

FEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICE

ORIGINAL

1182

(1) LOCKBOX #  358195	FCC/MELLON      MAR 25 2004	SPECIAL USE ONLY FCC USE ONLY <b>BSTA-20040325AIG</b>
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SECTION A - PAYER INFORMATION

(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) <b>Kaye Scholer, LLP</b>	(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) <b>145.00</b>	
(4) STREET ADDRESS LINE NO. 1 <b>901 - 15th Street, NW, Suite 1100</b>		
(5) STREET ADDRESS LINE NO. 2		
(6) CITY <b>Washington</b>	(7) STATE <b>DC</b>	(8) ZIP CODE <b>20005</b>
(9) DAYTIME TELEPHONE NUMBER (include area code) <b>(202) 682-3500</b>	(10) COUNTRY CODE (if not in U.S.A.)	

RECEIVED

APR 1 2004

AUDIO SERVICES DIVISION

FCC REGISTRATION NUMBER (FRN) REQUIRED

(11) PAYER (FRN) <b>0005-0105-82</b>	(12) FCC USE ONLY
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IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)  
COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(13) APPLICANT NAME <b>WPAT Licensing, Inc.</b>		
(14) STREET ADDRESS LINE NO. 1 <b>2601 South Bayshore Drive, Penthouse 2</b>		
(15) STREET ADDRESS LINE NO. 2		
(16) CITY <b>Coconut Grove</b>	(17) STATE <b>FL</b>	(18) ZIP CODE <b>33133</b>
(19) DAYTIME TELEPHONE NUMBER (include area code) <b>(305) 441-6901</b>	(20) COUNTRY CODE (if not in U.S.A.)	

FCC REGISTRATION NUMBER (FRN) REQUIRED

(21) APPLICANT (FRN) <b>0004-9765-10</b>	(22) FCC USE ONLY
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COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID <b>WPAT-FM</b>	(24A) PAYMENT TYPE CODE <b>MGR</b>	(25A) QUANTITY <b>1</b>
(26A) FEE DUE FOR (PTC) <b>145.00</b>	(27A) TOTAL FEE <b>145.00</b>	FCC USE ONLY
(28A) FCC CODE 1	(29A) FCC CODE 2	
(23b) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY
(28B) FCC CODE 1	(29B) FCC CODE 2	

SECTION D - CERTIFICATION

CERTIFICATION STATEMENT  
I, **Allan G. Moskowitz**, certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.

SIGNATURE *Allan Moskowitz* DATE **3/25/04**

SECTION E - CREDIT CARD PAYMENT INFORMATION

MASTERCARD \_\_\_\_\_ VISA \_\_\_\_\_ AMEX \_\_\_\_\_ DISCOVER \_\_\_\_\_

ACCOUNT NUMBER \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_

I hereby authorize the FCC to charge my credit card for the service(s) authorization herein described.

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

KAYE SCHOLER LLP

The McPherson Building  
901 Fifteenth Street, NW  
Washington, DC 20005  
202 682-3500  
Fax 202 682-3580  
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Allan G. Moskowitz  
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March 25, 2004

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Media Bureau  
P.O. Box 358190  
Pittsburgh, PA 15251-5190

Re: Request for Extension and Modification  
of Special Temporary Authority  
Radio Station WPAT-FM  
Paterson, New Jersey  
Facility Id. No. 51663 ✓  
WPAT Licensing, Inc.

Dear Ms. Dortch:

On behalf of WPAT Licensing, Inc., ("WLI"), licensee of Radio Station WPAT-FM, Paterson, New Jersey and holder of Special Temporary Authority to operate the station with effective radiated power of 3.4 kilowatts at the Empire State Building, we are herewith requesting a modification of that Special Temporary Authority to operate from its present STA site with and ERP of 4.9 kilowatts.

WPAT-FM's licensed transmitter site at the World Trade Center was destroyed on September 11, 2001. Subsequently, the station operated from a site at Four Times Square but was forced to relocate to its present STA site at the Empire State Building.

Attached hereto is the Engineering Statement of William J. Getz of Carl T. Jones Corporation. As Mr. Getz relates, on November 7, 2002, WLI filed an application for a construction permit to permanently reestablish at the Empire State Building a facility equivalent to the facility lost at the World Trade Center. The Audio Division dismissed that application, by letter dated July 28, 2003, because the proposed WPAT-FM 6 kilowatt facility would cause increased interference to pre-1964 grandfathered short-spaced station, WHYN(FM), Springfield, Massachusetts. However, the Audio Division concluded that a WPAT-FM facility at the Empire State Building would be permitted to operate with a power level of 4.9 kilowatts rather than the

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proposed 6 kilowatts ERP because, at the reduced power, WPAT would comply with Section 73.213(a) of FCC Rules.

On August 21, 2003, WLI filed a Petition for Reconsideration of the Commission's letter of July 28, 2003 which is still pending. Consequently, until final action by the Commission on the WLI application, WPAT-FM must operate its main facility from the Empire State Building pursuant to Special Temporary Authority. Since WPAT-FM is currently operating pursuant to STA from the Empire State Building, and in light of the fact that the Commission has apparently countenanced operation with 4.9 kilowatts ERP from that site, the licensee respectfully requests that its instant STA be modified so as to allow the station to operate with 4.9 kilowatts ERP and be extended for additional 180 days.

By grant of this request, the Commission would allow the station to restore 54 dBu primary grade service to 312,481 persons and 70 dBu city grade service to 288,063 persons who have been without this level of service from the station since September 11, 2001. In light of the fact that WPAT-FM is one of only a handful of stations which broadcast 100% Spanish language programming and in light of the size of the Spanish-speaking audience in the New York Metropolitan Area, WLI submits that this request is clearly in the public interest.

However, WIL also notes that the requested proposal slightly extends the proposed WPAT-FM 60 dBu contour from the former licensed World Trade Center location. Consequently, WLI respectfully requests an exception to the Audio Division's policy which prohibits an STA facility from extending the authorized 60 dBu cover contour in any direction. Exhibit 1 to Mr. Getz' Statement depicts the WPAT-FM licensed contour and the contour proposed in the modified STA from the Empire State Building. In light of the foregoing, WLI submits that the public interest will be served by the grant of the modified STA proposal and respectfully requests that the Commission grant the requested modification and extension of the STA.

Attached hereto is a check made payable to the FCC in the amount of \$145.00 pursuant to the Commission's fee schedule and an Anti-Drug Abuse Act Certification on behalf of the licensee.

Should any questions arise with respect to this matter, please contact the undersigned counsel.

KAYE SCHOLERLLP

Ms. Marlene H. Dortch, Secretary

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March 25, 2004

Respectfully submitted,

KAYE SCHOLER LLP

By:

A handwritten signature in black ink, appearing to read "Allan Moskowitz", written over a horizontal line.

Allan G. Moskowitz

AGM/lis

cc: Charles Miller, FCC



**STATEMENT OF WILLIAM J. GETZ  
IN SUPPORT OF A REQUEST FOR  
AN EXTENSION AND MODIFICATION  
OF SPECIAL TEMPORARY AUTHORITY  
WPAT-FM - PATERSON, NEW JERSEY**

Prepared for: WPAT Licensing, Inc.

I am a Radio Engineer in the firm of Carl T. Jones Corporation with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by WPAT Licensing, Inc., ("WPAT Licensing") licensee of FM broadcast station WPAT-FM, Paterson, New Jersey, to prepare this statement and the associated exhibit in support of a request for a modification and extension of Special Temporary Authority ("STA") to operate from atop the Empire State Building ("ESB"). The current STA, set to expire on July 15, 2004, allows WPAT-FM to operate with an Effective Radiated Power ("ERP") of 3.4 kW from the master antenna atop the ESB.

Radio station WPAT-FM lost its main facility (FCC File No. BLH-19820602AF) during the September 11, 2001, terrorist attack on the World Trade Center. WPAT Licensing filed an Application for Construction Permit (FCC File No. BPH-20021107AAD) to permanently re-establish a technical facility equivalent to the facility lost at the World Trade Center at the Empire State Building ("ESB Application"). The Audio Division dismissed the ESB

STATEMENT OF WILLIAM J. GETZ  
WPAT-FM, PATERSON, NEW JERSEY  
PAGE 2

Application by letter dated July 28, 2003 ("Audio Division Letter"). WPAT Licensing filed a Petition for Reconsideration of the dismissal which remains pending.

The Audio Division Letter dismissed the ESB application because the proposed WPAT 6.0 kW ESB facility would cause increased interference (relative to the WPAT-FM licensed facility which no longer exists) to pre-1964, grandfathered short-spaced station WHYN(FM), Springfield, MA. The fact that the proposed 6.0 kW ESB facility would reduce interference caused to pre-1964, grandfathered short-spaced, first-adjacent channel station WMMR(FM), Philadelphia, PA (again, relative to the WPAT-FM licensed facility which no longer exists) was determined to be meaningless in comparison to the "increased interference caused" to WHYN(FM). The Audio Division letter concluded that the WPAT-FM ESB facility would be permitted to operate with a power level of 4.9 kW rather than the proposed 6.0 kW ERP because, at the reduced power, WPAT-FM "would comply with Section 73.213(a)" of the FCC Rules.<sup>1</sup>

The policy set forth in the Audio Division Letter clearly indicates that WPAT-FM will be held to the "interference caused footprint" of its licensed main facility (the former World Trade Center facility) when the Audio Division evaluates any WPAT-FM facility modification for compliance with Section 73.213(a). Using this rationale, if WPAT-FM were to license a permanent technical facility at the Empire State Building, the Audio Division would not permit

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<sup>1</sup> See Audio Division Letter, Page 2, footnote 4.

WPAT-FM to re-establish the technical facility lost on September 11, 2001, at its former World Trade Center location. This is because the proposed move from ESB back to the World Trade Center location would cause unavoidable new interference to WMMR(FM) relative to the ESB facility. The ASD's bright-line Section 73.213(a) policy forces WPAT-FM to maintain its World Trade Center maximum Class B License (FCC File No. BLH-19820602AF) as its "license of record". This appears to be the only means by which WPAT-FM may preserve its right to re-establish the maximum Class B transmission facility lost on September 11, 2001, on any replacement structure at the former World Trade Center location.

In the Petition for Reconsideration of the Audio Division's dismissal of the ESB Application, WPAT Licensing continues its pursuit of a permanent maximum Class B facility at the Empire State Building. It is important to note that the Petition for Reconsideration also asked the Audio Division to consider the widespread impact of its bright-line Section 73.213(a) policy as it applies to the unprecedented circumstances of September 11, 2001, and the unique allocation situation common to all New York City FM stations.<sup>2</sup>

Until final action on the WPAT-FM ESB Application, WPAT-FM must operate its main facility from the Empire State Building pursuant to Special Temporary Authority. In the event the WPAT Licensing Petition for Reconsideration is ultimately denied in whole or in part, for the reasons discussed above, WPAT-FM is compelled to pursue a long-term maximum facility

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<sup>2</sup> See WPAT Licensing Petition for Reconsideration, Engineering Statement, Page 9.

STATEMENT OF WILLIAM J. GETZ  
WPAT-FM, PATERSON, NEW JERSEY  
PAGE 4

STA at the Empire State Building. This will allow WPAT Licensing to maintain its World Trade Center FCC License as the WPAT-FM "license of record" and would not foreclose WPAT Licensing's right to re-establish a maximum Class B facility for WPAT-FM at some point in the future.

Accordingly, WPAT Licensing herein requests authority to extend the Empire State Building STA for an additional 180 days. In addition, WPAT Licensing herein requests the ERP be increased from the presently authorized 3.4 kW ERP to 4.9 kW ERP. This is the power level suggested by the Audio Division in its July 28, 2003, letter. This is the power level the Audio Division termed compliant with FCC Rules.

As shown on Exhibit 1, the proposed WPAT-FM 60 dBu contour (from the Empire State Building with an ERP of 4.9 kW) would extend slightly beyond the licensed WPAT-FM 60 dBu contour from the former World Trade Center location. Consequently, WPAT Licensing requests an exception to the Audio Division's *policy* which prohibits an STA facility from extending the authorized 60 dBu coverage contour in any direction. This proposal is wholly compliant with Section 73.1635 of the FCC Rules which governs requests for STA.

By permitting this limited exception to the STA policy, the Audio Division would allow WPAT-FM to restore 54 dBu primary grade service to 312,481 persons and 70 dBu city-grade service to 288,063 persons who have been without this grade of service from WPAT-FM since September 11, 2001.

#### TECHNICAL FACILITY

The temporary WPAT-FM facility will operate with an ERP of 4.9 kW from the master antenna located atop the Empire State Building. The antenna height is 413 meters above ground level, 429 meters above mean sea level and 415 meters above average terrain. WPAT-FM will operate with the appropriate transmitter power output to achieve an ERP of 4.9 kW.

#### PREDICTED COVERAGE CONTOURS

The predicted coverage contours were calculated in accordance with the method described in Section 73.313 of the Rules utilizing the appropriate F(50,50) propagation curves from the Rules (Section 73.333, Figure 1), effective radiated power, and antenna height above average terrain as determined for each profile radial. The average terrain on the eight cardinal radials from 3.2 kilometers to 16.1 kilometers from the proposed site was obtained from a National Geophysical Data Center Thirty Second Point Topographic Database (TGP-0050). The site elevation and geographic coordinates of the proposed site were obtained from FCC tower registration data.

#### BLANKETING AND INTERMODULATION INTERFERENCE

As stated above, WPAT-FM will use the master FM antenna atop the Empire State Building. In the event that blanketing interference occurs as a result of the instant proposal,

the applicant will take appropriate steps to minimize the interference within its blanketing contour. Further, the applicant accepts the responsibility to alleviate any new intermodulation interference, including receiver induced, resulting from the instant proposal combined with a broadcast facility located within ten kilometers of the proposed site.

In accordance with Commission precedent (See WKLX, Inc., 6 FCC Rcd 225 (1991)) the applicant will exclude both mobile and battery-powered receivers from Receiver Induced Third Order Intermodulation and Blanketing Interference Resolution Requirements. In the event any type of intermodulation interference occurs with any other facilities which have not been identified, the applicant will take appropriate steps (i.e. install and maintain traps or filters) to minimize the interference in fixed receivers. The applicant will respond to complaints of blanketing interference for a period of one year in compliance with Section 73.318(b) of the Commission's Rules.

#### FAA NOTIFICATION AND FCC TOWER REGISTRATION

The applicant will use an existing master FM antenna located atop the Empire State Building. The FCC Tower Registration number for the existing support structure is 1007048.

#### RADIOFREQUENCY IMPACT

The applicant is party to the Empire State Building's joint users agreement/arrangement to ensure that the proposed FM facility satisfies FCC guidelines for

STATEMENT OF WILLIAM J. GETZ  
WPAT-FM, PATERSON, NEW JERSEY  
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occupational or "controlled" situations as well as "uncontrolled" situations that apply in cases that affect the general public. Further, WPAT-FM will reduce power and/or cease operation during times of service or maintenance of the transmission systems as necessary to avoid potentially harmful exposure to personnel.

In light of the above, the proposed WPAT-FM facility should be categorically excluded from RF environmental processing under Section 1.1307(b) of the Commission's Rules.

This statement and the attached exhibit were prepared by me or under my direct supervision and are believed to be true and correct.

DATED: March 23, 2004

  
\_\_\_\_\_  
William J. Getz



WPAT License (BLH-820223AR): Solid Red Contour \*  
 Proposed STA From Empire State Bldg.: Blue Dashed Contour  
 \* Former World Trade Center facility

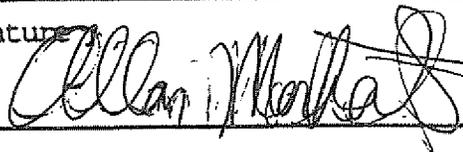
LICENSED MAIN AND PROPOSED STA  
 PREDICTED 60 dBu (1.0 mV/m) CONTOURS  
 WPAT(FM), PATERSON, NEW JERSEY  
 LIC: CH. 226B, 5.4 kW, 433 m HAAT  
 STA: Ch. 226, 4.9 kW, 415 m HAAT  
 MARCH, 2004

ANTI-DRUG ABUSE ACT CERTIFICATION

The applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853a, or, in the case of a non-individual applicant (e.g. corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. § 1.2002(b).

Yes

No

Name of Applicant WPAT Licensing, Inc.	Signature 
Date 3/25/04	Title Counsel