



Federal Communications Commission
Washington, D.C. 20554

June 11, 2019

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

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

Re: WLPX-TV, Charleston, West Virginia
Facility ID No. 73189
File No. 0000069627

WZPX-TV, Battle Creek, Michigan
Facility ID No. 71871
File No. 0000068453

Dear Licensees:

This is with respect to the above referenced minor modification applications filed by ION Media Charleston License, Inc. and ION Battle Creek License, Inc. (collectively, ION) for, respectively, stations WLPX-TV, Charleston, West Virginia and WZPX-TV, Battle Creek, Michigan. 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.

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*

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*).

² *Id.* at 4364-65.

Public Notice on April 13, 2017, and the transition is underway.³ Both stations were reassigned to a new channel⁴ and must complete construction of their new facilities by October 18, 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 WLPX-TV, ION proposes a tower 38 kilometers to the west of the current site, which would result in a shift of the station's noise limited contour to the west and create areas of service gain and loss. While 238,114 persons would lose service from WLPX-TV, ION states that WLPX-TV also would have a gain area of 188,034 persons, and under the Commission's traditional contour prediction methodology, WLPX-TV will have a net loss area of 50,080 persons. WLPX-TV currently provides an over-the-air signal to 1,115,558 persons in its service area, so the predicted service loss would represent approximately 4.5% of WLPX-TV's service population. 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 3 and 4 stations. However, the number of people served by 3 stations would be fewer than 10, and the aggregate number of people served by 3 or 4 stations would be reduced to 2,016 persons (.18% of WLPX-TV's total service population).

For WZPX-TV, ION proposes a tower 35 kilometers to the west 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 328,961 persons would lose service from WZPX-TV, ION states that WZPX-TV also would have a gain area of 273,692 persons, and under the Commission's traditional contour prediction methodology, WZPX-TV will have a net loss area of 55,269 persons. WZPX-TV currently provides an over-the-air signal to 2,096,527 persons in its service area, so the predicted service loss would represent approximately 2.64% of WZPX-TV's service population. 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

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 WLPX-TV was reassigned from channel 39 to channel 18, and WZPX-TV was reassigned from channel 44 to channel 21.

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

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).

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 WZPX-TV and WLPX-TV, respectively, do “not create harmful interference to any low-power television station that participated in the post-auction displacement window that occurred in 2018.”

We agree that the public interest would be served by granting ION waivers of the freeze. Because ION’s current towers for the two 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 two 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.

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,⁹ 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,¹⁰ 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 Charleston License, Inc. and ION Media Battle Creek License, Inc. for stations WLPX-TV, Charleston, West Virginia, and WZPX-TV, Battle Creek, Michigan, 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

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).

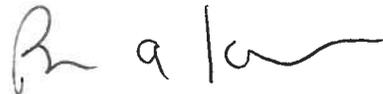
⁸ Both stations are in linked station sets which requires that they coordinate and agree upon a transition schedule for testing and commencing operations on post-auction channels with all stations with which they are directly linked. *See Incentive Auction Task Force and Media Bureau Remind Repacked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

⁹ *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).

¹⁰ 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).

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,

A handwritten signature in black ink, appearing to read 'B a | c', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Shea Clark
ION Media Networks, Inc.
14444 66th Street N
Clearwater, Florida 33764