

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the matter of:	)	
	)	
Telepak Networks, Inc. d/b/a C Spire Fiber	)	
	)	MB Docket No. 12-1
v.	)	CSR - _____
	)	
Gray Television Group, Inc.	)	<b>EXPEDITED CONSIDERATION</b>
	)	<b>REQUESTED</b>

**To: The Office of the Secretary**  
**Attn: Media Bureau**

**RETRANSMISSION CONSENT COMPLAINT AND  
PETITION FOR DECLARATORY RULING**

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## I. INTRODUCTION AND SUMMARY

Pursuant to 47 U.S.C. § 325(b)(3)(C)(ii) and 47 C.F.R. §§ 1.2, 76.7 and 76.65 of the Commission's rules, Telepak Networks, Inc. d/b/a C Spire Fiber ("C Spire")<sup>1</sup> submits this Retransmission Consent Complaint against Gray Television Group, Inc. and its affiliates (collectively, "Gray"). In addition, to remove any future uncertainty concerning the questions posed in this Complaint, C Spire concurrently submits a Petition for Declaratory Ruling.

As explained herein, an affirmative decision is necessary to protect what Congress and the Commission have worked diligently in recent years to assure – that citizens in communities "receiv[e] news, politics, sports, emergency information, and other television programming relevant to their home state."<sup>2</sup> The station at issue, WLOX, is both significantly viewed in Diamondhead, Mississippi and was recently deemed "local" by the Commission's Media Bureau in response to a market modification request. CBS, via Gray, seeks to thwart both Congress's and the Commission's efforts by refusing to grant the citizens of Diamondhead access to WLOX's multicast stream affiliated with the CBS network unless C Spire also agrees to retransmit – and pay for – WWL, the in-Designated Market Area ("DMA") New Orleans station owned by Tegna Inc. and affiliated with the CBS network. At issue is whether CBS can force the citizens of Diamondhead to pay for two CBS signals, one of which is of little to no interest to

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<sup>1</sup> Throughout this Complaint and Petition, parties also refer to C Spire as Telapex or Telepex.

<sup>2</sup> *Satellite Television Extension and Localism Act Reauthorization Act of 2014*, Pub. L. 113-200, 128 Stat. 2059 (2014) ("STELAR"); *Amendment to the Commission's Rules Concerning Market Modification, Implementation of Section 102 of the STELA Reauthorization Act*, Report and Order, 30 FCC Rcd 10406, ¶ 1 (2015) ("STELAR Market Mod Order").

the local community,<sup>3</sup> simply so that citizens can receive the in-state, local and significantly viewed station.

Gray is the licensee of commercial television broadcast station WLOX (DT), Biloxi, Mississippi, and holds the CBS affiliation that it broadcasts as a multicast stream on WLOX. C Spire’s difficulty obtaining consent to retransmit WLOX’s multicast stream affiliated with the CBS network exemplifies the very problems Congress sought to solve when it amended the Communications Act in 2014. To ensure the ability of cable operators to carry stations deemed local to a community, Congress not only added a new statutory factor to the market modification process – whether modifying the market of the television station would promote consumers’ access to television broadcast station signals that originate in their State of residence – it also amended Section 325 of the Communications Act to “prohibit a television broadcast station from limiting the ability of a[n MVPD] to carry into the local market . . . of such station a television signal that has been deemed significantly viewed . . . or any other television broadcast signal such distributor is authorized to carry under section 338, 339, 340, or 534 of this title, unless such stations are directly or indirectly under common de jure control permitted by the Commission.”<sup>4</sup>

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<sup>3</sup> In a survey distributed by the Diamondhead Mayor’s office during the market modification proceedings, 94% of all respondents indicated that the New Orleans stations did not give adequate coverage of local Diamondhead news and events. The Commission indicated this as particularly notable in their order granting the market modification. See *Telepak Networks, Inc., d/b/a C Spire Fiber, For Modification of the Television Markets of Stations WLOX(DT), Biloxi, MS and WXXV-TV, Gulfport, MS to include Diamondhead, MS*, Memorandum Opinion and Order, MB Docket No. 18-381, ¶ 9, n.29 (rel. Apr. 18, 2019) (“WLOX and WXXV Market Modification Order”); *Telepak Networks, Inc., d/b/a C Spire Fiber, For Modification of the Television Markets of Stations WLOX(DT), Biloxi, MS and WXXV-TV, Gulfport, MS to include Diamondhead, MS*, Petition for Special Relief, MB Docket No. 12-1, at 11-13 (filed Dec. 4, 2018).

<sup>4</sup> STELAR at 2062.

Both provisions are implicated here. Earlier this year, C Spire successfully petitioned the Commission to add Diamondhead to the local markets of a Biloxi, Mississippi station, WLOX, and a Gulfport, Mississippi station, WXXV, in part because Diamondhead, while in Hancock County, Mississippi, was deemed by the Nielsen Company to be part of the New Orleans, Louisiana DMA.<sup>5</sup> Market modification in hand, C Spire then sought to obtain both stations' consent to retransmit their signals. While C Spire has successfully negotiated a retransmission consent agreement with WXXV for carriage of its broadcast streams in Diamondhead, C Spire has not been able to obtain WLOX's permission to retransmit its multicast stream affiliated with the CBS network in Diamondhead without severe limitations. This is due to the actions of CBS itself, rather than the local station, as C Spire has an existing retransmission consent agreement with Gray, and Gray has consented to C Spire retransmitting WLOX's primary stream affiliated with the ABC network without condition.

Significantly, as a result of the market modification grant, WLOX is now deemed a local station in Diamondhead, subject to the more rigorous reciprocal good faith bargaining obligations of in-market stations. Nonetheless, Gray has told C Spire that it will only permit C Spire to retransmit WLOX's CBS multicast stream if C Spire also negotiates for and carries WWL, the New Orleans CBS affiliate owned by Tegna, thus requiring subscribers in Diamondhead to pay for a second CBS affiliate in order to view the in-state, local and significantly viewed station overwhelmingly desired by the citizens of Diamondhead. C Spire spoke with Gray in an attempt to resolve this issue amicably. Gray, to its credit, discussed the

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<sup>5</sup> In 1996, the Commission expanded WLOX's local market to include Picayune, Kiln, Lucedale and unincorporated Hancock County, Mississippi. *Liberty Corporation, Biloxi Mississippi, Petition for Modification of the Biloxi-Gulfport-Pascagoula, Mississippi ADI*, Memorandum Opinion and Order, 11 FCC Rcd 7 (1996).

situation with CBS. However, CBS informed Gray that it will only permit WLOX to grant retransmission consent to C Spire for distribution in Diamondhead, “provided that such new distribution is pursuant to the terms of WLOX’s Network Affiliation Agreement, **including the simultaneous retransmission of the CBS affiliate licensed to the New Orleans DMA.**”<sup>6</sup> Put simply, Gray will not negotiate further with C Spire for carriage of WLOX’s CBS multicast stream unless this demand is met.

This conduct squarely violates the Commission’s good faith rules in two respects. First, it is a *per se* violation under the retransmission consent good faith negotiation rules, as amended in 2015, for a “television broadcast station [to limit] the ability of a multichannel video programming distributor to carry into the local market (as defined in 17 U.S.C. 122(j)) of such station a television signal that has been deemed significantly viewed, within the meaning of §76.54 of this part . . . or any other television broadcast signal such distributor is authorized to carry under section 338, 339, 340, or 534 of this title.”<sup>7</sup> Since WLOX is now a local station in Diamondhead, any “limitation” on C Spire carrying WLOX’s CBS feed in Diamondhead, including a requirement that C Spire also carry (and pay for) the New Orleans CBS feed, constitutes a *per se* violation under the Commission’s good faith rules. Moreover, it is also a *per se* violation for refusing to negotiate retransmission consent and a *per se* violation for refusing to put forth more than a single, unilateral proposal.<sup>8</sup> While the Commission’s rules require broadcasters subject to contractual limitations that have been engaged *by an out-of-market* MVPD to at least inquire with its network whether the network would waive the

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<sup>6</sup> See *Exhibit 1*, Email dated May 14, 2019 from Mr. John Bagwell to Mr. Rob Folliard (emphases added).

<sup>7</sup> 47 C.F.R. 76.65(b)(ix).

<sup>8</sup> 47 C.F.R. 76.65(b)(i); 47 C.F.R. 76.65(b)(iv).

limitation with regard to the MVPD in question, WLOX is now a local station in Diamondhead. Gray's refusal to negotiate with C Spire, therefore, also constitutes a refusal to negotiate retransmission consent and a refusal to put forth more than a single, unilateral proposal.<sup>9</sup>

As demonstrated below, Gray has failed to negotiate in good faith with C Spire for retransmission consent rights in violation of the Communications Act and the Commission's rules. Accordingly, C Spire respectfully requests that the Commission: (i) act expeditiously and find that Gray has violated its duty to negotiate in good faith; and (ii) direct Gray to immediately commence negotiations in good faith. Further, C Spire respectfully requests that the Commission remove any future uncertainty by issuing a Declaratory Ruling as follows:

When the Commission modifies a commercial television broadcast station's market to include an additional community or additional communities, that station and all of its broadcast streams are now considered to be in-DMA (or "local") for reciprocal retransmission consent negotiation purposes in those communities.

**Parties.** Telepak Networks, Inc. d/b/a C Spire Fiber is a full-service provider of Internet, telecommunications, video and network services. C Spire offers high-speed Internet, enhanced digital video services and voice services and is a wholly owned subsidiary of Telapex, Inc., a Ridgeland, Mississippi-based telecommunications company. C Spire and its other affiliates provide video service through 66 franchises throughout the state of Mississippi.

On October 17, 2017, C Spire was granted a franchise by the City of Diamondhead, Mississippi to construct and operate a cable system and to offer video services in Diamondhead. A consistent question from City staff and community leaders when discussing the franchise was whether C Spire would carry stations from the Biloxi-Gulfport, Mississippi DMA, particularly WLOX.

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<sup>9</sup> 47 C.F.R. 76.65(b)(iv).

Gray owns and/or operates stations in 93 television markets across the United States, including WLOX. Almost all Gray stations are affiliated with a major broadcast network (ABC, CBS, FOX, NBC, CW or My Network).<sup>10</sup> On June 25, 2018, Gray announced its intent to acquire Raycom Media for \$3.65 billion.<sup>11</sup> Once the sale was approved by the Commission in December 2018, and the deal completed in January 2019, Gray became the third-largest owner of television stations in the United States.<sup>12</sup> As part of the Raycom transaction, Gray acquired WLOX.

WLOX is a full-power commercial broadcast station licensed to Gray Television Licensee, LLC and transmitting on virtual channel 13 from Biloxi, Mississippi in the Biloxi-Gulfport DMA. WLOX's primary stream broadcasts programming affiliated with the ABC network. WLOX's multicast streams broadcast programming affiliated with the CBS network and Bounce TV Network.

C Spire and Gray are parties to a retransmission consent agreement, dated January 1, 2015 and subsequently amended on January 1, 2018, for the retransmission of WTOK, the Meridian, Mississippi station affiliated with the ABC network.

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<sup>10</sup> Gray claims to own and/or operate the first or second highest rated television station in 87 markets. Cite Gray website. See About – Gray Television, available at <https://gray.tv/about#ourstory> (last visited June 2, 2019).

<sup>11</sup> Austen Hufford, *Gray TV to Buy Raycom in \$3.65 Billion Deal*, WALL STREET JOURNAL, June 25, 2018, available at <https://www.wsj.com/articles/gray-tv-to-buy-raycom-in-3-65-billion-deal-1529932732> (last visited June 2, 2019).

<sup>12</sup> See *Applications for Consent to Transfer Control of Certain License Subsidiaries of Raycom Media, Inc. to Gray Television, Inc.*, Memorandum Opinion and Order, MB Docket No. 18-1286 (rel. Dec. 20, 2018); News Release, *Gray Completes Acquisition of Raycom Media and Related Transactions*, Jan. 2, 2019, available at <https://gray.tv/uploads/documents/pressreleases/Press%20Release%20re%20Completion%20of%20Raycom%20Acquisition.pdf> (last visited June 2, 2019).



## II. BACKGROUND

C Spire’s journey to bring local in-state signals to Diamondhead, Mississippi began in September 2017, when it met with Diamondhead officials about acquiring a franchise to provide cable service in the city. Diamondhead is located in Hancock County, and although it lies only 35 miles from Biloxi, is considered part of the New Orleans DMA, even though New Orleans is approximately 60 miles away, in a different state, and on the other side of Lake Pontchartrain. A consistent question from Diamondhead officials during franchise negotiations, at the outset and thereafter, was whether C Spire would provide the Biloxi-Gulfport DMA stations, especially WLOX, which the incumbent cable operator no longer retransmits. This “quintessential example” of a community warranting market modification to “promote consumers’ access to television broadcast station signals that originate in their state of residence” and the overwhelming support of the City officials and the public led C Spire to request that the Commission modify WLOX’s (and WXXV’s) television markets to include Diamondhead.<sup>13</sup> C Spire’s Petition was unopposed.<sup>14</sup>

On April 18, 2019, the Commission’s Media Bureau released an Order granting C Spire’s Petition to modify WLOX’s and WXXV’s local television markets to include Diamondhead. The Media Bureau found that Hancock County is an orphan county “with insufficient access to in-state programming” and concluded that “C Spire demonstrate[d] that Diamondhead residents have been deprived of the ability to receive their preferred in-state Mississippi television broadcast stations and instead are relegated to local broadcast content that is oriented to

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<sup>13</sup> WLOX and WXXV Market Modification Order, ¶ 1.

<sup>14</sup> *Id.* Not only was C Spire’s petition unopposed, it was also supported by comments from government officials, business leaders and local residents. *See id.*, ¶ 7.

Louisiana.”<sup>15</sup> In particular, the Media Bureau found that “residents of Diamondhead are currently underserved by the broadcast stations in the current DMA because they are deprived of in-state news, politics, sports, and weather,” and that “grant of the Petition would bring much desired in-state programming to residents of Diamondhead.”<sup>16</sup>

With the Petition granted, C Spire then engaged the licensees of WLOX and WXXV in retransmission consent negotiations so that Diamondhead residents could receive their preferred Mississippi broadcast stations when C Spire anticipated launching its cable service in May 2019. While C Spire has successfully negotiated a retransmission consent agreement for carriage of WXXV’s primary stream affiliated with the Fox network and multicast stream affiliated with the NBC network, negotiations have gone completely opposite with WLOX.

On May 1, 2019, Rob Folliard, Gray’s Vice President – Government Relations & Distribution, contacted Bruce Beard, C Spire’s counsel. In his email message, Mr. Folliard attached a letter (sent to C Spire via certified mail) electing retransmission consent for WLOX on C Spire’s Diamondhead cable system.<sup>17</sup> Mr. Folliard also explained that Gray and C Spire were already parties to a retransmission consent agreement and under that agreement all acquired stations (like WLOX) and acquired or newly built systems (like Diamondhead) were added to the agreement as acquired stations/acquired systems.”<sup>18</sup> However, Mr. Folliard further emphasized that:

[U]nder the standard CBS affiliation agreement, CBS prohibits its affiliates from granting any new out-of-DMA carriage. The market mod does not change the Nielsen boundaries for the Biloxi-Gulfport DMA, and Diamondhead remains in

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<sup>15</sup> *Id.*, ¶ 7.

<sup>16</sup> *Id.*

<sup>17</sup> *See Exhibit 1*, Email dated May 1, 2019 from Mr. Rob Folliard to Mr. Bruce Beard.

<sup>18</sup> *Id.* Under the terms of C Spire’s pre-existing retransmission consent with Gray, C Spire has launched WVUE (New Orleans station affiliated with the Fox network) in Diamondhead as well.

the New Orleans DMA. Therefore, under our CBS affiliation agreement, we are prohibited from granting consent for WLOX-TV's CBS affiliated multicast channel on the Diamondhead system . . . . Telepex will not have consent to retransmit our CBS multicast channel.<sup>19</sup>

On May 3, 2019, Scott Friedman, also counsel to C Spire, spoke with Mr. Folliard via telephone and email. Mr. Friedman asked Mr. Folliard to request that CBS waive its alleged prohibition and permit Gray to grant consent so that C Spire can retransmit WLOX's multicast stream affiliated with the CBS network in Diamondhead. Mr. Friedman also outlined C Spire's position that "[i]f CBS continues to prohibit Gray from negotiating for carriage of WLOX's CBS feed, it would violate the FCC's retransmission good faith negotiation rules" and that "any 'limitation' on Telapex carrying WLOX's CBS feed in Diamondhead, including a requirement that Telapex also carry the in-DMA CBS feed, would constitute a *per se* violation under the FCC's good faith rules."<sup>20</sup>

On May 14, 2019, Mr. Folliard responded with what he believed was good news – CBS had agreed that Gray could grant consent to C Spire to retransmit WLOX's CBS multicast stream on its Diamondhead system. Unfortunately, this grant of consent was "conditioned on Telepex also carrying the in-DMA CBS affiliate from New Orleans."<sup>21</sup> Mr. Folliard's email included the email originally sent by John Bagwell, SVP & Associate General Counsel, CBS

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<sup>19</sup> *Id.* Unlike CBS, Mr. Folliard explained that there were no issues with Gray permitting C Spire to retransmit WLOX's primary feed affiliated with the ABC network ("Our ABC affiliation agreement for WLOX-TV allows us to grant retransmission consent on any cable system in Hancock County, MS, which includes Telepex's Diamondhead system. Therefore, Telepex has our consent to carry WLOX-TV's primary stream (affiliated with ABC) on the Diamondhead system. Your client can launch WLOX-TV's ABC stream at any time, and it would carry it under the terms of the existing Gray/Telepex agreement. Unless you prefer otherwise, I don't think we need to amend our agreement or otherwise prepare any documentation if Telepex indeed intends to launch WLOX-TV's ABC program stream as contemplated under the retrans agreement."). *Id.* Mr. Folliard did not share Gray's CBS Network Affiliation Agreement, presumably due to confidentiality obligations contained in the agreement.

<sup>20</sup> See *Exhibit 1*, Email dated May 8, 2019 from Mr. Scott Friedman to Mr. Rob Folliard.

<sup>21</sup> See *id.*, Email dated May 14, 2019 from Mr. Rob Folliard to Mr. Scott Friedman.

Television, explaining that “CBS is willing to allow WLOX-TV to grant new retransmission consent to TV households located in Diamondhead, MS, a community in which we understand the station is deemed ‘significantly viewed’ . . . provided that such new distribution is pursuant to the terms of WLOX’s Network Affiliation Agreement, **including the simultaneous retransmission of the CBS affiliate licensed to the New Orleans DMA**.”<sup>22</sup>

C Spire again objected to the requirement that it also retransmit WWL, the Tegna New Orleans station affiliated with the CBS network, and communicated to Mr. Folliard that “[s]ince WLOX is significantly viewed and now a local station in Diamondhead, any ‘limitation’ on Telapex carrying WLOX’s CBS feed in Diamondhead, **including a requirement that Telapex also carry the New Orleans CBS feed**, constitutes a *per se* violation under the FCC’s good faith rules.”<sup>23</sup> Mr. Folliard disagreed with this interpretation of the Commission’s rules, but did state further that, “the simultaneous carriage obligation was what made CBS comfortable granting the waiver. If we had insisted upon the right to grant consent and relief from the simultaneous carriage obligation, the answer would have been a hard ‘No.’”<sup>24</sup>

In other words, despite the Media Bureau’s statement that “residents of Diamondhead are currently underserved by the broadcast stations in the current DMA because they are deprived of in-state news, politics, sports, and weather,” and that “grant of the Petition would bring much desired in-state programming to residents of Diamondhead,”<sup>25</sup> the only way CBS – and ultimately Gray – will permit Diamondhead residents to view their desired in-state programming

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<sup>22</sup> See *supra* note 6. WWL, the CBS affiliate in New Orleans, is owned by Tegna Inc.

<sup>23</sup> See *Exhibit 1*, Email dated May 15, 2019 from Mr. Scott Friedman to Mr. Rob Folliard.

<sup>24</sup> See *id.*, Email dated May 17, 2019 from Mr. Rob Folliard to Mr. Scott Friedman; see also *id.*, Email dated June 3, 2019 from Mr. Rob Folliard to Mr. Scott Friedman.

<sup>25</sup> WLOX and WXXV Market Modification Order, ¶ 7.

is if they pay twice for the CBS signal – once for WLOX and once for WWL. C Spire, therefore, notified Mr. Folliard on May 30, 2019<sup>26</sup> that it felt it had no recourse but to file this good faith negotiation complaint with the Commission.<sup>27</sup>

### **III. DUTY TO NEGOTIATE IN GOOD FAITH**

In 1992, Congress amended Section 325 of the Act to prohibit cable operators from retransmitting a commercial broadcast station without the station's express consent.<sup>28</sup> The Commission's implementing regulations established a triennial election period and specific procedures by which a local commercial broadcast station must choose carriage under retransmission consent or must carry for each three-year cycle.<sup>29</sup>

As initially enacted, Section 325 contained no standards under which broadcasters were required to negotiate with MVPDs. Thereafter, with the Satellite Home Viewer Improvement Act of 1999 (“SHVIA”), Congress established an obligation for broadcasters to negotiate retransmission consent in good faith.<sup>30</sup> In accordance with SHVIA, in March 2000, the Commission issued regulations addressing for the first time the conduct of broadcasters in

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<sup>26</sup> See *Exhibit 1*, Email dated May 30, 2019 from Mr. Scott Friedman to Mr. Rob Folliard.

<sup>27</sup> Under the Commission’s rules, a party may bring a good faith complaint within one year of (i) the complainant entering into a retransmission consent agreement that the complainant alleges to violate one or more of the good faith rules; (ii) a television broadcast station or MVPD engages in retransmission consent negotiations with a complainant that the complainant alleges to violate one or more of the good faith rules, and such negotiation is unrelated to any existing contract between the complainant and the television broadcast station or multichannel video programming distributor; or (iii) the complainant has notified the television broadcast station or MVPD that it intends to file a complaint with the Commission based on a request to negotiate retransmission consent that has been denied, unreasonably delayed, or unacknowledged in violation of one or more of the good faith rules. 47 U.S.C. § 76.65(e). The fact that the parties have a pre-existing retransmission consent agreement, therefore, does not render C Spire’s claim untimely.

<sup>28</sup> *Cable Television Consumer Protection and Competition Act of 1992*, Pub. L. No. 102-385, 106 Stat. 1460 (1992).

<sup>29</sup> 47 C.F.R. §§ 76.64 and 76.65.

<sup>30</sup> *Satellite Home Viewer Improvement Act of 1999*, P.L. 106-113, Div. B, §§ 1000(a)(9), 1009, 113 Stat. 1536, 1501A-521 (1999).

retransmission consent negotiations. The Commission concluded that “Congress intended that the parties to retransmission consent have negotiation obligations greater than those under common law” and that, “by imposing the good faith obligation, Congress intended that the Commission develop and enforce a process that ensures that broadcasters and MVPDs meet to negotiate retransmission consent and that such negotiations are conducted in an atmosphere of honesty, purpose and clarity of process.”<sup>31</sup>

In adopting the objective standards, the Commission intended to provide “concise, clear” standards where the proscribed conduct would “constitute a violation of the good faith standard in all possible instances.”<sup>32</sup> Violation of any of the objective negotiation standards, therefore, constitutes a *per se* breach of the duty to negotiate in good faith.

The objective standards include prohibitions on refusing to negotiate retransmission consent and refusing to put forth more than a single, unilateral proposal.<sup>33</sup> With respect to refusing to negotiate, the Commission stated this requirement “goes to the very heart of Congress’ purpose in enacting the good faith negotiation requirement. Outright refusal to negotiate clearly violates the requirement of Section 325(b)(3)(C). Broadcasters must participate in retransmission consent negotiations with the intent of reaching agreement.”<sup>34</sup> The Commission further stated, with respect to putting forth more than a single, unilateral proposal,

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<sup>31</sup> *Implementation of the Satellite Home Viewer Improvement Act of 1999, Retransmission Consent Issues: Good Faith Negotiation and Exclusivity*, First Report and Order, 15 FCC Rcd 5445, ¶ 24 (2000) (“SHVIA Implementation Order”). Congress later directed the Commission to make the good faith negotiation obligation reciprocal to MVPDs as well as broadcasters. See *The Satellite Home Viewer Extension and Reauthorization Act of 2004*, Pub. L. No. 108-447, 118 Stat. 2809 (2004). The Commission implemented these changes in 2005. See *Implementation of Section 207 of the Satellite Home Viewer Extension and Reauthorization Act of 2004, Reciprocal Bargaining Obligation*, Report and Order, 20 FCC Rcd 10,339 (2005) (“Reciprocal Bargaining Order”).

<sup>32</sup> SHVIA Implementation Order, ¶ 31 (emphasis added).

<sup>33</sup> 47 C.F.R. §§ 76.65(b)(1)(i); (iv).

<sup>34</sup> SHVIA Implementation Order, ¶ 40.

that “[t]ake it, or leave it’ bargaining is not consistent with an affirmative obligation to negotiate in good faith.”<sup>35</sup> In particular, the Commission stated that “[g]ood faith negotiation requires that the broadcaster at least consider some form of consideration other than carriage of affiliated programming.”<sup>36</sup> In other words, broadcasters must “be open to discussing more than one form of consideration in seeking compensation for retransmission of its signal.”<sup>37</sup>

In 2014, Congress passed the STELA Reauthorization Act of 2014 (“STELAR”) which, *inter alia*, amended Section 325 and directed the Commission to amend its retransmission consent rules by adding two new *per se* objective standards. This included a rule:

[to] prohibit a television broadcast station from limiting the ability of a [MVPD] to carry into the local market (as defined in section 122(j) of title 17, United States Code) of such station a television signal that has been deemed significantly viewed, within the meaning of section 76.54 of title 47, Code of Federal Regulations, or any successor regulation, or any television broadcast signal such distributor is authorized to carry under section 338, 339, 340, or 534 of [the] Act, unless such stations are directly or indirectly under common de jure control permitted by the Commission.<sup>38</sup>

The Commission subsequently released an Order in February 2015 amending its rules by adding subsection 76.65(b)(1)(ix), which incorporated the protections for significantly viewed and other television signals established in Section 103(b) of STELAR.<sup>39</sup>

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<sup>35</sup> *Id.*, ¶ 43.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> See 47 U.S.C. § 325(b)(3)(C) (as amended by Section 103 of the STELAR).

<sup>39</sup> *Implementation of Sections 101, 103 and 105 of the STELA Reauthorization Act of 2014*, Order, 30 FCC Rcd 2380, ¶ 5 (2015).

#### IV. RETRANSMISSION CONSENT COMPLAINT

**A. Gray violated 47 C.F.R. §§ 76.65(b)(1)(ix) by limiting C Spire’s ability to carry a station it is authorized to carry under section 534.**

Gray’s conduct violates the newest Commission good faith negotiation requirement – a broadcast station limiting the ability of an MVPD to carry a station in its local market. Under STELAR and the Commission’s rules, it is a *per se* good faith negotiation violation if a television broadcast station “limit[s] the ability of a [MVPD] to carry into the local market (as defined in section 122(j) of title 17, United States Code) of such station a television signal that has been deemed significantly viewed. . . or any other television broadcast signal such distributor is authorized to carry under section 338, 339, 340, or 534 of this title.”<sup>40</sup>

WLOX’s local market under the Communications Act now includes Diamondhead. Under the Act and the Commission’s rules, not only does a commercial television broadcast station’s “local market” include communities within the same television market (e.g., designated market area) as the station,<sup>41</sup> but the Commission may also modify a station’s local market.<sup>42</sup> The Commission has plainly done so here.<sup>43</sup> Accordingly, WLOX is a local station that C Spire is authorized to carry under section 534 of the Act for the purposes of the new good faith *per se* violation contained in section 76.65(b)(1)(ix) of the Commission’s rules.

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<sup>40</sup> See 47 U.S.C. § 325(b)(3)(C) (as amended by Section 103 of STELAR); 47 C.F.R. § 76.65(b)(1)(ix) (emphasis added).

<sup>41</sup> 47 U.S.C. § 534(h)(1)(A) ; 47 C.F.R. § 76.55(e)(2).

<sup>42</sup> 47 U.S.C. § 534(h)(1)(C) ; 47 C.F.R. § 76.59(a).

<sup>43</sup> It is also undisputed that WLOX is significantly viewed in Hancock County, Mississippi, and that Diamondhead resides within Hancock County. Moreover, a station’s significantly viewed status applies to the entire digital signal, including primary and multicast streams. *Carriage of Digital Television Broadcast Signals, Amendments to Part 76 of the Commission’s Rules, Implementation of the Satellite Home Viewer Improvement Act of 1999*, First Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 2598, ¶ 32 (2001) (“[W]e believe that the public interest is best served by according the digital signal of a television broadcast station the same significantly viewed status accorded the analog signal.”).



To determine whether the requirement that C Spire also retransmit WWL to obtain WLOX's CBS multicast feed is a "limitation," we must first turn to Congress's intent in passing STELAR and Section 103. The law that ultimately became STELAR, H.R. 5728, originated in the House of Representatives and was passed by the Senate under unanimous consent.<sup>44</sup> There is little legislative history attached to that bill. A competing proposal in the Senate, the Satellite Television Access and Viewer Rights Act, on the other hand, contains a rich legislative history discussing what ultimately became Section 103. The Report of the Committee on Commerce, Science and Transportation provides multiple examples of the Senate's intent to limit the type of behavior C Spire has encountered from Gray and CBS. First, the Committee discussed how the language of the Satellite Television Access and Viewer Rights Act proposed to prohibit the use of retransmission consent agreements to limit the ability of an MVPD to carry other broadcast television signals they are otherwise authorized to carry, including signals added through the market modification process.<sup>45</sup> Moreover, the Committee also discussed the language that became law in Section 103, and stated that "[t]he Committee intends this provision to be interpreted broadly by the FCC to ensure that a television broadcast station is not able to limit

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<sup>44</sup> John Eggerton, *STELAR Passes Senate*, MULTICHANNEL NEWS, Mar. 28, 2018, available at <https://www.multichannel.com/news/stelar-passes-senate-385767> (last visited June 2, 2019) ("The just-passed Satellite Television Extension and Localism Act Reauthorization (STELAR) Act, the House reauthorization of the satellite compulsory license, has passed the Senate by unanimous consent after being hotlined.").

<sup>45</sup> S. 2799 Rep No. 113-322, at 7 (2014) ("STAVRA also proposes a number of changes to video policy under the Communications Act. . . . Second, it would bar the practice of joint retransmission consent negotiations by independent broadcast television stations in the same market, prohibit the use of retransmission consent agreements to limit the ability of an MVPD to carry other broadcast television signals they are otherwise authorized to carry under the Communications Act (such as importing significantly viewed TV signals, distant signals, or signals added to a TV market through the market modification process), and direct the FCC to consider additional changes to its rules that govern retransmission consent negotiations as part of a rulemaking to update its totality of the circumstances test for good faith.") (emphasis added).

MVPD carriage of signals that it is permitted to carry pursuant to the Communications Act.”<sup>46</sup>

Considering that H.R. 5728 passed the Senate via unanimous consent, it is reasonable and consistent to infer that the final language in Section 103 is what the Senate intended here, and that the Commission should broadly interpret its newest good faith *per se* violation.

Accordingly, Gray is limiting the ability of C Spire to retransmit a local station by not permitting WLOX to exercise its statutory right to grant retransmission consent for carriage of its full station signal in Diamondhead. The fact that Gray requested authority to grant such carriage and was only granted limited authority – conditioned on additional carriage of the New Orleans CBS station – does not excuse the violation. There is no evidence that Congress intended stations deemed local through a cable market modification have any lesser status for retransmission consent purposes as stations deemed local by Nielsen. Retransmission consent is a right of broadcast stations to control use of their signals, not a right of the networks.<sup>47</sup> In other words, Congress and the Commission have granted the authority to Gray and WLOX, not CBS. Nor does the fact that C Spire and Gray are parties to a pre-existing retransmission consent agreement excuse the violation, especially considering the agreement was originally negotiated over four years ago, and for an entirely different station in a different market. Exercising good faith in one negotiation does not negate the possibility that a station or its designated

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<sup>46</sup> *Id.* at 13 (emphasis added).

<sup>47</sup> The Communications Act is explicit in that the right of a broadcast station to grant retransmission consent rights to an MVPD resides solely with the broadcast licensee. See 47 U.S.C. § 325(b); see also *Implementation of the Cable Television Consumer Protection and Competition Act of 1992 Broadcast Signal Carriage Issues; Reexamination of the Effective Competition Standard for the Regulation of Cable Television Basic Service Rates Request by TV 14, Inc. to Amend Section 76.51 of the Commission's Rules to Include Rome, Georgia, in the Atlanta, Georgia, Television Market*, Report and Order, 8 FCC Rcd 2965, ¶ 173 (1993) (“The legislative history of the 1992 Act suggests that Congress created a new communications right in the broadcaster's signal, completely separate from the programming contained in the signal.”).

representative will fail to negotiate in good faith at a later date for a different station.<sup>48</sup> Further, at the times that C Spire amended its retransmission consent agreement with Gray, negotiated its franchise with Diamondhead and filed its market modification petition, WLOX was owned by Raycom.

This violation squarely falls within the intent of Section 103, and is especially egregious considering that Congress contemporaneously in STELAR expressed particular concern about the ability of viewers in orphan counties to access in-state programming that caters to the state in which they reside.<sup>49</sup> Gray, itself, has drawn particular attention to the issue that “the content on all of a . . . station’s multicast streams should be considered when analyzing a market modification petition.”<sup>50</sup> Limiting the ability of C Spire to retransmit WLOX’s CBS multicast signal in this manner therefore violates 47 C.F.R. § 76.65(b)(1)(ix).

**B. Gray violated 47 C.F.R. §§ 76.65(b)(1)(i) and 76.65(b)(1)(iv) by refusing to negotiate retransmission consent.**

Beyond the violation detailed above, Gray’s conduct also violates two additional *per se* good faith negotiation rules. As described above, the Media Bureau has determined that Diamondhead is part of WLOX’s local market for must-carry and retransmission consent purposes. As Gray itself has argued – and the Commission has seemingly agreed – modifying a station’s market “effects a change to the market of an entire station, not just of a particular stream or signal provided by that station.”<sup>51</sup> This triggers more rigorous retransmission consent

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<sup>48</sup> Were this the case, the Commission’s rules would limit parties to filing a complaint solely within one year of executing a retransmission consent agreement. That is certainly not the case. *See supra* note 27.

<sup>49</sup> STELAR at 2060; STELAR Market Mod Order, ¶ 1.

<sup>50</sup> *Gray Television Licensee, LLC, For Modification of the Satellite Television Market for WSAW-TV, Wausau, Wisconsin*, Memorandum Opinion and Order, 32 FCC Rcd 668, ¶ 22 (2017) (“Gray WSAW Market Modification Order”).

<sup>51</sup> Gray WSAW Market Modification Order, ¶ 23.

negotiation requirements under the Commission’s rules.<sup>52</sup> Gray cannot, as it has done so here, solely and merely request that CBS waive its restriction on out-of-market carriage<sup>53</sup> because Diamondhead is now considered to be part of WLOX’s market.

Nonetheless, Gray, thanks to the actions of the CBS network, is refusing to grant consent for WLOX’s CBS multicast stream unless C Spire also agrees to retransmit WWL, the New Orleans CBS station, a station that Gray does not own or operate, and will not negotiate further unless such condition is met. Gray, therefore, has refused to negotiate retransmission consent, a violation of 47 C.F.R. § 76.65(b)(1)(i), and refused to put forth more than a single, unilateral proposal, a violation of 47 C.F.R. § 76.65(b)(1)(iv).

## **V. PETITION FOR DECLARATORY RULING**

C Spire also requests that the Commission remove any future uncertainty regarding the good faith negotiation status of stations deemed local as a result of market modifications granted by the Commission.<sup>54</sup> C Spire believes the matter is settled by the statutory and regulatory language, but CBS, on the other hand, appears takes a different view of the language of the

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<sup>52</sup> Reciprocal Bargaining Order, ¶ 29 (“We emphasize that, although the reciprocal bargaining obligation applies without geographic limitation, that does not mean it will apply exactly the same way in all negotiations. Rather, we conclude that Section 325(b)(3)(C) and the inherent nature of a good faith obligation permit the Commission to account for the distinction between in-market and out-of-market signals in determining compliance under the totality of the circumstances test.”).

<sup>53</sup> *Id.*, ¶ 35 (“We believe that it is incumbent on broadcasters subject to such contractual limitations that have been engaged by an out-of-market MVPD to negotiate retransmission consent of its signal to at least inquire with its network whether the network would waive the limitation with regard to the MVPD in question.”).

<sup>54</sup> 47 C.F.R. § 1.2(a) (“The Commission may, in accordance with section 5(d) of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.”); *see, e.g., Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Third Report and Order and Declaratory Ruling, 33 FCC Rcd 7705, ¶ 140 (2018) (declaratory ruling issued, in part, “[t]o provide regulatory certainty”).

Communications Act and the Commission's Orders. To this end, the Commission should issue a Declaratory Ruling on the following issue:

When the Commission modifies a commercial television broadcast station's market to include an additional community or additional communities, that station and all of its broadcast streams are now considered to be in-DMA (or "local") for reciprocal retransmission consent negotiation purposes in those communities.

In other words, a network affiliation agreement that restricts the ability of a broadcast station to grant consent to an MVPD to retransmit a station's broadcast stream that has been found to be local under section 534 should violate the Commission's rules. The Commission has repeatedly examined whether "certain network involvement in retransmission consent negotiations [should] be a factor suggesting bad faith" under its retransmission consent good faith negotiation rules.<sup>55</sup> This is an important issue for the Commission to consider in a Declaratory Ruling because Gray, as the licensee of WLOX, attempted to gain approval to provide carriage of the significantly viewed, in-state local station without limitation. CBS, which rejected this offer, should not be able to hide behind the fact that the Commission's good faith negotiation rules apply to television broadcast stations or their designated representative with authority to make binding representations on retransmission consent (*i.e.*, the station's licensee). If WLOX were a CBS owned-and-operated station, CBS itself would be at risk of violating the Commission's good faith negotiation rules and seemingly would not be so cavalier. CBS should not be permitted to dodge the risk of a Commission sanction or forfeiture through its affiliation agreement with Gray. CBS's insistence to make the citizens of Diamondhead, and assumingly citizens in other

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<sup>55</sup> *Implementation of Section 103 of the STELA Reauthorization Act of 2014, Totality of the Circumstances Test*, Notice of Proposed Rulemaking, 30 FCC Rcd 10327, ¶ 14 (2015); *see also Amendment of the Commission's Rules Related to Retransmission Consent*, Notice of Proposed Rulemaking, 26 FCC Rcd 2718, ¶ 22 (2011) ("[W]e seek comment on whether it should be a *per se* violation for a station to agree to give a network with which it is affiliated the right to approve a retransmission consent agreement with an MVPD or to comply with such an approval provision.").

similarly situated communities, pay for two CBS signals in order to receive an in-state signal that the Commission recently deemed to be local (and previously found to be significantly viewed) should be prohibited, and the Commission should further declare so in a Declaratory Ruling.

## **VI. CONCLUSION**

As detailed above, Gray has failed to negotiate in good faith with C Spire for retransmission consent rights in violation of the Act and Commission rules. C Spire therefore requests that the Commission: (i) act expeditiously to address Gray's bad faith and find that Gray has violated its duty to negotiate in good faith; and (ii) direct Gray to immediately commence negotiations in good faith without a requirement of dual carriage of the CBS signal. Further, C Spire respectfully requests that the Commission issue a Declaratory Ruling that when the Commission modifies a television broadcast station's market to include additional communities, that station and all of its broadcast streams are now considered to be in-DMA for reciprocal retransmission consent negotiation purposes.

Respectfully submitted,

By:



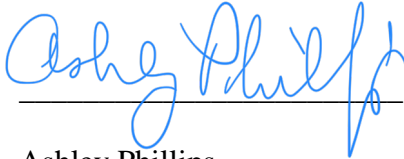
\_\_\_\_\_  
Scott Friedman  
Bruce Beard  
Kelsey Rejko  
Cinnamon Mueller  
1714 Deer Tracks Trail  
Suite 230  
St. Louis, MO 63131

Attorneys for  
Telepak Networks, Inc. d/b/a C Spire Fiber

June 3, 2019

The signatory has read the Complaint and Petition and, to the best of his knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law and is not interposed for any improper purpose.

Respectfully submitted,

By: 

Ashley Phillips  
Telepak Networks, Inc.  
d/b/a C Spire Fiber  
1018 Highland Colony Pkwy  
Ridgeland, MS 39157

Dated: June 3, 2019

## **EXHIBIT 1**



**Subject:** Re: Telepex/Diamondhead, MS: Gray Television Election Letter  
**Date:** Thursday, May 30, 2019 at 1:29:44 PM Central Daylight Time  
**From:** Scott Friedman  
**To:** Robert Folliard  
**Attachments:** image001.jpg

Rob:

Just wanted to follow up on our conversation last Friday. As I explained, C Spire is prepared to file a Retransmission Consent Good Faith Complaint and Petition for Declaratory Ruling next week on these issues. In short:

- As a result of the market modification grant, the FCC has deemed WLOX a local station in Diamondhead.
- Since C Spire is now authorized to retransmit WLOX under Section 534, any "limitation" on C Spire carrying WLOX's CBS feed in Diamondhead, including a requirement that C Spire also carry the New Orleans CBS feed, constitutes a *per se* violation under the Commission's new rule implemented via STELAR.
- Also, now that WLOX is "local" in Diamondhead, WLOX is subject to more rigorous in-market retransmission consent negotiation requirements under the FCC's rules. Gray cannot, as it has done so here, solely request that CBS waive its restriction on out-of-market carriage (since the station is now in-market under Section 534). Not negotiating further is a refusal to negotiate retransmission consent and a refusal to put forth more than a single, unilateral proposal, both *per se* violations.

C Spire, of course, would like to avoid filing with the FCC and requests that you speak with CBS again and see if they will permit Gray to grant consent to C Spire to retransmit WLOX's CBS multicast feed without condition.

Thanks again for your help.

Regards,  
Scott Friedman  
Cinnamon Mueller  
1714 Deer Tracks Trail, Suite 230  
St. Louis, MO 63131  
(314) 462-9000 (office)  
(608) 469-3596 (cell)  
[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)



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**From:** Robert Folliard <Robert.Folliard@gray.tv>  
**Date:** Friday, May 17, 2019 at 10:10 AM  
**To:** Scott Friedman <[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)>

**Subject:** Re: Telepex/Diamondhead, MS: Gray Television Election Letter

Yes . . . and essentially the simultaneous carriage obligation was what made CBS comfortable granting the waiver. If we had insisted upon the right to grant consent and relief from the simultaneous carriage obligation, the answer would have been a hard "No."

---

**From:** "sfriedman@cinnamonmueller.com" <sfriedman@cinnamonmueller.com>

**Date:** Friday, May 17, 2019 at 11:06 AM

**To:** Rob Folliard <Robert.Folliard@gray.tv>

**Subject:** RE: Telepex/Diamondhead, MS: Gray Television Election Letter

Rob:

Were you able to discuss with CBS whether you could grant consent in this instance without the corresponding "in-DMA" station requirement?

Regards,  
Scott Friedman  
Cinnamon Mueller  
1714 Deer Tracks Trail, Suite 230  
St. Louis, MO 63131  
(314) 462-9000 (office)  
(608) 469-3596 (cell)  
[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)



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## Bruce Beard

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**From:** Robert Folliard <Robert.Folliard@gray.tv>  
**Sent:** Wednesday, May 01, 2019 5:17 PM  
**To:** Bruce Beard  
**Subject:** Telepex/Diamondhead, MS: Gray Television Election Letter  
**Attachments:** Election of Retransmission Consent Status.pdf

Bruce

Attached is an election letter that is going out via certified mail today to Telepex in response to the FCC decision granting the market mod for Diamondhead, MS.

We are electing retrans consent for our station WLOX-TV on the Diamondhead system. As you know, Gray and Telepex are already parties to a retransmission consent agreement and under that agreement all acquired stations (like WLOX) and acquired or newly built systems (like Diamondhead) are added to the agreement as acquired stations/acquired systems.

Our ABC affiliation agreement for WLOX-TV allows us to grant retransmission consent on any cable system in Hancock County, MS, which includes Telepex's Diamondhead system. Therefore, Telepex has our consent to carry WLOX-TV's primary stream (affiliated with ABC) on the Diamondhead system. Your client can launch WLOX-TV's ABC stream at any time, and it would carry it under the terms of the existing Gray/Telepex agreement. Unless you prefer otherwise, I don't think we need to amend our agreement or otherwise prepare any documentation if Telepex indeed intends to launch WLOX-TV's ABC program stream as contemplated under the retrans agreement.

We cannot, however, grant consent for WLOX-TV's multicast channels, including the CBS programming on WLOX-D2. As you may know, under the standard CBS affiliation agreement, CBS prohibits its affiliates from granting any new out-of-DMA carriage. The market mod does not change the Nielsen boundaries for the Biloxi-Gulfport DMA, and Diamondhead remains in the New Orleans DMA. Therefore, under our CBS affiliation agreement, we are prohibited from granting consent for WLOX-TV's CBS affiliated multicast channel on the Diamondhead system. Section 5 of our retransmission consent agreement states that Gray only grants consent for carriage of a program feed outside of a Station's DMA if it is consistent with the terms of the pertinent affiliation agreement. As a result, Telepex will not have consent to retransmit our CBS multicast channel.

Gray also owns the FOX affiliate in New Orleans, WVUE-TV. Under the Gray/Telepex agreement, Telepex must launch WVUE's program streams on its system when it goes live. Because the market mod does not adjust Nielsen's DMA boundaries, WVUE remains the in-DMA FOX affiliate. As an aside, I suspect Telepex may have trouble obtaining authority to carry WXXV's Fox programming. The standard Fox affiliation agreement prohibits any Fox affiliate from granting consent outside its DMA, and a market modification does not act as an exception to this rule in Fox's eyes. Regardless, whatever Telepex does with WXXV, it has our consent to retransmit WVUE and should do so when it launches WLOX's ABC programming.

Let me know if you have questions.

-Rob



**Robert J. Folliard, III**

**Gray Television, Inc.**

Vice President – Government Relations & Distribution

4370 Peachtree Road, NE

Atlanta, GA 30319

**Phone:** 202.750.1585

**Email:** [robert.folliard@gray.tv](mailto:robert.folliard@gray.tv)

**Website:** [www.gray.tv](http://www.gray.tv)

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**From:** "Yarberry, Darlene" <[dyarberry@wlox.com](mailto:dyarberry@wlox.com)>

**Date:** Wednesday, May 1, 2019 at 4:43 PM

**To:** All Legal Election Letters <[AllLegalElectionLetters@RaycomMedia.com](mailto:AllLegalElectionLetters@RaycomMedia.com)>

**Cc:** Rick Williams <[rwilliams@wlox.com](mailto:rwilliams@wlox.com)>, Rob Folliard <[Robert.Folliard@gray.tv](mailto:Robert.Folliard@gray.tv)>

**Subject:** Election of Retransmission Consent Status - Telapex, Inc and Cable One, Inc



*E. Darlene Yarberry*

Receptionist/Administrative Assistant

Phone: 228-896-1313

[dyarberry@wlox.com](mailto:dyarberry@wlox.com)

WLOX TV-13



**Subject:** Re: Telepex/Diamondhead, MS: Gray Television Election Letter  
**Date:** Friday, May 17, 2019 at 10:10:07 AM Central Daylight Time  
**From:** Robert Folliard  
**To:** Scott Friedman  
**Attachments:** image001.jpg, image002.jpg, image003.jpg, image004.png, image005.gif, image006.jpg, image007.png

Yes . . . and essentially the simultaneous carriage obligation was what made CBS comfortable granting the waiver. If we had insisted upon the right to grant consent and relief from the simultaneous carriage obligation, the answer would have been a hard "No."

---

**From:** "sfriedman@cinnamonmueller.com" <sfriedman@cinnamonmueller.com>  
**Date:** Friday, May 17, 2019 at 11:06 AM  
**To:** Rob Folliard <Robert.Folliard@gray.tv>  
**Subject:** RE: Telepex/Diamondhead, MS: Gray Television Election Letter

Rob:

Were you able to discuss with CBS whether you could grant consent in this instance without the corresponding "in-DMA" station requirement?

Regards,  
Scott Friedman  
Cinnamon Mueller  
1714 Deer Tracks Trail, Suite 230  
St. Louis, MO 63131  
(314) 462-9000 (office)  
(608) 469-3596 (cell)  
[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)



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**From:** Robert Folliard <Robert.Folliard@gray.tv>  
**Sent:** Friday, May 17, 2019 9:16 AM  
**To:** Scott Friedman <sfriedman@cinnamonmueller.com>  
**Subject:** Re: Telepex/Diamondhead, MS: Gray Television Election Letter

Scott

As I mentioned to you earlier this week, I was in meetings with the networks for most of this week, I am just catching up now.

In any event, I don't think you are reading the good faith language in Section 103(b) of STELAR correctly.

Section 103(b) requires that the FCC

“prohibit a television broadcast station from limiting the ability of a [MVPD] to carry into the local market (as defined in section 122(j) of title 17, United States Code) of such station a television signal that has been deemed significantly viewed, within the meaning of section 76.54 of title 47, Code of Federal Regulations, or any successor regulation, or any television broadcast signal such distributor is authorized to carry under section 338, 339, 340, or 614 of [the] Act, unless such stations are directly or indirectly under common de jure control permitted by the Commission.”

The language prohibits us from limiting your client’s ability to carry WWL in Diamondhead. Here, we are doing the opposite. We are asking you to carry WWL. We are not in any way preventing Telepex from carrying WWL.

The language in STELAR does not – as you suggest – prohibit Gray from including conditions on carriage of its own station in its own local market. In fact, that is what every retransmission consent agreement does. Our retransmission agreements have dozens of carriage conditions, including multicast carriage obligations, channel position obligations, basic tier obligations, payment obligations, downconversion and nondegradation obligations, compliance with Copyright Act obligations, etc. If Telepex did not want to comply with any of those obligations, that necessarily would limit your client’s ability to carry WLOX in its local market in areas where the station in SV. Plainly, Section 103(b) does not make all of those carriage conditions that are found in every retransmission agreement illegal. Yet, your interpretation of Section 103(b) would completely swallow the retransmission consent rights of broadcasters in Section 325(b). If the simultaneous carriage obligation violates Section 103(b) of STELAR so does every other carriage condition in our retransmission agreement.

The CBS simultaneous carriage condition is not an unusual provision. It is in every CBS network affiliation agreement with every affiliate in the country. The old Raycom/Telepex agreement includes the same simultaneous carriage obligation (see Exhibit C). I would expect your agreements with Nexstar, Mike Reed, and everyone else that owns a CBS affiliate in Mississippi has similar language in their agreements. Moreover, I have been including similar language in my retrans agreements for all networks going back more than a decade to when I was a young associate at Dow Lohnes representing dozens of other broadcasters (this was even before CBS mandated it in its affiliation agreements).

With all of that said, if you want to take this to Senator Wicker or to the FCC, that is your call, but I would suggest that we have certainly gone above and beyond here. I believe this is the first time we have been able to convince CBS to grant a waiver of its out-of-DMA carriage limits in our affiliation agreement. Getting CBS’s buy-in that it would permit carriage of its network programming in areas outside a station’s DMA that have been added as a result of a market mod is a big victory in my mind.

All in all, I think we have been far more accommodating than most other broadcasters would have been in this circumstance. Our retrans agreement does NOT automatically add the Diamondhead system to it. Rather, Gray has the right to add the system or not. We never made this an issue . . . at all. Instead, in my very first email, I said, you have our consent under the existing agreement. We very easily could have asserted our right to negotiate a new deal (at today’s higher rates) for the Diamondhead system. We could have tried to use Diamondhead as leverage to get better terms on the other systems. We did not. Telepex has always been a good partner, so we wanted Diamondhead to be successful, and we wanted to do our part to make it as easy as we could. In fact, even before the FCC granted the petition, our Biloxi GM reached out to his contact at Telepex and said, you can have our consent now for our ABC station and our New Orleans FOX station. No need to wait on the FCC or risk a backlash from the other New Orleans stations. When you asked for permission to carry our CBS, I immediately reached out to CBS asking for permission. I separately spoke to the key lawyer on CBS’s affiliate relations team twice and told him we want to be on this system. I

truly believe that made a difference. If I told him we don't really care or we would prefer to not be carried, there is no chance CBS waives its out-of-DMA restriction. Bottom line, I am very comfortable explaining to the FCC or to Senator Wicker's staff everything we have done to be helpful.

Finally, one quick suggestion, if you are to go to the FCC, I would suggest it in the form of a Request for Declaratory Ruling vs a Complaint. A Complaint necessarily draws Gray opposition because we are at risk of FCC sanctions. A Request for Declaratory Ruling (depending on what it actually requests) might result in our silence, which I have to believe increases your odds of success.

-Rob

---

**From:** "[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)" <[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)>  
**Date:** Wednesday, May 15, 2019 at 10:23 AM  
**To:** Rob Folliard <[Robert.Folliard@gray.tv](mailto:Robert.Folliard@gray.tv)>  
**Subject:** Re: Telepex/Diamondhead, MS: Gray Television Election Letter

Rob:

We appreciate your efforts. However, as I noted in my initial email, conditioning carriage of WLOX's CBS feed on the carriage of another station violates the FCC's retransmission good faith negotiation rules. It is a *per se* violation under the FCC's retransmission consent negotiation rules, as amended in 2015, for a "television broadcast station [to limit] the ability of a multichannel video programming distributor to carry into the local market (as defined in 17 U.S.C. 122(j)) of such station a television signal that has been deemed significantly viewed, within the meaning of §76.54 of this part..." 47 C.F.R. 76.65(b)(viii). Since WLOX is significantly viewed and now a local station in Diamondhead, any "limitation" on Telapex carrying WLOX's CBS feed in Diamondhead, **including a requirement that Telapex also carry the New Orleans CBS feed**, constitutes a *per se* violation under the FCC's good faith rules.

If it would be helpful to have a call with you and CBS, please let me know. Please also stress to CBS that if CBS continues to deny Telapex their rights under the Communications Act and FCC regulations, Telapex will move forward with an FCC good faith complaint and will engage Sen. Wicker's office.

Thanks.

Regards,  
Scott Friedman  
Cinnamon Mueller  
1714 Deer Tracks Trail, Suite 230  
St. Louis, MO 63131  
(314) 462-9000 (office)  
(608) 469-3596 (cell)  
[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)



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**From:** Robert Folliard <[Robert.Folliard@gray.tv](mailto:Robert.Folliard@gray.tv)>  
**Date:** Tuesday, May 14, 2019 at 11:03 AM  
**To:** Scott Friedman <[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)>  
**Subject:** FW: Telepex/Diamondhead, MS: Gray Television Election Letter

Scott

Good news. CBS has agreed that we can grant consent for our CBS programming on the Diamondhead system. As you can see, CBS's consent is conditioned on Telepex also carrying the in-DMA CBS affiliate from New Orleans. Our existing retransmission consent agreement states that our grant of consent for an out-of-DMA system is conditioned on such grant being consistent with the terms of our network affiliation agreement. Our CBS affiliation agreement also includes this "simultaneous retransmission" condition. Therefore, I don't think we need to amend our existing agreement and Telepex can launch WLOX-D2 in Diamondhead at the same time it launches the CBS in New Orleans.

I am heading off to some meetings for the afternoon but will be available after 4p ET.

Let me know if you have questions.

-Rob

---

**From:** John Bagwell <[john.bagwell@cbs.com](mailto:john.bagwell@cbs.com)>  
**Date:** Tuesday, May 14, 2019 at 11:48 AM  
**To:** Rob Folliard <[Robert.Folliard@gray.tv](mailto:Robert.Folliard@gray.tv)>  
**Subject:** RE: Telepex/Diamondhead, MS: Gray Television Election Letter

Rob,

Thank you for your email.

CBS is willing to allow WLOX-TV to grant new retransmission consent to TV households located in Diamondhead, MS, a community in which we understand the station is deemed "significantly viewed" by the FCC, even though that out-of-market carriage not existing as of the date of the station's CBS Television Network Affiliation Agreement provided that such new distribution is pursuant to the terms of WLOX's Network Affiliation Agreement, including the simultaneous retransmission of the CBS affiliate licensed to the New Orleans DMA.

Best regards,

John

**John W. Bagwell**  
SVP & Assoc. General Counsel  
CBS Television  
212-975-8730

---

**From:** Robert Folliard <[Robert.Folliard@gray.tv](mailto:Robert.Folliard@gray.tv)>  
**Sent:** Friday, May 03, 2019 3:38 PM



To: Bagwell, John <[john.bagwell@cbs.com](mailto:john.bagwell@cbs.com)>

Subject: FW: Telepex/Diamondhead, MS: Gray Television Election Letter

<External Email>

John

A few weeks ago, the FCC granted a market modification to add Diamondhead, Mississippi to the "local market" for WLOX-TV, Biloxi, MS. As you know, the multicast channel for WLOX-TV is the CBS affiliate for the Biloxi-Gulfport DMA. Diamondhead is in the New Orleans DMA, but under the FCC market modification it is now considered part of WLOX-TV's market for must-carry purposes. To my knowledge, WLOX-TV's CBS multicast has not previously been carried on any cable system serving Diamondhead or the rest of Hancock County.

Given the recent FCC market mod decision, however, can we grant consent for our CBS program stream on this system in Diamondhead, MS? If our affiliation agreement prohibits us from granting consent on this system because Diamondhead is outside our DMA, would CBS grant us a waiver of this requirement?

Thanks for your consideration.

-Rob

---

**From:** "[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)" <[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)>

**Date:** Friday, May 3, 2019 at 2:50 PM

**To:** Rob Folliard <[Robert.Folliard@gray.tv](mailto:Robert.Folliard@gray.tv)>

**Cc:** Bruce Beard <[bbeard@cinnamonmueller.com](mailto:bbeard@cinnamonmueller.com)>

**Subject:** Re: Telepex/Diamondhead, MS: Gray Television Election Letter

Rob:

Thank you for your time this afternoon and explanation of the prohibition in your CBS affiliation agreement that prevents you from permitting Telapex to retransmit WLOX-DT2 (CBS/Biloxi) in Diamondhead, Mississippi even though the FCC recently modified WLOX's local market to include Diamondhead (link: <https://docs.fcc.gov/public/attachments/DA-19-302A1.pdf>).

With this email, we request that you ask CBS to waive the prohibition and permit you to grant consent to Telapex to retransmit WLOX's CBS feed in Diamondhead.

If CBS continues to prohibit Gray from negotiating for carriage of WLOX's CBS feed, it would violate the FCC's retransmission good faith negotiation rules. As directed by Congress in STELA, the FCC amended its retransmission consent good faith negotiation rules in 2015 to so that it is a *per se* violation for a "television broadcast station [to limit] the ability of a multichannel video programming distributor to carry into the local market (as defined in 17 U.S.C. 122(j)) of such station a television signal that has been deemed significantly viewed, within the meaning of §76.54 of this part..." 47 C.F.R. 76.65(b)(viii).

Here, WLOX is significantly viewed in Hancock County, MS and WLOX's local market under 17 U.S.C. 122(j) now includes Diamondhead per the FCC's Order linked above. Moreover, the FCC has affirmed that a station's significantly viewed status extends to the station's entire signal, including its multicast streams. Accordingly, Telapex will have no choice but to bring a good faith complaint at the FCC if CBS continues to restrict Gray from granting consent for carriage of WLOX-DT2 in Diamondhead, MS. Please note that any "limitation" on Telapex carrying WLOX's CBS feed in Diamondhead, including a requirement that Telapex also carry the in-DMA CBS feed, would constitute a *per se* violation under the FCC's good faith rules.

Please let me know if you have any further questions.

Thanks.

Regards,  
Scott Friedman  
Cinnamon Mueller  
1714 Deer Tracks Trail, Suite 230  
St. Louis, MO 63131  
(314) 462-9000 (office)  
(608) 469-3596 (cell)  
[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)



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**From:** Robert Folliard <[Robert.Folliard@gray.tv](mailto:Robert.Folliard@gray.tv)>  
**Sent:** Wednesday, May 01, 2019 5:17 PM  
**To:** Bruce Beard <[bbeard@cinnamonmueller.com](mailto:bbeard@cinnamonmueller.com)>  
**Subject:** Telepex/Diamondhead, MS: Gray Television Election Letter

Bruce

Attached is an election letter that is going out via certified mail today to Telepex in response to the FCC decision granting the market mod for Diamondhead, MS.

We are electing retrans consent for our station WLOX-TV on the Diamondhead system. As you know, Gray and Telepex are already parties to a retransmission consent agreement and under that agreement all acquired stations (like WLOX) and acquired or newly built systems (like Diamondhead) are added to the agreement as acquired stations/acquired systems.

Our ABC affiliation agreement for WLOX-TV allows us to grant retransmission consent on any cable system in Hancock County, MS, which includes Telepex's Diamondhead system. Therefore, Telepex has our consent to carry WLOX-TV's primary stream (affiliated with ABC) on the Diamondhead system. Your client can launch WLOX-TV's ABC stream at any time, and it would carry it under the terms of the existing Gray/Telepex agreement. Unless you prefer otherwise, I don't think we need to amend our agreement or otherwise prepare any documentation if Telepex indeed intends to launch

WLOX-TV's ABC program stream as contemplated under the retrans agreement.

We cannot, however, grant consent for WLOX-TV's multicast channels, including the CBS programming on WLOX-D2. As you may know, under the standard CBS affiliation agreement, CBS prohibits its affiliates from granting any new out-of-DMA carriage. The market mod does not change the Nielsen boundaries for the Biloxi-Gulfport DMA, and Diamondhead remains in the New Orleans DMA. Therefore, under our CBS affiliation agreement, we are prohibited from granting consent for WLOX-TV's CBS affiliated multicast channel on the Diamondhead system. Section 5 of our retransmission consent agreement states that Gray only grants consent for carriage of a program feed outside of a Station's DMA if it is consistent with the terms of the pertinent affiliation agreement. As a result, Telepex will not have consent to retransmit our CBS multicast channel.

Gray also owns the FOX affiliate in New Orleans, WVUE-TV. Under the Gray/Telepex agreement, Telepex must launch WVUE's program streams on its system when it goes live. Because the market mod does not adjust Nielsen's DMA boundaries, WVUE remains the in-DMA FOX affiliate. As an aside, I suspect Telepex may have trouble obtaining authority to carry WXXV's Fox programming. The standard Fox affiliation agreement prohibits any Fox affiliate from granting consent outside its DMA, and a market modification does not act as an exception to this rule in Fox's eyes. Regardless, whatever Telepex does with WXXV, it has our consent to retransmit WVUE and should do so when it launches WLOX's ABC programming.

Let me know if you have questions.

-Rob



**Robert J. Folliard, III**

**Gray Television, Inc.**

Vice President – Government Relations & Distribution

4370 Peachtree Road, NE

Atlanta, GA 30319

**Phone:** 202.750.1585

**Email:** [robert.folliard@gray.tv](mailto:robert.folliard@gray.tv)

**Website:** [www.gray.tv](http://www.gray.tv)

---

**From:** "Yarberry, Darlene" <[dyarberry@wlox.com](mailto:dyarberry@wlox.com)>

**Date:** Wednesday, May 1, 2019 at 4:43 PM

**To:** All Legal Election Letters <[AllLegalElectionLetters@RaycomMedia.com](mailto:AllLegalElectionLetters@RaycomMedia.com)>

**Cc:** Rick Williams <[rwilliams@wlox.com](mailto:rwilliams@wlox.com)>, Rob Folliard <[Robert.Folliard@gray.tv](mailto:Robert.Folliard@gray.tv)>

**Subject:** Election of Retransmission Consent Status - Telapex, Inc and Cable One, Inc



## **E. Darlene Yarberry**

Receptionist/Administrative Assistant

Phone: 228-896-1313

[dyarberry@wlox.com](mailto:dyarberry@wlox.com)

WLOX TV-13



**Subject:** FW: Telepex/Diamondhead, MS: Gray Television Election Letter  
**Date:** Monday, June 3, 2019 at 2:55:15 PM Central Daylight Time  
**From:** Robert Folliard  
**To:** Scott Friedman  
**Attachments:** image001.png, image002.jpg, image003.jpg

Scott -- You can see CBS's position below. We have authority to grant consent subject to the simultaneous carriage of WWL-TV.

-Rob

---

**From:** John Bagwell <john.bagwell@cbs.com>  
**Date:** Monday, June 3, 2019 at 2:47 PM  
**To:** Rob Folliard <Robert.Folliard@gray.tv>  
**Subject:** RE: Telepex/Diamondhead, MS: Gray Television Election Letter

Rob,

As previously noted, CBS is willing to permit WLOX-TV to grant retransmission consent with regard to the CBS Network Programs in WLOX-TV's broadcast stream to MVPD TV households located in Diamondhead, MS pursuant to the terms of the station's CBS Network Affiliation Agreement, including the simultaneous retransmission of WWL-TV, the CBS affiliate licensed to the New Orleans DMA.

Best regards,

John

**John W. Bagwell**  
SVP & Assoc. General Counsel  
CBS Television  
212-975-8730

---

**From:** Robert Folliard <Robert.Folliard@gray.tv>  
**Sent:** Thursday, May 30, 2019 8:23 PM  
**To:** Bagwell, John <john.bagwell@cbs.com>  
**Subject:** FW: Telepex/Diamondhead, MS: Gray Television Election Letter

<External Email>

John

As a follow up to our conversations a few weeks ago regarding the new cable system that C-Spire/Telepex is building in Diamondhead, Mississippi, as you can see below, C-Spire has asked that we ask CBS to reconsider its simultaneous carriage provision in our affiliation agreement solely with respect to their Diamondhead system, so we can grant consent to C-Spire to carry WLOX-D2 in Diamondhead without also simultaneously carrying WWL-TV from New Orleans.

C-Spire has always been a good partner of ours in Mississippi, so to the extent an accommodation is possible in this circumstance where the FCC has granted a market modification, we would certainly appreciate it.

In any event, thank you for considering our request again. If you have questions, give me a call.

-Rob



**Robert J. Folliard, III**

**Gray Television, Inc.**

Vice President – Government Relations & Distribution

4370 Peachtree Road, NE

Atlanta, GA 30319

**Phone:** 202.750.1585

**Email:** [robert.folliard@gray.tv](mailto:robert.folliard@gray.tv)

**Website:** [www.gray.tv](http://www.gray.tv)

---

**From:** "[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)" <[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)>

**Date:** Thursday, May 30, 2019 at 2:29 PM

**To:** Rob Folliard <[Robert.Folliard@gray.tv](mailto:Robert.Folliard@gray.tv)>

**Subject:** Re: Telepex/Diamondhead, MS: Gray Television Election Letter

Rob:

Just wanted to follow up on our conversation last Friday. As I explained, C Spire is prepared to file a Retransmission Consent Good Faith Complaint and Petition for Declaratory Ruling next week on these issues. In short:

- As a result of the market modification grant, the FCC has deemed WLOX a local station in Diamondhead.
- Since C Spire is now authorized to retransmit WLOX under Section 534, any “limitation” on C Spire carrying WLOX’s CBS feed in Diamondhead, including a requirement that C Spire also carry the New Orleans CBS feed, constitutes a *per se* violation under the Commission’s new rule implemented via STELAR.
- Also, now that WLOX is “local” in Diamondhead, WLOX is subject to more rigorous in-market retransmission consent negotiation requirements under the FCC’s rules. Gray cannot, as it has done so here, solely request that CBS waive its restriction on out-of-market carriage (since the station is now in-market under Section 534). Not negotiating further is a refusal to negotiate retransmission consent and a refusal to put forth more than a single, unilateral proposal, both *per se* violations.

C Spire, of course, would like to avoid filing with the FCC and requests that you speak with CBS again and see if they will permit Gray to grant consent to C Spire to retransmit WLOX’s CBS multicast feed without condition.

Thanks again for your help.  
Regards,  
Scott Friedman  
Cinnamon Mueller  
1714 Deer Tracks Trail, Suite 230  
St. Louis, MO 63131  
(314) 462-9000 (office)  
(608) 469-3596 (cell)  
[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)



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**From:** Robert Folliard <[Robert.Folliard@gray.tv](mailto:Robert.Folliard@gray.tv)>  
**Date:** Friday, May 17, 2019 at 10:10 AM  
**To:** Scott Friedman <[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)>  
**Subject:** Re: Telepex/Diamondhead, MS: Gray Television Election Letter

Yes . . . and essentially the simultaneous carriage obligation was what made CBS comfortable granting the waiver. If we had insisted upon the right to grant consent and relief from the simultaneous carriage obligation, the answer would have been a hard "No."

---

**From:** "[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)" <[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)>  
**Date:** Friday, May 17, 2019 at 11:06 AM  
**To:** Rob Folliard <[Robert.Folliard@gray.tv](mailto:Robert.Folliard@gray.tv)>  
**Subject:** RE: Telepex/Diamondhead, MS: Gray Television Election Letter

Rob:

Were you able to discuss with CBS whether you could grant consent in this instance without the corresponding "in-DMA" station requirement?

Regards,  
Scott Friedman  
Cinnamon Mueller  
1714 Deer Tracks Trail, Suite 230  
St. Louis, MO 63131  
(314) 462-9000 (office)  
(608) 469-3596 (cell)  
[sfriedman@cinnamonmueller.com](mailto:sfriedman@cinnamonmueller.com)



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## **CERTIFICATE OF SERVICE**

I, Bruce Beard, hereby certify that a true and correct copy of the foregoing Petition for Special Relief was delivered by me to the United States Postal Service Office on June 3, 2019 to be delivered to the person listed below via first-class, postage-prepaid mail:

WLOX  
WLOX License Subsidiary, LLC  
201 Monroe Street  
RSA Tower, 20th Floor  
Montgomery, AL 36104

Martha Heller\*  
Chief, Policy Division, Media Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554  
Martha.Heller@fcc.gov

WXXV  
MORRIS NETWORK OF MISSISSIPPI, INC.  
27 ABERCORN STREET  
SAVANNAH, GA 31412

CABLE ONE, INC.  
210 E. EARLL DRIVE  
PHOENIX, AZ 85012

Gray Television Licensee, LLC  
4370 Peachtree Road, NE  
Atlanta, GA 30319

WPXL  
Ion Media New Orleans License, Inc.  
601 Clearwater Park Road  
West Palm Beach, FL 33401-6233

WLOX-TV  
Rick Williams  
VP and General Manager  
208 DeBuys Rd.  
Biloxi, MS 39531

WHNO  
Christian Television Corp. Of New Orleans, Inc.  
6922 142ND AVE. N.  
Largo, FL 33771

WXXV-TV  
Jimmy Spears  
Program Director  
14351 Hwy 49 North  
Gulfport, MS 39503

KGLA  
Mayavision, Inc.  
3540 S I-10 Service Road W  
Suite 342  
Metairie, LA 70001

WWL  
Tegna, Inc.  
Jones Branch Drive  
McLean, VA 22107

WGNO  
Tribune Television New Orleans, Inc.  
1 Galleria Boulevard  
Suite 850  
Metairie, LA 70001

WNOL  
Tribune Television New Orleans, Inc.  
1 Galleria Boulevard  
Suite 850  
Metairie, LA 70001

City of Diamondhead, MS  
Jeannie Klein  
City Clerk  
5000 Diamondhead Circle  
Diamondhead, MS 39525

WVUE  
WVUE License Subsidiary, LLC

Hancock County, MS

201 Monroe Street  
RSA Tower, 20th Floor  
Montgomery, AL 36104

WDSU  
New Orleans Hearst  
P.O. BOX 1800  
Raleigh, NC 27602

WUPL  
BELO TV, INC.  
Tegna Inc.  
7950 Jones Branch Drive  
McLean, VA 22107

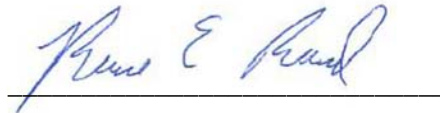
WTNO-LP  
HC2 Station Group, Inc.  
450 Park Avenue  
30th Floor  
New York, NY 10022

Karen Ladner Ruhr  
Hancock County Circuit Court Clerk  
152 Main Street, Suite B  
Bay St. Louis, MS 39520

WMAH  
Mississippi Authority For Educational Television  
3825 Ridgewood Road  
Jackson, MS 39211

WLAE-TV  
Educational Broadcasting Foundation, Inc.  
3330 N. Causeway Blvd.,  
Suite 345  
Metairie, LA 70002

KNLD-LD  
Word Of God Fellowship, Inc  
3901 Highway 121  
Bedford, TX 76021



Bruce Beard

Dated: June 3, 2019

# Agency Tracking ID:PGC3253190 Authorization Number:09791G

## Successful Authorization -- Date Paid: 6/3/19

### FILE COPY ONLY!!

READ INSTRUCTIONS CAREFULLY BEFORE PROCEEDING  (1) LOCKBOX #979089	FEDERAL COMMUNICATIONS COMMISSION <b>REMITTANCE ADVICE</b> <b>FORM 159</b> PAGE NO 1 OF 1	APPROVED BY OMB 3060-059 SPECIAL USE FCC USE ONLY
<b>SECTION A - Payer Information</b>		
(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card) <b>Cinnamon Mueller LLC</b>		(3) TOTAL AMOUNT PAID (dollars and cents) <b>\$1550.00</b>
(4) STREET ADDRESS LINE NO. 1 <b>307 North Michigan Avenue</b>		
(5) STREET ADDRESS LINE NO. 2 <b>Suite 1020</b>		
(6) CITY <b>Chicago</b>	(7) STATE <b>IL</b>	(8) ZIP CODE <b>60601</b>
(9) DAYTIME TELEPHONE NUMBER (INCLUDING AREA CODE) <b>312-3723930</b>		(10) COUNTRY CODE (IF NOT IN U.S.A.) <b>US</b>
<b>FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED</b>		
(11) PAYER (FRN) <b>0005852934</b>		(12) FCC USE ONLY
IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)		
(13) APPLICANT NAME <b>Telepak Networks, Inc.</b>		
(14) STREET ADDRESS LINE NO. 1 <b>1018 Highland Colony Parkway</b>		
(15) STREET ADDRESS LINE NO. 2 <b>Suite 410</b>		
(16) CITY <b>Ridgeland</b>	(17) STATE <b>MS</b>	(18) ZIP CODE <b>39157</b>
(19) DAYTIME TELEPHONE NUMBER (INCLUDING AREA CODE) <b>601-4875261</b>		(20) COUNTRY CODE (IF NOT IN U.S.A.) <b>US</b>
<b>FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED</b>		
(21) APPLICANT (FRN) <b>0003806668</b>		(22) FCC USE ONLY
<b>COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET</b>		
(23A) FCC Call Sign/Other ID <b>WLOX</b>	(24A) Payment Type Code(PTC) <b>TQC</b>	(25A) Quantity <b>1</b>
(26A) Fee Due for (PTC) <b>\$1,550.00</b>	(27A) Total Fee <b>\$1550.00</b>	FCC Use Only
(28A) FCC CODE 1 <b>N/A</b>	(29A) FCC CODE 2 <b>N/A</b>	
(23B) FCC Call Sign/Other ID	(24B) Payment Type Code(PTC)	(25B) Quantity
(26B) Fee Due for (PTC)	(27B) Total Fee	FCC Use Only
(28B) FCC CODE 1	(29B) FCC CODE 2	