

**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. 19-159
v.	)	CSR-8978-C
	)	
Gray Television Group, Inc.	)	
	)	

**REPLY TO TEGNA INC. COMMENTS**

Telepak Networks, Inc. d/b/a C Spire Fiber (“C Spire”) hereby responds to TEGNA Inc.’s (“TEGNA”) Comments to C Spire’s Retransmission Consent Complaint and Petition for Declaratory Ruling (“Complaint”).<sup>1</sup> TEGNA owns WWL, the New Orleans television station affiliated with the CBS network,<sup>2</sup> and purports to have filed its Comments to “provid[e] the Commission with a more complete factual record in this matter.”<sup>3</sup> In particular, TEGNA claims that “C Spire never responded to TEGNA’s [retransmission consent] proposal,”<sup>4</sup> that “C Spire was unwilling to carry WWL”<sup>5</sup> or, at least “would have been unwilling to consider any arrangement for the station other than no-fee carriage”<sup>6</sup> and, finally, that “in considering how the

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<sup>1</sup> *Telepak Networks, Inc. d/b/a C Spire Fiber, Retransmission Consent Complaint and Petition for Declaratory Ruling*, Comments of TEGNA Inc., MB Docket No. 19-159 (filed July 2, 2019) (“TEGNA Comments”).

<sup>2</sup> TEGNA also owns WUPL, the New Orleans television station affiliated with the MyNetwork network.

<sup>3</sup> TEGNA Comments at 2.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.* The Media Bureau has expressly stated that there is no requirement that an MVPD provide compensation in exchange for retransmission consent. *HITV License Subsidiary, Inc. v. DirectTV, LLC*, Memorandum Opinion and Order, 33 FCC Rcd 1137, ¶ 9 (2018).

conditions in WLOX's CBS affiliation agreement affect Gray's good faith negotiation obligations, the Commission should bear in mind C Spire's unwillingness to make any attempt to meet those conditions."<sup>7</sup>

As an initial matter, the Commission should give TEGNA's Comments no weight. The issue in this matter is whether Gray Television ("Gray") failed to negotiate in good faith with C Spire for retransmission consent rights regarding WLOX in violation of the Communications Act and the Commission's rules. The relationship, or lack thereof, between TEGNA, WWL and C Spire is irrelevant. It is also important to note that C Spire served its market modification petition on both of TEGNA's New Orleans stations, WWL and WUPL, and neither TEGNA nor either of its stations opposed, let alone commented, on the petition. In fact, C Spire heard nothing from TEGNA until receiving a copy of its comments in this proceeding. Nonetheless, TEGNA omits several key facts that, once interwoven with TEGNA's alleged story, show C Spire acted reasonably while TEGNA, itself, was the party that delayed retransmission consent negotiations for WWL and WUPL. Accordingly, to the extent the Commission gives TEGNA's Comments any weight, it must factor in TEGNA's delay in responding to C Spire's request to negotiate retransmission consent for WWL and WUPL.

In accordance with Commission regulations, C Spire notified all local commercial and noncommercial broadcast stations last August of its intent to commence cable service in Diamondhead, Mississippi as a matter of course.<sup>8</sup> As Diamondhead, Mississippi is within the New Orleans Designated Market Area, this included WWL and WUPL. C Spire mailed certified

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<sup>7</sup> TEGNA Comments at 3-4.

<sup>8</sup> See 47 C.F.R. § 76.64(k) ("A cable system commencing new operation is required to notify all local commercial and noncommercial broadcast stations of its intent to commence service. The cable operator must send such notification, by certified mail, at least 60 days prior to commencing cable service.").

letters to TEGNA, WWL and WUPL on August 6, 2018.<sup>9</sup> Eleven days later, on August 17, 2018, TEGNA responded, electing retransmission consent status on behalf of both WWL and WUPL.<sup>10</sup> At this point, TEGNA's description of the facts is accurate.

TEGNA's Comments, however, neglect to disclose the further interactions on August 17, 2018 between Rebecca Rahm, TEGNA's Directory of Program Strategy, and Bruce Beard, C Spire's counsel. Upon receipt of TEGNA's retransmission consent election letters for WWL and WUPL via email, Mr. Beard immediately responded to Ms. Rahm and asked if C Spire "could [] get your latest version of the retransmission consent agreement in word form."<sup>11</sup> Ms. Rahm subsequently replied that she would send the retransmission consent agreement early the following week.<sup>12</sup> Yet, it took TEGNA 39 days, until September 25, 2018, to respond to Mr. Beard with the draft retransmission consent agreement.<sup>13</sup> No explanation of this delay was ever received by Mr. Beard or any other C Spire representative.

The Commission must heavily weigh this crucial omission. During TEGNA's delayed response to C Spire's request, C Spire continued its conversations with local officials, ultimately determining that Diamondhead residents strongly desired Mississippi stations, not New Orleans stations. By the time TEGNA eventually responded to C Spire's August 17, 2018 request, C Spire was seriously considering the possibility of seeking a market modification to add Diamondhead to WLOX's and WXXV's local television markets. C Spire then engaged counsel

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<sup>9</sup> TEGNA Comments at 2.

<sup>10</sup> *Id.*

<sup>11</sup> *See Exhibit 1*, Email dated Aug. 17, 2018 from Mr. Bruce Beard to Ms. Rebecca Rahm.

<sup>12</sup> *Id.*, Email dated Aug. 17, 2018 from Ms. Rebecca Rahm to Mr. Bruce Beard.

<sup>13</sup> *Id.*, Email dated Sept. 25, 2018 from Ms. Rebecca Rahm to Mr. Bruce Beard.

shortly thereafter to work on the market modification petition that C Spire filed in December 2018 and the Commission ultimately granted in April 2019.

In conclusion, as detailed in C Spire's Complaint and its Reply to Gray's Opposition, Gray failed to negotiate in good faith with C Spire for retransmission consent rights regarding WLOX in violation of the Act and Commission rules. The Commission should give no weight to TEGNA's Comments, but if it does, it must consider TEGNA's delay in negotiating retransmission consent for WWL and C Spire's decision to move forward with a market modification to in order to serve the Diamondhead citizens' interests instead of retransmitting New Orleans stations.

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

July 12, 2019

The signatory has read the Reply to Comments 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: 

Charles L. McBride, Jr.  
Telepak Networks, Inc.  
d/b/a C Spire Fiber  
1018 Highland Colony Pkwy, Ste. 300  
Ridgeland, MS 39157

Dated: July 12, 2019

## **EXHIBIT 1**

**From:** Rahm, Rebecca <RRAHM@Tegna.com>  
**Sent:** Friday, August 17, 2018 4:41 PM  
**To:** ajphillips@cspire.com  
**Cc:** Bruce Beard  
**Subject:** TEGNA - Telapex, Inc. Retransmission Consent Elections Letters for WWL and WUPL  
**Attachments:** WUPL\_Telapex, Inc.\_Election Letter\_ 2018-2020.pdf; WWL\_Telapex, Inc.\_Election Letter\_ 2018-2020.pdf

Ashley,

Please find attached a copy of the Retransmission Consent Election letters between WWL and Telapex, Inc. and WUPL and Telapex, Inc. These letters were mailed by CERTIFIED MAIL, RETURN RECEIPT REQUESTED today, as you will see.

Thanks,  
Rebecca

***Rebecca Rahm***  
**Director, Program Strategy**  
**TEGNA, Inc.**  
[rrahm@teгна.com](mailto:rrahm@teгна.com) / O: 602.444.1243 / C: 314.609.6684

# TEGNA

REBECCA RAHM

Director of Program Strategy

**BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

August 17, 2018

Ms. Ashley Phillips  
General Manager  
Telapex, Inc.  
109 Primos Parkway  
Flora, MS 39071

**Re: Election of Retransmission Consent Status for WUPL, Slidell, LA located in the New Orleans, LA DMA ("Station")**

Dear Ms. Phillips:

Belo TV, Inc. ("Licensee"), licensee of Station, hereby gives notice to Telapex, Inc. that, pursuant to Section 325(b)(3)(B) of the Communications Act and Section 76.64(f)(2) of the FCC's rules, Licensee elects retransmission consent status for Station. This election applies to the cable system identified above as well as any other distribution systems that you or your affiliated companies own, operate, or manage. Accordingly, pursuant to Section 325(b)(1)(A) of the Communications Act and Section 76.64(a) of the FCC's rules, the broadcast signal of Station may not be carried on your cable system or other distribution systems that you own, operate, or manage without Licensee's express written consent pursuant to a retransmission consent agreement. This election of retransmission consent is for the period January 1, 2018 through December 31, 2020.

Should you have any questions, please contact me at 602-444-1243.

Sincerely,



Rebecca Rahm  
Director, Program Strategy

cc: Bruce Beard  
Cinnamon Mueller  
1714 Deer Track Trail, Suite 230  
St. Louis, MO 63131



# TEGNA

REBECCA RAHM

Director of Program Strategy

**BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

August 17, 2018

Ms. Ashley Phillips  
General Manager  
Telapex, Inc.  
109 Primos Parkway  
Flora, MS 39071

**Re: Election of Retransmission Consent Status for WWL-TV, New Orleans, LA  
located in the New Orleans, LA DMA ("Station")**

Dear Ms. Phillips:

WWL-TV, Inc. ("Licensee"), licensee of Station, hereby gives notice to Telapex, Inc. that, pursuant to Section 325(b)(3)(B) of the Communications Act and Section 76.64(f)(2) of the FCC's rules, Licensee elects retransmission consent status for Station. This election applies to the cable system identified above as well as any other distribution systems that you or your affiliated companies own, operate, or manage. Accordingly, pursuant to Section 325(b)(1)(A) of the Communications Act and Section 76.64(a) of the FCC's rules, the broadcast signal of Station may not be carried on your cable system or other distribution systems that you own, operate, or manage without Licensee's express written consent pursuant to a retransmission consent agreement. This election of retransmission consent is for the period January 1, 2018 through December 31, 2020.

Should you have any questions, please contact me at 602-444-1243.

Sincerely,



Rebecca Rahm  
Director, Program Strategy

cc: Bruce Beard  
Cinnamon Mueller  
1714 Deer Track Trail, Suite 230  
St. Louis, MO 63131

**From:** Bruce Beard  
**Sent:** Friday, August 17, 2018 4:49 PM  
**To:** Rahm, Rebecca; ajphillips@cspire.com  
**Subject:** RE: TEGNA - Telapex, Inc. Retransmission Consent Elections Letters for WWL and WUPL

Thanks Rebecca—could we also get your latest version of the retransmission consent agreement in word form?

Have a great weekend.

Bruce

Bruce E. Beard  
Cinnamon Mueller  
1714 Deer Track Trail-Suite 230  
St Louis, MO 63131  
314-394-1535 (Office)  
314-394-1538 (Fax)  
314-541-3305 (Cell)

[bbeard@cm-chi.com](mailto:bbeard@cm-chi.com)



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**Subject:** TEGNA - Telapex, Inc. Retransmission Consent Elections Letters for WWL and WUPL

Ashley,

Please find attached a copy of the Retransmission Consent Election letters between WWL and Telapex, Inc. and WUPL and Telapex, Inc. These letters were mailed by CERTIFIED MAIL, RETURN RECEIPT REQUESTED today, as you will see.

Thanks,  
Rebecca

*Rebecca Rahm*

Director, Program Strategy

TEGNA, Inc.

[rrahm@tegna.com](mailto:rrahm@tegna.com) / O: 602.444.1243 / C: 314.609.6684

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**Sent:** Friday, August 17, 2018 4:49 PM  
**To:** Bruce Beard; ajphillips@cspire.com  
**Subject:** RE: TEGNA - Telapex, Inc. Retransmission Consent Elections Letters for WWL and WUPL

Yes, will send early next week.

Thanks,  
Rebecca

*Rebecca Rahm*

**Director, Program Strategy**  
**TEGNA, Inc.**

[rrahm@teгна.com](mailto:rrahm@teгна.com) / O: 602.444.1243 / C: 314.609.6684

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**From:** Bruce Beard <bbeard@cinnamonmueller.com>  
**Sent:** Friday, August 17, 2018 2:49 PM  
**To:** Rahm, Rebecca <RRAHM@Tegna.com>; ajphillips@cspire.com  
**Subject:** RE: TEGNA - Telapex, Inc. Retransmission Consent Elections Letters for WWL and WUPL

**\*External Email – Be Suspicious of Attachments, Links and Requests for Login Information\***

Thanks Rebecca—could we also get your latest version of the retransmission consent agreement in word form?

Have a great weekend.

Bruce

Bruce E. Beard  
Cinnamon Mueller  
1714 Deer Track Trail-Suite 230  
St Louis, MO 63131  
314-394-1535 (Office)  
314-394-1538 (Fax)  
314-541-3305 (Cell)

[bbeard@cm-chi.com](mailto:bbeard@cm-chi.com)



\*\*\*\*\*

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**Cc:** Bruce Beard <[bbeard@cinnamonmueller.com](mailto:bbeard@cinnamonmueller.com)>  
**Subject:** TEGNA - Telapex, Inc. Retransmission Consent Elections Letters for WWL and WUPL

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Thanks,  
Rebecca

***Rebecca Rahm***  
**Director, Program Strategy**  
**TEGNA, Inc.**  
[rrahm@tegn.com](mailto:rrahm@tegn.com) / O: 602.444.1243 / C: 314.609.6684

**From:** Rahm, Rebecca <RRAHM@Tegna.com>  
**Sent:** Tuesday, September 25, 2018 10:08 AM  
**To:** Bruce Beard  
**Subject:** Telapex, Inc. - WWL/WUPL Retransmission Consent Agreement  
**Attachments:** Telapex, Inc.\_WWL\_WUPL 2018-2020.docx

Hi Bruce,

Attached please find the Retransmission Consent Agreement between TEGNA Inc. and Telapex, Inc. Please review and feel free to reach out with any questions.

Thanks,  
Rebecca

*Rebecca Rahm*

Director, Program Strategy

TEGNA Inc.

[rrahm@teгна.com](mailto:rrahm@teгна.com) / O: 602-444-1243 / C: 314-609-6684

**CERTIFICATE OF SERVICE**

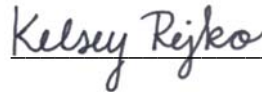
I, Kelsey Rejko, hereby certify that a true and correct copy of the foregoing Reply to Comments was delivered by me to the United States Postal Service Office on July 12, 2019 to be delivered to the persons listed below via first-class, postage-prepaid mail:

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Michael Beder  
8350 Broad Street, Suite 2000  
Tysons, VA 22102  
Attorneys for TEGNA Inc.

Joan Stewart  
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Washington, DC 20006  
Attorneys for Gray Television

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

*\*Sent via email*



Kelsey Rejko

Dated: July 12, 2019