



Federal Communications Commission
Washington, D.C. 20554

May 16, 2019

ION Media Greensboro License, Inc.
601 Clearwater Park Road
West Palm Beach, Florida 33401

ION Media Raleigh License, Inc.
601 Clearwater Park Road
West Palm Beach, Florida 33401

ION Media License Company, LLC
601 Clearwater Park Road
West Palm Beach, Florida 33401

ION Media Greenville License, Inc.
601 Clearwater Park Road
West Palm Beach, Florida 33401

Re: WGPX-TV, Burlington, North Carolina
Facility ID No. 65074
File No. 0000068233

WRPX-TV, Rocky Mount, North Carolina
Facility ID No. 20590
File No. 00000068236

WPXH-TV, Hoover, Alabama
Facility ID No. 73312
File No. 00000071584

WEPX-TV, Greenville, North Carolina
Facility ID No. 81508
File No. 00000072563

Dear Licensees:

This is with respect to the above referenced minor modification applications filed by ION Media Greensboro License, Inc.; ION Media Raleigh License, Inc.; ION Media License Company, LLC; and ION Media Greenville License, Inc. (collectively, ION) for, respectively, stations WGPX-TV, Burlington, North Carolina; WRPX-TV, Rocky Mount, North Carolina; WPXH-TV, Hoover, Alabama; and WEPX-TV, Greenville, North Carolina. ION proposes to relocate the stations to new tower sites and requests waivers of the current freeze on the filing of minor modification applications for changes to existing television service areas that would increase a full power television station's noise-limited contour.¹ For the reasons set forth below, we grant the requested waivers and the minor modification applications.

¹ *Media Bureau Announces Limitations on the Filing and Processing of Full Power and Class A Television Stations 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 Bureau explained that the freeze was necessary (1) to create a stable database of full power and Class A facilities that would allow for the development and analysis of potential repacking methodologies to be used in connection with the Incentive Auction authorized by the Spectrum Act; and (2) to avoid further expansion of broadcast television stations' use of spectrum.² The Incentive Auction closed with the issuance of the *Closing and Channel Reassignment Public Notice* on April 13, 2017, and the transition is underway.³ All four stations were reassigned to a new channel⁴ and must complete construction of their new facilities by September 6, 2019.

In support of its waiver requests, ION states that the current tower sites for the stations will not be available for post-auction operations due to failed negotiations with the tower owners. ION further states that it conducted a comprehensive analysis in each station's market and was unable to identify a tower in the immediate vicinity of the current tower sites. ION also points out that the *April 2013 Freeze Public Notice* stated that the Bureau would consider requests for waiver of the filing limitations when a modification application is necessary or otherwise in the public interest for technical or other reasons to maintain quality service to the public, including the loss of a station's tower.⁵

For WGPX-TV, ION proposes a tower 45 kilometers to the southwest of its current site, which would result in a shift of the station's noise limited contour to the southwest and create areas of service gain and loss. While 78,123 persons would lose service from WGPX-TV, ION states that WGPX-TV also would have a gain area of 898,299 persons, and under the Commission's traditional contour prediction methodology, WGPX-TV will have a net gain area of 820,176 persons. ION further states that all of the loss area would remain well served by 5 or more over-the-air full-power television stations.

For WRPX-TV, ION proposes a tower 31 kilometers to the south of the current site, which would result in a shift of the station's noise limited contour to the southeast and create areas of service gain and loss. While 21,910 persons would lose service from WRPX-TV, ION states that WRPX-TV also would have a gain area of 431,014 persons, and under the Commission's traditional contour prediction methodology, WRPX-TV will have a net gain area of 409,044 persons. ION further states that the majority of the loss area would remain well served by 5 or more over-the-air full-power television stations with some areas served by between 2 and 4 stations. Where there are less than 5 services available, the loss of over-the-air service amounts to approximately 1,494 persons and, where there are 3 or few services available, the loss of over-the-air service amounts to approximately 559 persons.

For WPXH-TV, ION proposes a tower 55 kilometers to the southwest of the current site, which would result in a shift of the station's noise limited contour to the southeast and create areas of service loss. While 358,003 persons would lose service from WPXH-TV, ION states that WPXH-TV also would have a gain area of 337,467 persons and, under the Commission's traditional contour prediction methodology, WPXH-TV would have a net loss of 20,536 persons. WPXH-TV currently provides an over-the-air signal to 1,487,722 persons in its service area, so the predicted service loss would represent

² *Id.* at 4364-65.

³ See *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786 (2017) (*Closing and Channel Reassignment Public Notice*).

⁴ WGPX-TV was reassigned from channel 14 to channel 26; WRPX-TV from channel 15 to channel 32; WPXH-TV from channel 45 to channel 33; and WEPX-TV from channel 26 to channel 36.

⁵ *April 2013 Freeze Public Notice*, 28 FCC Rcd at 4365.

approximately 1.4% of WPXH-TV's service population. The majority of the loss area would remain well served by 5 or more over-the-air full-power television stations, with a small area (2,365 persons or 0.16% of WPXH-TV's total service population) served by 4 stations.

For WEPX-TV, ION proposes a tower 32 kilometers to the southeast of the current site, which would result in a shift of the station's noise limited contour to the southeast and create areas of service gain and loss. While 88,556 persons would lose service from WEPX-TV, ION states that WEPX-TV also would have a gain area of 193,945 persons, and under the Commission's traditional contour prediction methodology, WRPX-TV will have a net gain area of 105,389 persons. ION further states that all of the loss area would remain well served by 5 or more over-the-air full-power television stations.

In addition, in connection with the transition, the Bureau temporarily lifted the April 2013 Freeze for full power and Class A stations that had not been reassigned to a new channel.⁶ The Bureau did so to decrease the possibility that low power television, television translator, and analog-to-digital replacement translator stations (LPTV/translator stations) that file to modify their facilities during a later Special Displacement Window available to LPTV/translator stations displaced by the Incentive Auction would subsequently be displaced again by full power stations that file applications after the freeze is permanently lifted.⁷ ION states that it reviewed the impact of its applications on LPTV/translator stations in the area and that the facilities proposed for WEPX-TV "does not create harmful interference to any low-power television station that participated in the post-auction displacement window that occurred in 2018." According to ION, the facility proposed for WGPX-TV would cause interference to a construction permit for WHEH-LD; the facility proposed for WRPX-TV would cause interference to construction permits for WDRN-LD and WTMQ-LD; and the facility proposed for WPXH-TV would displace a construction permit for digital low power television station WBMA-LD. ION asserts, however, for the WGPX-TV, WRPX-TV, and WRPX-TV proposals, that "given the exigent circumstances caused by ION's loss of access to its tower for post-auction operations, the temporary displacement of [the] secondary service[s] is necessary to ensure the continuation of ION's full-power over-the-air operations."

We agree that the public interest would be served by granting ION waivers of the freeze. Because ION's current towers for the four stations are unavailable for post-auction operation, absent a waiver the stations could be required to cease operations or receive significant interference from other stations' post-auction facilities until the freeze is permanently lifted and ION is able to file minor modification applications for the proposed new sites.⁸ Moreover, because the four stations are already required to construct new facilities on their reassigned channels, granting waivers will not increase the number of stations needing to acquire equipment or use other construction resources during the post-auction transition period.

⁶ *Media Bureau Temporarily Lifts the Freeze on the Filing of Minor Modification Applications That Expand the Contour of Full Power and Class A Television Stations from November 28 Through December 7, 2017*, Public Notice, 32 FCC Rcd 9328 (MB 2017).

⁷ *Freeze on the Filing of Modification Applications to be Lifted Temporarily to Permit Filing of Applications to Expand the Contours of Full Power and Class A Television Stations That Are Not Part of the Post-Incentive Auction Repack Process*, Public Notice, 32 FCC Rcd 7643 (MB 2017).

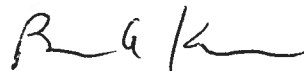
⁸ The four stations are in linked station sets which requires that they coordinate and agree upon a transition schedule for testing and commencing operations on post-auction channels with all stations with which they are directly linked. See *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, 33 FCC Rcd 8240, 8242 & n.12 (IATF/MB 2018).

In addition, while ION has demonstrated that the facilities proposed for WEPX-TV will not displace any LPTV/translator stations that filed in the Special Displacement Window, and thus will not frustrate the underlying purpose for the Bureau's decision to briefly lift and then reimpose the April 2013 Freeze, it admits that the proposal for WGPX-TV will cause interference to a construction permit for WHEH-LD; that the proposal for WRPX-TV will cause interference to construction permits for WDRN-LD and WTMQ-LD; and that the proposal for WPXH-TV would displace WBMA-LD. We agree with ION that continuation of its full power operations takes precedence over the displacement of these secondary services. In any event, the Media Bureau recently lifted its freeze on the filing of displacement applications⁹ and these secondary stations may immediately file displacement applications if they wish.

While proposed technical changes that would result in a loss of television service are generally considered *prima facie* inconsistent with the public interest, unless outweighed by countervailing factor,¹⁰ the loss areas are necessitated by the stations' need to change tower locations in order to continue to provide service to the vast majority of persons within their current noise limited contours. Moreover, the vast majority of the loss areas will continue to be well-served by other full power television stations,¹¹ and the loss areas that would continue to receive service from fewer full-power television stations are small.

In view of the forgoing, the requests filed by ION Media Greensboro License, Inc.; ION Media Raleigh License, Inc.; ION Media License Company, LLC; and ION Media Greenville License, Inc. for stations WGPX-TV, Burlington, North Carolina; WRPX-TV, Rocky Mount, North Carolina; WPXH-TV, Hoover, Alabama; and WEPX-TV, Greenville, North Carolina for waiver of the April 2013 freeze and the minor modification applications ARE HEREBY GRANTED. We caution that any additional expenses incurred as a result of the grant of the stations' minor modification applications may not be reimbursable from the TV Broadcasters Relocation Fund. Such additional costs might include, but may not be limited to, additional legal or engineering expenses; filing fees; and interim or additional equipment that was not contemplated when the stations filed their initial estimated expenses but was subsequently necessary to complete the transition to their post-auction channels due to modification of their post-auction facilities.

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Shea Clark
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Clearwater, Florida 33764

⁹ See *Media Bureau Lifts LPTV and TV Translator Application Filing Freeze Effective April 18, 2019*, Public Notice, DA 19-193 (rel. Mar. 19, 2019).

¹⁰ See, e.g., *Amendment of Section 76.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Fond du Lac, Wisconsin)*, Memorandum Opinion and Order, 26 FCC Rcd 12712, 12714-15 (MB 2011).

¹¹ An area that receives at least five other existing services is considered well-served. See *KVMD Licensee Co., LLC*, Letter Order, 23 FCC Rcd 15748, 15749, n.9 (Vid. Div. 2008).