasting, Inc., Primewatch, Inc., PST Holdings, Inc., South Plains DBS, LP., Telecast of Florida, Inc., WDSI License Corp., WILF, Inc., WOLF License Corp. and

requested therein in accordance with 11 U.S.C. §§ 157 and 1334; and it appearing that this matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and this Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been given; and it appearing that the relief requested in the Motion is in the best interest of the Debtors and their estates and creditors; and after due deliberation and sufficient cause appearing therefor, it is hereby:

ORDERED, that the Motion is granted; and it is further

ORDERED, that the Existing Site Agreements are terminated effective as of the date set forth in the First Amendment; and it is further

ORDERED, that the Debtors entry into the First Amendment to the Master Site Agreement under the terms and conditions provided for in the First Amendment attached to the Motion as Exhibit A, pursuant to 11 U.S.C. § 363, is authorized and approved effective as of the date set forth in the First Amendment; and it is further

ORDERED, that the Debtors entry into the Replacement Site Agreements, pursuant to 11 U.S.C. § 363, is authorized and approved effective as of the date set forth in the First Amendment; and it is further

ORDERED, that the Debtors' assumption of the Master Site Agreement pursuant to 11 U.S.C. § 365(a) is authorized and approved effective as of the date of entry of this Order; and it is further

ORDERED, that payment of the Settlement Amount by the Debtors is authorized and approved; and it is further

ORDERED, that payment of the Settlement Amount satisfies all of the Debtors' pre-petition obligations under section 365(b) of the Bankruptcy Code in respect of the Master Site Agreement; and it is further

ORDERED, that the Court shall retain exclusive jurisdiction to resolve any disputes arising from or relating to the relief sought or authorized in this Order.

Dated:

UNITED STATES BANKRUPTCY JUDGE