

## **Request for Waiver of Minor Modification Filing Freeze**

To the extent necessary to process and approve the instant application, and pursuant to Section 1.3 of the Commission's rules, ION Media Battle Creek License, Inc. ("ION"), licensee of WZPX-TV, Battle Creek, Michigan, hereby requests waiver of the Media Bureau's 2013 freeze on the filing and processing of minor modification applications. *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*, 28 FCC Rcd 4364 (MB 2013) ("*April 2013 Freeze Public Notice*").

In the *April 2013 Freeze Public Notice* the Media Bureau stated that it would consider, on a case-by-case basis, requests for waivers of the processing freeze when unforeseen events occur that require a station to relocate to a new tower site. 28 FCC Rcd at 4365. This is the situation that WZPX-TV faces. On April 3, 2018, WZPX-TV was granted a construction permit for post-auction operations at its current tower site. *See* FCC LMS File No. 0000034925. Subsequently, it became evident that ION's current tower will not be available for post-repack operations. ION sought unsuccessfully to negotiate lease terms with the owner of its current tower that would have accommodated ION's post-repack operations. Due to the unreasonable demands of the tower owner, those negotiations have failed, and ION does not have access to the tower for post-repack facilities.

To determine available tower sites that would permit continued operations, ION performed a comprehensive analysis of the Grand Rapids market. In the immediate vicinity of the current tower site, ION's market analysis found no acceptable alternatives that would provide equivalent interference-free coverage as compared to the Station's pre-auction or authorized post-auction facilities. However, ION was able to identify an acceptable tower site to the west of the current authorized site. To move to this new tower site, ION requires an amendment to its post-auction construction permit, which modification is requested in the attached application.

Grant of the requested waiver satisfies the Commission's standards laid out in the *April 2013 Freeze Public Notice* and plainly is in the public interest. ION's current tower is unavailable for post-auction operations. Absent grant of this request and the accompanying construction permit application, ION will be unable to construct post-auction facilities by the October 18, 2019 Phase 6 completion deadline. The proposed site will permit post-repack operations and preserve service to as many of WZPX-TV's current viewers as possible given the tower placement and technical constraints on ION's post-repack operations. In addition, ION has determined that the instant application will not cause harmful interference to any low-power television station that participated in the post-auction displacement window that occurred in 2018. Accordingly, the impact of granting the requested waiver will be to the benefit of all television viewers in the Grand Rapids DMA.