

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

In the Matter of)	
)	
Cincinnati Bell Extended Territories LLC dba)	MB Docket No. 25-197
altafiber,)	
)	
Complainant,)	File No. CSR-9023-C
)	
v.)	
)	
Nexstar Media Inc.,)	
)	
Defendant.)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: December 12, 2025

Released: December 12, 2025

By the Acting Chief, Media Bureau:

I. INTRODUCTION

1. On June 13, 2025, Cincinnati Bell Extended Territories LLC dba altafiber (Cincinnati Bell) filed a complaint¹ against Nexstar Media Inc. (Nexstar) alleging violations of the requirement to negotiate retransmission consent in good faith pursuant to section 325(b)(3)(C) of the Communications Act of 1934, as amended (the Act), and the Commission's implementing rules.² Cincinnati Bell alleges that Nexstar, as the licensee of television station WDTN,³ breached its duty to negotiate retransmission consent in good faith. Nexstar filed an Answer⁴ and Cincinnati Bell filed a Reply.⁵ For the reasons stated below, we deny the Complaint.

II. BACKGROUND

A. Relevant Law and Commission Rules

2. Section 325(b)(3)(C) of the Act imposes on television broadcast stations and multichannel video programming distributors (MVPDs) a duty to negotiate retransmission consent in good faith.⁶ Specifically, section 325(b)(3)(C)(ii) directs the Commission to establish rules that "prohibit a television broadcast station that provides retransmission consent from . . . failing to negotiate in good

¹ Verified Retransmission Consent Complaint, MB Docket No. 25-197, File No. CSR-9023-C (filed June 13, 2025) (Complaint).

² 47 U.S.C. § 325(b)(3)(C); 47 CFR § 76.65. *See also* 47 CFR § 76.7.

³ Complaint at 9.

⁴ *See generally* Nexstar Media Inc.'s Answer to Retransmission Consent Complaint of Cincinnati Bell Extended Territories LLC dba altafiber, MB Docket No. 25-197, File No. CSR-9023-C (filed July 3, 2025) (Answer).

⁵ Reply to Answer, MB Docket No. 25-197, File No. CSR-9023-C (filed July 14, 2025) (Reply).

⁶ 47 U.S.C. § 325(b)(3)(C).

faith.”⁷ Section 325 also provides that “enter[ing] into retransmission consent agreements containing different terms and conditions . . . with different [MVPDs],” is not a violation of the duty to negotiate in good faith “if such different terms and conditions are based on competitive marketplace considerations.”⁸ In the 2000 *Good Faith Order*, the Commission adopted rules that implemented the statutory good faith negotiation provision and established complaint procedures for alleged violations of the rules.⁹ The *Good Faith Order* adopted a two-part test for good faith.¹⁰ The first part of the test sets forth an objective list of negotiation standards.¹¹ Each of the standards applies to “Negotiating Entit[ies],” which the rules define as “a broadcast television station or [MVPD].”¹² A Negotiating Entity that engages in any of the acts or practices set forth in the list is deemed to have committed a *per se* breach of its statutory duty to negotiate retransmission consent in good faith.¹³ The *per se* standard implicated in this case provides that a Negotiating Entity may not refuse to put forth more than a single, unilateral proposal.¹⁴ The Commission has previously explained that “[t]ake it, or leave it” bargaining is not consistent with an affirmative obligation to negotiate in good faith.¹⁵ Under this standard, Negotiating Entities are required to be open to discussing more than one form of consideration during retransmission consent negotiations.¹⁶

3. The second part of the good faith test considers whether a Negotiating Entity has failed to negotiate in good faith based on the “totality of the circumstances.”¹⁷ Under this standard, a broadcast station or MVPD may present facts to the Commission that, viewed in totality, amount to a failure to negotiate in good faith.¹⁸ A broadcast station or MVPD that believes itself aggrieved under the good faith rules may file a complaint pursuant to section 76.7 of the Commission’s rules.¹⁹ The burden of proof in good faith complaint proceedings is on the complainant.²⁰

B. Factual Summary²¹

4. Cincinnati Bell is an MVPD that offers cable service to subscribers in two Ohio

⁷ *Id.* § 325(b)(3)(C)(ii).

⁸ *Id.*

⁹ *Implementation of the Satellite Home Viewer Improvement Act of 1999, Retransmission Consent Issues: Good Faith Negotiation and Exclusivity*, First Report and Order, CS Docket No. 99-363, 15 FCC Rcd 5445 (*Good Faith Order*), recon. granted in part, Order on Reconsideration, 16 FCC Rcd 15599 (2001).

¹⁰ *Good Faith Order*, 15 FCC Rcd at 5457, para. 30.

¹¹ 47 CFR §§ 76.65(b)(1)(i)-(ix) (listing *per se* standards for good faith negotiation). Although the requirement to negotiate in good faith originally was imposed only on television broadcast stations, a reciprocal obligation later was imposed on MVPDs. 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 10339 (2005).

¹² 47 CFR § 76.65(b)(1).

¹³ *Good Faith Order*, 15 FCC Rcd at 5462-64, paras. 40-46.

¹⁴ 47 CFR § 76.65(b)(1)(iv).

¹⁵ *Good Faith Order*, 15 FCC Rcd at 5463, para. 43.

¹⁶ *Id.* at 5463-64, para. 43.

¹⁷ 47 CFR § 76.65(b)(2).

¹⁸ *Id.*

¹⁹ *Id.* §§ 76.65(c), 76.7.

²⁰ *Id.* § 76.65(d).

²¹ Both parties filing in this proceeding have requested confidentiality for certain information. We have not ruled on these requests. Throughout this Memorandum Opinion and Order we have referenced only information available in the public versions of the pleadings.

designated market areas (DMAs), Dayton and Cincinnati.²² Nexstar is the licensee of WDTN, an NBC-affiliated broadcast television station that serves the Dayton DMA, and Nexstar also wholly owns NewsNation, a cable television network that provides 24-hour news.²³ On April 14, 2025, Cincinnati Bell and Nexstar began negotiating renewal of a 2022 agreement.²⁴ The prior agreement included: (i) a retransmission agreement dated June 3, 2022 governing carriage of WDTN's signal to Cincinnati Bell's subscribers in the Dayton DMA; and (ii) a distribution agreement dated June 3, 2022 that required Cincinnati Bell to distribute NewsNation to its subscribers in both the Dayton and Cincinnati DMAs.²⁵ The parties engaged in negotiations, exchanging multiple proposals for retransmission of WDTN, but they did not reach an agreement.²⁶ On May 31, 2025, the day on which both the prior retransmission consent agreement and the prior NewsNation distribution agreement were set to expire, Nexstar offered two options to avoid WDTN going dark for Cincinnati Bell's subscribers.²⁷ The first option was a short term extension of both the prior retransmission consent agreement and the NewsNation distribution agreement, conditioned on a commitment to negotiate a bundled deal covering both carriage of WDTN and carriage of NewsNation in both the Dayton and Cincinnati DMAs.²⁸ The second option was a stand-alone retransmission consent agreement conditioned on certain rates for future-acquired stations and increased rates for WDTN's broadcast programming streams.²⁹ Cincinnati Bell rejected both proposals and subsequently discontinued carriage of WDTN at 5:00 p.m. on May 31, 2025.³⁰

5. On June 3, 2025, Cincinnati Bell sent Nexstar a counterproposal to bundle carriage of WDTN and NewsNation in the Dayton DMA only.³¹ On June 6, 2025, Nexstar rejected Cincinnati Bell's counterproposal and reiterated its proposal from May 31, 2025.³² On June 13, 2025, Cincinnati Bell filed its Complaint against Nexstar alleging good faith violations. The Complaint alleges that Nexstar failed to negotiate retransmission consent in good faith by: (i) refusing to put forth more than a single, unilateral proposal;³³ and, (ii) breaching its duty to negotiate in good faith under the "totality of the circumstances" test.³⁴ Cincinnati Bell asks the Commission to find that that Nexstar violated its obligation to negotiate retransmission consent in good faith and to provide any other relief that the Commission deems appropriate.³⁵

III. DISCUSSION

6. Based on the record in this proceeding, we find that Cincinnati Bell has failed to meet its burden of proving that Nexstar violated the Commission's good faith negotiation rules. At the outset of our discussion, we reiterate our longstanding precedent that absent other factors, disagreement over the

²² Complaint at 9; Answer at 4.

²³ Complaint at 9; Answer at 4.

²⁴ Complaint at 9-10; Answer at 5.

²⁵ Complaint at 9.

²⁶ Complaint at ii-iii, 11-12; Answer at 5-7.

²⁷ Complaint at iii; Answer at 6-7.

²⁸ Complaint at iii, 16-17; Answer at 6, 17; Reply at 3.

²⁹ Complaint at iii, 3, 11, 19; Reply at 14-15.

³⁰ Complaint at ii, 12; Answer at 7.

³¹ Complaint at iv, 12; Answer at 7.

³² Complaint at iv, 12; Reply at 15, n.53.

³³ Complaint at i, 3, 12, 16, 19.

³⁴ *Id.* at i, 3, 17-18.

³⁵ *Id.* at 19-20; Reply at 15-16.

rates, terms, and conditions of retransmission consent – even fundamental disagreement – does not indicate a lack of good faith.³⁶ As the Bureau also has repeatedly stated, nothing in the Act or our implementing rules requires that parties negotiating retransmission consent actually reach agreement.³⁷

7. First, we find that the record does not demonstrate that Nexstar violated the *per se* good faith negotiation rule prohibiting a “single, unilateral proposal.”³⁸ Cincinnati Bell argues that Nexstar’s refusal to negotiate alternate consideration in lieu of carriage of NewsNation, and its refusal to negotiate the terms of its “eleventh-hour” stand-alone retransmission consent agreement or to consider Cincinnati Bell’s counterproposal, constitute a breach of the *per se* standard prohibiting a “single, unilateral proposal.”³⁹ To the contrary, however, the record indicates that Nexstar offered multiple proposals with different terms during negotiations.⁴⁰ We find that Nexstar’s willingness to enter into a stand-alone retransmission consent agreement demonstrates its willingness to consider alternate forms of consideration. Although Nexstar may have been unwilling to reach agreement on the terms Cincinnati Bell desired, that does not violate the prohibition on making a single, unilateral proposal. As Nexstar explains, it “proposed certain terms that it considers important in multiple non-identical offers,” which Cincinnati Bell declined to accept.⁴¹ The *Good Faith Order* states that the requirement to offer alternative forms of consideration besides carriage of affiliated programming “does not, in any way, require a broadcaster to reduce the amount of consideration it desires for carriage of its signal.”⁴² For these reasons, we find that Cincinnati Bell has not met its burden of proving that Nexstar violated the *per se* good faith negotiation rule prohibiting a “single, unilateral proposal.”

8. Second, we find that the record does not support a finding that Nexstar violated the requirement to negotiate retransmission consent in good faith under the totality of the circumstances test.⁴³ Under the totality of the circumstances test, a Negotiating Entity may present facts to the Commission that, viewed in totality, amount to a failure to negotiate in good faith.⁴⁴ When adopting this standard, the Commission explained that specific retransmission consent proposals could be “sufficiently

³⁶ See *Good Faith Order*, 15 FCC Rcd at 5462, para. 40; *HolstonConnect, LLC v. Nexstar Media Group, Inc.*, Memorandum Opinion and Order, 34 FCC Rcd 7833, 7835, para. 6 (MB 2019) (*HolstonConnect Order*); *Coastal Television Broad. Co. LLC v. MTA Commun., LLC*, Memorandum Opinion and Order, 33 FCC Rcd 11025, 11027, para. 7 (MB 2018) (*Coastal Order*); *HITV License Subsidiary, Inc. v. DIRECTV, LLC*, Memorandum Opinion and Order, 33 FCC Rcd 1137, 1140, para. 7 (MB 2018) (*HITV Order*); *Northwest Broadcasting v. DirecTV*, Memorandum Opinion and Order, 30 FCC Rcd 12449, 12543, para. 11 (MB 2015); *Mediacom Commun. Corp. v. Sinclair Broad. Grp., Inc.*, Memorandum Opinion and Order, 22 FCC Rcd 35, 38, para. 6 (MB 2007) (*Mediacom Order*).

³⁷ See *HolstonConnect Order*, 34 FCC Rcd 7835, para. 6; *HITV Order*, 33 FCC Rcd at 1140, para. 7; *Coastal Order*, 33 FCC Rcd at 11027, para. 7.

³⁸ 47 CFR § 76.65(b)(1)(iv).

³⁹ Complaint at i, 3, 12, 19; Reply at 15.

⁴⁰ Complaint at iii, 11-12, 19; Answer at 5-7; Reply at 3. See also *HolstonConnect Order*, 34 FCC Rcd at 7835-36, para. 7 (rejecting the argument that a licensee presented a single, unilateral proposal, where it made multiple proposals with different terms); *HITV Order*, 33 FCC Rcd at 1140-41, paras. 8-9 (rejecting the argument that a single, unilateral proposal was offered where multiple similar proposals were offered, each of which did not include monetary compensation for carriage); *Mediacom Order*, 22 FCC Rcd at 38, para. 8 (rejecting the argument that a licensee made a single, unilateral proposal when it proposed that an MVPD either agree to a global agreement covering 22 stations or that it enter into a separate retransmission consent agreement for each station).

⁴¹ Answer at 3.

⁴² *Good Faith Order*, 15 FCC Rcd at 5463-64, para. 43. See also Answer at 17.

⁴³ Complaint at i, 1-3, 17-18; Reply at 1-2, 6.

⁴⁴ 47 CFR § 76.65(b)(4).

outrageous. . . as to breach [the] good faith negotiation obligation. However, complaints which merely reflect commonplace disagreements encountered by negotiating parties in the everyday business world will be promptly dismissed by the Commission.”⁴⁵ Cincinnati Bell objects to Nexstar’s proposed rates, including in particular the rates that would apply to after-acquired stations.⁴⁶ Cincinnati Bell also objects to Nexstar’s demands for carriage of NewsNation in the Cincinnati DMA with associated monthly per subscriber fees.⁴⁷ Cincinnati Bell further argues that “[i]ndividually and taken as a whole,” Nexstar’s proposals for after-acquired rates and carriage of NewsNation in the Cincinnati DMA are sufficiently outrageous as to constitute a breach of Nexstar’s good faith negotiation obligation.⁴⁸ We do not find that these proposals are so “sufficiently outrageous” that they constitute a violation of the good faith negotiation requirements under the totality of the circumstances test.⁴⁹

9. The record does not support a finding that Nexstar’s proposed retransmission consent rates, including those it proposed for after-acquired stations, are grounds for a finding of bad faith under the totality of the circumstances test. Cincinnati Bell asserts “that Nexstar charges higher retransmission consent fees than other broadcasters, as evidenced by its stated intent to migrate after-acquired stations to its retransmission consent agreements.”⁵⁰ Cincinnati Bell argues that the proposed rates “risk making [Cincinnati Bell’s] cable service in Dayton unaffordable and uncompetitive,”⁵¹ and that agreeing would “provide Nexstar a potential windfall and cause severe financial hardship” to Cincinnati Bell.⁵² However, Nexstar counters that, aside from the amount of the proposed fees, its proposals were consistent with the parties’ prior agreement, and that this dispute is simply a disagreement about rates.⁵³ We find that the parties’ disagreement over rates is the type of commonplace business disagreement that does not violate the Commission’s rules.⁵⁴ Further, nothing in the Commission’s rules prohibits after-acquired station

⁴⁵ *Good Faith Order*, 15 FCC Rcd at 5458, para. 32.

⁴⁶ Complaint at 2-3, 17-18.

⁴⁷ *Id.* at 2.

⁴⁸ *Id.* at 17-18.

⁴⁹ Cincinnati Bell also argues that Nexstar breached its duty to negotiate retransmission consent in good faith under the totality of circumstances test due to the “nature and amounts” of its proposed consideration because it “subordinate[d] its obligation to serve the public interest” in pursuit of pecuniary gain. *Id.* at 7 (citing *Amendment of Part 74, Subpart F of the Commission’s Rules to Permit Shared Use of Broadcast Auxiliary Facilities with Other Broadcast and Non-broadcast Entities and to Establish New Licensing Policies for Television Broadcast Auxiliary Stations*, Report and Order, BC Docket No. 81-794, 93 FCC 2d 570, 578, para. 20 (1983)), 18. We reject this argument as it erroneously conflates Nexstar’s public interest obligation with its rights to advance its own economic self-interest when negotiating retransmission consent. See *Good Faith Order*, 15 FCC Rcd at 5467, para. 53 (“Although some parties earnestly suggest, for example, that broadcasters should be entitled to zero compensation in return for retransmission consent or that the forms of compensation for carriage should be otherwise limited, this seems to us precisely the judgment that Congress generally intended the parties to resolve through their own interactions and through the efforts of each to advance its own economic self interest.”) (footnote omitted).

⁵⁰ Complaint at 17.

⁵¹ *Id.* at iii. See also *id.* at 12-14 14 (objecting to Nexstar’s “Consolidation Playbook” under which Nexstar seeks to purchase additional stations subject to pre-determined retransmission consent rates).

⁵² *Id.* at 14.

⁵³ Answer at 8.

⁵⁴ See, e.g., *Gray Television Licensee, LLC and Gray Media Group, Inc. v. Citizens Telecom Services Company, LLC d/b/a Frontier Communications*, Memorandum Opinion and Order, MB Docket No. 20-441, 36 FCC Rcd 7450, 7458, para. 18 (“[T]his type of business disagreement is not a proper basis for a complaint and should be rejected.”).

clauses, regardless of how potentially lucrative those clauses may be to a particular entity.⁵⁵

10. The record also does not support a finding that Nexstar violated the totality of the circumstances test by conditioning retransmission consent for WDTN in the Dayton DMA on distribution of NewsNation in both the Dayton and Cincinnati DMAs.⁵⁶ Cincinnati Bell acknowledges that the Commission has stated that proposals for carriage conditioned on carriage of *any other programming* are presumptively consistent with competitive marketplace conditions, yet it argues that the presumption only exists “where carriage is limited to the DMA for which retransmission consent is sought.”⁵⁷ We disagree with this argument. The Commission has stated that “[p]roposals for carriage conditioned on carriage of any other programming, such as . . . an affiliated cable programming service, or another broadcast station either in the same or a different market,” are “presumptively . . . consistent with competitive marketplace considerations and the good faith negotiation requirement.”⁵⁸ The use of the phrase “such as” makes clear that this list is not exhaustive. If the Commission intended to restrict proposals involving affiliated cable programming on the basis of geographic location, it would have included such a limitation in express terms.⁵⁹ Further, we agree with Nexstar that Cincinnati Bell’s “proffered interpretation also violates the grammatical ‘last-antecedent rule,’ which ‘provides that a limiting clause or phrase . . . should ordinarily be read as modifying *only* the noun or noun phrase that it immediately follows.’”⁶⁰ Although Cincinnati Bell is permitted to refuse to enter into a retransmission consent agreement that imposes certain carriage terms for NewsNation, Nexstar also is permitted to seek such terms as part of the parties’ negotiation.

11. Finally, Cincinnati Bell argues that the tying of carriage of NewsNation and the inclusion of an after-acquired station clause, both of which were part of the parties’ prior agreement, are now “inconsistent with changed competitive marketplace conditions.”⁶¹ As mentioned above, both proposals are presumptively consistent with competitive marketplace considerations.⁶² As the complainant,

⁵⁵ See Answer at 3 (explaining that after-acquired station provisions “have been customary in retransmission consent agreements for decades, as they provide both parties with certainty and efficiency during the term of the agreement at issue”).

⁵⁶ Complaint at i, 3, 7-8, 17-18; Reply at 8-9.

⁵⁷ Complaint at 6; *Good Faith Order*, 15 FCC Rcd at 5463, para. 43. See also Reply at 2, 8-10.

⁵⁸ *Good Faith Order*, 15 FCC Rcd at 5469, para. 56.

⁵⁹ Answer at 10-11. Nexstar also contends that its “financial position and advocacy for relief from the FCC’s media ownership rules” both “are extraneous to the parties’ negotiations and thus irrelevant to a good faith analysis,” and we agree. *Id.* at 8-9, 14-15.

⁶⁰ *Id.* at 11 (quoting *Petition for Determination of Effective Competition in 32 Massachusetts Communities & Kauai, HI (Hi0011)*, Memorandum Opinion and Order, 34 FCC Rcd 10229, 10239-40, para. 16 n.65 (2019) (quotations omitted) (emphasis added)). We note further that cable channels, by definition, are not limited to certain geographic markets in the same manner as television broadcast stations, which are licensed to specific DMAs. See Answer at 10. It is for this reason that the Commission specifically clarified that a broadcaster may negotiate for carriage of “another broadcast signal in the same or another market,” without including the same clarification for cable programming services. See *Good Faith Order*, 15 FCC Rcd at 5469, para. 56. Based on the analysis in this footnote and the associated paragraph, we also reject Cincinnati Bell’s claim that Nexstar is required to prove that its demand for carriage of NewsNation is consistent with competitive marketplace considerations, because the carriage occurs outside of the DMA at issue in the retransmission consent agreement. Reply at 2. There is no basis for this claim anywhere in the Commission’s rules or orders.

⁶¹ Reply at 1, 10-12. For the same reasons set forth above, we find that this negotiation involved two parties with different bargaining positions, and not, on the part of Nexstar, an “absence of a sincere desire to reach an agreement that is acceptable to both parties.” Complaint at 8.

⁶² *Good Faith Order*, 14 FCC Rcd at 5469, para. 56.

Cincinnati Bell has the burden of rebutting that presumption,⁶³ but has failed to effectively do so.⁶⁴ The record does not contain anything to persuade us that Nexstar's actions, whether considered separately or in concert, violated the Commission's requirements for good faith retransmission consent negotiations. For the above reasons, we find that Nexstar's conduct did not violate the Commission's *per se* good faith negotiation standards, nor the totality of circumstances test. Given the guidance provided herein, we urge the parties to return to the bargaining table and recommence negotiations "in an atmosphere of honesty, purpose and clarity of process."⁶⁵

IV. ORDERING CLAUSES

12. Accordingly, **IT IS ORDERED** that Cincinnati Bell Extended Territories LLC dba altafiber's good faith negotiation complaint against Nexstar Media Inc., filed pursuant to section 325(b)(3)(C) of the Act, and sections 76.7 and 76.55 of the Commission's rules, 47 CFR §§ 76.7 and 76.55, **IS DENIED**.

13. This action is taken pursuant to delegated authority under section 0.283 of the Commission's rules.⁶⁶

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

⁶³ *Id.* at 5483, para. 89.

⁶⁴ Although Cincinnati Bell argues that its prior agreements with Nexstar do not reflect "current" marketplace considerations, it fails to identify any specific changes in the marketplace that would render those agreements inconsistent with competitive conditions. Reply at 10-11.

⁶⁵ *Good Faith Order*, 15 FCC Rcd at 5454, para. 24.

⁶⁶ 47 CFR § 0.283.