

WLPD-CD(TV), CHANNEL 35
PLANO, ILLINOIS
FACILITY ID NO. 189058

LICENSE TO COVER CONSTRUCTION PERMIT FILE NO. BMPDTL-20130103AAV

REQUEST FOR WAIVER

LocusPoint WSPY Licensee, LLC (“LPN”), licensee of Class A digital television station WLPD-CD(TV), channel 35, Plano, Illinois (“WLPD”), hereby requests a waiver, to the extent required as a procedural matter, to enable LPN to file a Class A license application to cover its construction permit, FCC File No. BMPDTL-20130103AAV (“Glen Ellyn CP”). The Glen Ellyn CP authorizes LPN to move WLPD’s transmitter from its existing location in Plano, IL to a new tower in Glen Ellyn, IL.

The station has held Class A status since April 11, 2001, the date on which the FCC approved WLPD’s precursor analog sister station’s Class A status.¹ However, as set forth herein, due to the order in which the prior licensee of WLPD filed certain applications, the Glen Ellyn CP application was filed using an FCC form for a low-power television (“LPTV”) station, rather than a Class A station, and the application was granted as an LPTV CP. Accordingly, to the extent procedurally necessary, LPN requests a waiver of the Commission’s rules and policies to permit LPN to file a Class A license application to cover the Glen Ellyn CP.²

On May 17, 2011, the FCC granted the station a digital companion channel construction permit.³ Subsequently, on December 21, 2012, WLPD’s prior licensee filed a digital license application to cover the construction permit.⁴ Further, on January 4, 2013, the prior licensee filed an application to transfer the station’s Class A status from its analog channel to its digital channel.⁵ However, before either of these applications were granted (and the day before the Class A conversion application was filed), the prior licensee filed the Glen Ellyn CP application. Because the station’s Class A status had not yet been moved to its digital channel at that time, the Commission’s Consolidated Database System only would permit the Glen Ellyn CP

¹ The FCC initially granted Class A status to WLPD-LP(TV), channel 30, Plano, IL (Facility ID No. 72078) (“WLPD-LP”), prior to the assignment by the FCC of a digital companion channel to WLPD-LP to facilitate the television digital conversion. *See* FCC File No. BLTTA-20010216ABB.

² *See* 47 C.F.R. § 73.3572(h) (“Class A TV stations *will retain* primary, protected regulatory status on their desired post-transition digital channel.”) (emphasis added). The relief requested herein would cause WLPD to *retain* its Class A status of on its digital channel by preventing the Class A status from being eliminated through the grant of the Glen Ellyn CP as an LPTV license even though WLPD is a Class A station.

³ *See* FCC File No. BDCCDTL-20101213ABL.

⁴ *See* FCC File No. BLDLTL-20121221ACC.

⁵ *See* FCC File No. BLDTA-20130104ACM.

application to be filed on an LPTV FCC form.⁶ The FCC granted the Glen Ellyn CP on January 24, 2013, and then shortly thereafter granted WLPD a Class A license to cover its initial digital construction permit.⁷

As a result of the order of the filing by the prior licensee and grant by the Commission of the foregoing applications, the Glen Ellyn CP application was granted by the Commission as a digital LPTV construction permit even though the station was a Class A station and an application was pending to move the station's Class A status to its digital channel. Accordingly, to the extent procedurally necessary, LPN requests a waiver of the Commission's rules and policies to permit LPN to file a Class A license to cover the Glen Ellyn CP and to permit the Commission to attach WLPD's Class A status to any license granted in connection with this license application.⁸

⁶ The prior licensee noted in the Glen Ellyn CP application that the station's digital facilities were constructed; that a license application to cover the digital facilities was on file with the Commission; and that the Glen Ellyn CP application was intended to be a minor modification of constructed and licensed digital facilities. *See* FCC File No. BMPDTL-20130103AAV. The Commission subsequently issued a Class A license to cover the station's digital facilities. *See* FCC File No. BLDTL-20121221ACC.

⁷ *See* FCC File Nos. BLDTL-20121221ACC, BLDTA-20130104ACM.

⁸ As a result of the grant by the Commission of a Class A license to WLPD pursuant to this Glen Ellyn CP license application (without requiring WLPD to refile a new application to modify its existing license in the identical manner for which authority already was granted in the Glen Ellyn CP), WLPD will receive repacking protection in the incentive auction because the Glen Ellyn CP was filed with the Commission prior the April 5, 2013 filing freeze. Further, if the Commission grants the digital Class A license requested herein prior to May 29, 2015, WLPD will be eligible to receive all rights accorded to Class A licensees in the Commission's upcoming broadcast incentive auction. *See Media Bureau Announces Limitations on the Filing and Processing of Full Power and Class A Television Station Modification Applications, Effective Immediately, and Reminds Stations of Spectrum Act Preservation Mandate*, Public Notice, DA 13-618 (rel. Apr. 5, 2013); *Media Bureau Designates May 29, 2015 As Pre-Auction Licensing Deadline; May 29, 2015 Deadline Also Applicable To Class A Television Stations Converting To Digital*, Public Notice, DA 15-116 (rel. Jan. 28, 2015).