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August 17, 2015
via electronic filing

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, D.C. 20554

Re: Comment on Petitions for Exemption from the Commission's Closed
Captioning Rules
CGB Dkt. No. 06-181

**Providence Transformation Church
International/Good News for Today**
CGB-CC-1354

**Alfaro & Associates, LLC/El Show
de Analeh**
CGB-CC-1358

Dear Ms. Dortch:

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), Association of Late Deafened Adults (ALDA), American Association of the Deaf-Blind (AADB), and Cerebral Palsy and Deaf Organization (CPADO), collectively, "Consumer Groups," respectfully submit this comment on the petitions of Providence Transformation Church International (Providence) and Alfaro & Associates (Alfaro) for exemption of their programming from the Federal Communications Commission's closed captioning rules. In light of the limited financial resources of both Providence and Alfaro,

* DC bar membership pending. Practice supervised by members of the DC bar.

** Admitted to bars of Washington State, the United States Court of Appeals for the District of Columbia Circuit, and the United States District Court of the District of Columbia.

Consumer Groups do not oppose the Commission granting short waivers of the closed captioning rules.

I. Legal Standard

Under Section 713(d)(3) of the Communications Act of 1934, as amended, a video programming provider may petition the Commission for a full or partial exemption from the Commission's closed captioning requirements if compliance would be "economically burdensome." The Commission considers several factors on a case-by-case basis when determining whether a petitioner has made the required showing under the economically burdensome standard.¹ An economically burdensome waiver is appropriate when a petitioner has demonstrated that compliance with the closed captioning rules would likely result in the cancellation of its programming.²

II. Consumer Groups do not oppose Providence's waiver petition.

Providence broadcasts a weekly 30-minute program entitled "*Good News for Today*" on ABC affiliate WSET 28 in Lynchburg, Virginia.³ Providence petitioned for a waiver of the caption rules in February 2014 and provided additional information in response to the Bureau's request before it was placed on public notice in July 2015.⁴

The lowest captioning quote Providence received was for \$300 per episode, with a total annual cost of \$15,600.⁵ Petitioner's finances show that Providence experienced a net loss of \$4,815 in 2013 and another net loss of \$76 in 2014.⁶ Additionally, in 2013, Providence reported total current assets of \$24,332.28 and current liabilities of \$64,454.⁷ In 2014, they reported current total assets of \$27,321.40 and current liabilities of \$64,363.⁸ Therefore, Providence's current liabilities exceeded their current assets by \$40,121.72 in

¹ *First Baptist Church, Jonesboro, Arkansas*, 29 FCC Rcd 12833, ¶3 (2014).

² *See Anglers for Christ Ministries, Inc.*, 26 FCC Rcd 14941, 14952 ¶20 (2011).

³ Providence Petition.

⁴ *Request for Comment on Request for Exemption from Commission's Closed Captioning Rules*, Public Notice, DA 15-820, Dkt. 06-181 (July 16, 2015) (July Public Notice).

⁵ Providence Petition at 5. The calculation of yearly total cost was corrected in CGB Letter to James E. Coleman, Dkt. 06-181 (Feb. 18, 2015) and Providence Supplement (Mar. 23, 2015).

⁶ Providence Supplement at 6. Providence reported revenues of \$49,937 in 2013 with \$54,752 in expenses. It reported \$55,457 in revenues in 2014 with \$55,533 in expenses.

⁷ Providence Supplement at 8.

⁸ *Id.*

2013 and \$37,041.60 in 2014. For these reasons, Providence does not appear to have enough financial resources to cover its losses and captioning expenses.

III. Consumer Groups do not oppose Alfaro's waiver petition.

Alfaro produces a 30-minute program, "*El Show de Analeh*," that airs 26 times per year on Channel 18 Univision in Connecticut and western Massachusetts, covering educational and information topics for the Latino community.⁹ Alfaro filed an original petition in 2009, which was eventually dismissed in 2013 for failure to provide additional requested information.¹⁰ Alfaro filed its current petition in March 2015¹¹ and submitted additional information in May¹² before being placed on public notice in July 2015.¹³ While Consumer Groups are concerned by the lack of financial information provided, it seems in this particular case that there is enough information to understand Alfaro's financial situation.

Alfaro's lowest captioning quote was from Video Caption Corporation for \$265 per show for an annual cost of \$6,890.¹⁴ Based on Alfaro's 2012 income and expense report, "*El Show de Analeh*" appears to have operated at a loss of about \$388.45.¹⁵ The petition also included Ms. Alfaro's 2012 individual income tax return and documentation of a checking account for Alfaro & Associates. According to the tax return, Alfaro & Associates appears to have operated at a loss of \$4,094 in 2012.¹⁶ In addition, its year-end checking account balance was just \$472.32.¹⁷

No documentation was provided for the program's income and expenses for 2013 or 2014. However, Alfaro states in its petition that in 2014 the production received \$32,558.40 in sponsorships, including personal contributions from Ms. Alfaro, while

⁹ Alfaro Petition (Mar. 24, 2015) at 1.

¹⁰ CGB Letter to Analeh Television Productions (Jul. 22, 2013).

¹¹ Alfaro Petition.

¹² Alfaro Supplement (May 20, 2015).

¹³ July Public Notice.

¹⁴ Alfaro 2015 Petition at 7.

¹⁵ *Id.* at 34-35. Despite being more than two years old, the financial information provided for 2012 is more complete than 2013 or 2014. Consumer Groups calculated total expenses for 2012 as the \$22,734 from p. 34, plus the \$6,000 paid back on Ms. Alfaro's loan, plus the \$10,159.45 in expenses listed on p. 35. Income for 2012 is listed as \$38,505, including Ms. Alfaro's loan of \$8,900. 2015 Petition at 34.

¹⁶ *Id.* at 23.

¹⁷ *Id.* at 11.

incurring approximately \$38,866.10 in expenses.¹⁸ The reported figures seem to indicate that the program's income consistently falls short of its expenses, and that Alfaro & Associates does not have the financial resources to cover these losses. With a reported business profit of just \$2,487¹⁹ and checking account balance of \$426.54 in 2013,²⁰ and business profit of \$25²¹ and checking account balance of \$325 in 2014,²² it does not appear that Alfaro & Associates have the financial resources to afford \$6,890 to caption its program at this time.

IV. Conclusion

Consumer Groups therefore do not oppose the FCC granting temporary waivers to Providence and Alfaro. Any waivers, however, should be limited to six months or one year, as the economically burdensome waiver "is not designed to perpetually relieve a petitioner of its captioning obligation."²³ Given the evolution of technology, potential drops in the cost of captioning over time, and the possibility that the financial status of a petitioner may change, the Commission should refrain from granting lengthy or open-ended exemptions. A short waiver will give Providence and Alfaro time to identify financial resources to bring their programming into compliance with the Commission's closed captioning rules.

Sincerely,

/s/

Drew Simshaw
Angela Campbell
Institute for Public Representation

Counsel to TDI

¹⁸ *Id.* at 8.

¹⁹ *Id.* at 14.

²⁰ *Id.* at 9.

²¹ Alfaro Supplement at 7.

²² Alfaro Petition at 10.

²³ *Anglers*, 26 FCC Rcd at 14953, ¶23.

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)

/s/

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CERTIFICATION

Pursuant to 47 C.F.R. §§ 1.16 and 79.1(f)(9), I, Claude Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), hereby certify under penalty of perjury that to the extent there are any facts or considerations not already in the public domain which have been relied on in the foregoing document, these facts and considerations are true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Claude L. Stout". The signature is written in a cursive, slightly slanted style.

Claude Stout
August 17, 2015

CERTIFICATE OF SERVICE

I, Niko Perazich, Office Manager, Institute for Public Representation, do hereby certify that, on August 17, 2015, pursuant to the Commission's aforementioned Public Notice, a copy of the foregoing document was served by first class U.S. mail, postage prepaid, upon the Petitioners at the address listed below.

James E. Coleman, Jr., Senior Pastor
Providence Transformation Church International
400 Oakley Avenue
Lynchburg, VA 24501

Ana Alfaro, Producer/Host
Alfaro & Associates, LLC
38 Sinclair Street
Windsor, CT 06095

/s/

Niko Perazich
Institute for Public Representation

August 17, 2015