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July 9, 2015

Our File No. 20662-00113-67

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Room TW-A325
Washington, DC 20554

Attn: Barbara A. Kreisman
Chief, Video Division
Media Bureau
Room 2-A666

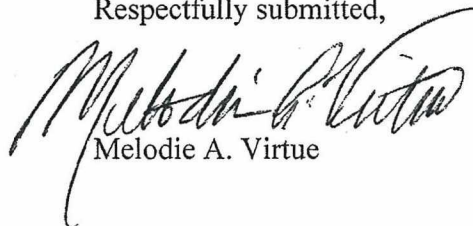
Re: Petition for Eligible Entity Status
WTHC-LD, Atlanta, GA
Facility ID # 65409
Channel 42
Beach TV Properties, Inc., fka The Atlanta Channel, Inc.
License File No. BLDTL-20060511ABF

Dear Ms. Dortch:

On behalf of Beach TV Properties, Inc. (formerly The Atlanta Channel, Inc.), licensee of WTHC-LD, Atlanta, Georgia, I hereby submit an original and one copy of its Petition for Eligible Entity Status pursuant to the Media Bureau's *Public Notice*, DA 15-679, released June 9, 2015.

Kindly refer any questions regarding this matter directly to this office.

Respectfully submitted,



Melodie A. Virtue

MAV:cil

Enclosures

cc: Barbara Kreisman (pdf copy via email to Barbara.Kreisman@fcc.gov)
Evan Morris (pdf copy via email to Evan.Morris@fcc.gov)

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Beach TV Properties, Inc.)	File No. BLDTL-20060511ABF
fka The Atlanta Channel, Inc.)	
WTHC-LD, Atlanta, GA)	
Facility ID No. 65409)	
Channel 42)	

To: Barbara A. Kreisman
Chief, Video Division
Media Bureau
Room 2-A666

PETITION FOR ELIGIBLE ENTITY STATUS

Beach TV Properties, Inc. ("Beach TV"), formerly The Atlanta Channel, Inc. ("ACI"), licensee of WTHC-LD, Atlanta, Georgia ("WTHC"), by counsel, hereby respectfully submits this Petition for Eligible Entity Status pursuant to the Media Bureau's *Public Notice*, DA 15-679, released June 9, 2015 ("*Public Notice*"), to preserve WTHC's eligibility to participate in the incentive auction and to be protected in the repacking of the TV band based on the facilities authorized in FCC File No. BLDTL-20060511ABF.

Discussion

The Media Bureau invited licensees that believe the Appendix to the *Public Notice* omitted a facility eligible for protection in the repacking process and relinquishment in the reverse auction to file a petition by July 9, 2015. The Bureau omitted WTHC from the list of eligible facilities. Accordingly, Beach TV hereby requests that WTHC be added to the list for protection in the repacking of the TV band and for eligibility to participate in the upcoming reverse auction.

Approximately 15 years ago, the Media Bureau rejected ACI's uncontested December 29, 1999 Statement of Election which would have allowed WTHC to file a Form 302-CA Class A license application pursuant to The Community Broadcasters Protection Act of 1999 ("CBPA").¹ That rejection² was based on a clerical error. ACI timely petitioned for reconsideration of the Media Bureau's rejection and submitted an amended Statement of Election on June 22, 2000. After the Media Bureau denied Beach TV's petition on November 20, 2000, ACI filed an Application for Review on December 20, 2000. A long 12-year wait ensued. It was not until Beach TV sought congressional pressure that the Commission eventually issued its *Memorandum Opinion and Order* on November 9, 2012,³ upholding the Bureau's ruling. Beach TV (ACI) filed a Petition for Reconsideration of that ruling on December 7, 2012. The Petition for Reconsideration was dismissed in part and denied in part in *The Atlanta Channel, Inc.*⁴ Beach TV timely filed an appeal with the Court of Appeals for the District of Columbia Circuit in *Beach TV Properties, Inc., f/k/a The Atlanta Channel, Inc. v. Federal Communications Commission*, Case Nos. 14-1229 and 14-1230 (consolidated). That appeal remains pending with oral argument scheduled for September 10, 2015.

Beach TV requested in its Petition for Reconsideration of the Incentive Auction *Report and Order*⁵ that the FCC exercise its discretion to protect WTHC. The Commission rejected

¹ Pub. L. No. 106-113, § 5008, 113 Stat. Appendix I at pp. 1501-A-594-1501A-598 (1999), codified at 47 U.S.C. § 336(f).

² *Public Notice*, released June 9, 2000.

³ 47 CR 14 (2012).

⁴ 29 FCC Rcd 11848 (2014).

⁵ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, 29 FCC Rcd 6567 (2014).

Beach TV's request in the *Second Order on Reconsideration*,⁶ and Beach TV intends to appeal that ruling, too.

Beach TV has at all times operated as though it is a Class A station. It certified multiple times that it complied and continues to comply with the Class A operating requirements, not only through its amended Eligibility Statement back in 2000, but also more recently as part of its renewal application filed November 30, 2012, and in a Declaration included with its December 7, 2012 Petition for Reconsideration.⁷ Until the decision on appeal to the court becomes final, the Commission must preserve eligibility for WTHC to be licensed as a Class A station with all of the rights to participate in the incentive auction or to be repacked after the auction ends available to other auction eligible stations.

As a result, Beach TV respectfully requests that the Commission designate WTHC as an eligibility facility.

Respectfully submitted

BEACH TV PROPERTIES, INC.

By: 

Melodie A. Virtue
Its Attorney

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July 9, 2015

⁶ FCC 15-69, released June 19, 2015.

⁷ Beach TV certified to its continued eligibility multiple times, such as in its renewal application, BRDTL-20121130AZQ, which the Commission granted on May 8, 2013, as well as in the Declaration attached to the December 7, 2012 Petition for Reconsideration, and quarterly as posted in its public inspection file at <http://fcc.destinationnetwork.com/node/225> (last visited July 9, 2015). It also certified to its eligibility in its amended Statement of Eligibility for Class A Television Status filed June 22, 2000. The very act of filing an Eligibility Statement in December 1999 should warrant effective notice that ACI intended to indicate that WTHC was Class A eligible.