

EXHIBIT 38

Request for Authorization for Early Commencement of Post-Transition DTV Operation

NCE Station WLVT-DT, Allentown, Pennsylvania
Facility ID: 36989 / FRN: 0003264744

Lehigh Valley Public Telecommunications Corporation (“Lehigh”) requests approval for early operation of its post-transition digital television service for noncommercial educational Station WLVT-DT, NTSC channel 39 and pre-transition DTV Channel 62, Allentown, Pennsylvania, prior to February 17, 2009. As described below, Lehigh plans to terminate WLVT’s pre-transition digital service on Channel 62 on or about January 26, 2009 and to terminate analog service on Channel 39 on January 30, 2009. Lehigh is asking for FCC approval to commence operating its post-transition digital facility on Channel 39, effective **January 30, 2009**.

With *In the Matter of Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*,¹ the Commission set forth procedures for stations to provide notice of analog and pre-transition digital service termination in the 90 days before the February 17, 2009 transition date if necessary to achieve transition.² The Commission also established application procedures for the termination of service in connection with early digital operation on a post-transition channel.³ Specifically, the *Third Periodic Review* provided that applicants must provide notice to the FCC at least 30 days in advance for early analog and pre-transition digital service termination if the termination falls within 90 days of the transition date. In order to terminate analog and pre-transition digital service and begin post-transition digital operations before the transition date, the *Third Periodic Review* directs applicants to show that the early transition will not cause impermissible interference to another station, that the station will continue to serve its existing viewers until the transition date, and that the station will commence full, authorized post-transition operations on February 18, 2009.⁴

In this case, WLVT’s proposed early analog and pre-transition digital service termination is directly related to, and necessitated by, WLVT’s construction of its post-transition digital facility. WLVT is on an out-of-core channel, therefore, WLVT is returning to its analog Channel 39 for post-transition operations. The manufacturer has informed WLVT that, given the manufacturer’s overall DTV conversion schedule, the proposed time frame (January 26, 2009 to January 30, 2009) is the only feasible time to conduct the transmitter conversion at the WLVT site in order to ensure that the DTV transmitter work can be completed by the transition deadline.

¹ Report and Order, MM Docket No. 07-91, FCC 07-228 (Rel. Dec. 31, 2007) (“*Third Periodic Review*”).

² Id. at ¶ 133, et. seq.

³ Id. at ¶ 121, et. seq.

⁴ Id.

The transmitter conversion is expected to take nearly a week, so Lehigh fully expects that post-transition digital service on Channel 39 should begin by January 30, 2009. Therefore, Lehigh has already scheduled a tower crew and engineering support to perform the necessary work from January 26 to January 30, 2009.

Thus, in order to ensure a smooth transition, Lehigh needs to commence post-transition operations early. Waiting until February 17, 2009 is not a viable option, given the manufacturer's schedule and the need to schedule a tower crew and engineering support in advance. Moreover, given WLVT's out-of-core pre-transition channel, making an "early" transition to its post-transition channel will help avoid any last-minute problems that could result in a complete loss of WLVT service on the DTV transition date.

Lehigh has a construction permit for its post-transition DTV channel 39 facility in FCC File No. BPEDT-20080201AQV. (Lehigh also has a granted construction permit for a maximized facility in File No. BMPEDT-20080618AAL, but does not plan to operate this maximized facility until after the transition date.)

Accordingly, Lehigh provides notice of its plan to terminate WLVT's pre-transition digital Channel 62 service on or about January 26, 2009 and to terminate WLVT's analog Channel 39 service on or about January 30, 2009 in order to allow for build-out of WLVT's post-transition facility. In addition, in connection with the analog and pre-transition terminations and post-transition construction, Lehigh requests approval to commence its DTV channel 39 service upon completion of the facility conversion, expected to be on or about January 30, 2009.

Based on its consulting engineer's studies, Lehigh believes that WLVT's post-transition DTV facility (operating pursuant to FCC File No. BPEDT-20080201AQV) will not cause impermissible interference to any other station. Should the Commission determine that interference would occur, Lehigh will operate WLVT at the level of reduced power necessary to avoid impermissible interference. Although viewers will temporarily be without service during the actual transmitter conversion, this temporary loss of service is simply unavoidable and must occur at some point during transition in order to complete the conversion to DTV channel 39. WLVT will continue to provide an analog signal to three local cable head ends through fiber optic cables during the construction and after the transition. More than 80% of WLVT's viewers will continue to receive WLVT's signal through these cable systems during the necessary construction. Station WLVT in Allentown, Pennsylvania is affiliated with PBS. Except for the temporary loss of service (for approximately one week), WLVT will continue to serve existing viewers.

Lehigh is a noncommercial educational licensee and it operates WLVT on a noncommercial educational basis. The licensee is therefore exempt from FCC filing fee requirements, pursuant to Section 1.1114 of the Commission's Rules, and the facility is exempt from FCC regulatory fees, pursuant to Section 1.1162 of the Rules.