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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: Consolidated Opposition to Petitions for Exemption from the Commission's Closed Captioning Rules
CGB Dkt. No. 06-181

Greater Community Temple COGIC/Touched by the Truth Ministries	**Brushy Creek Baptist Church/Brushy Creek Baptist Church**
CGB-CC-1357	CGB-CC-1359

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 consolidated opposition to the petitions of Greater Community Temple COGIC/Touched by the Truth Ministries (Greater Community Temple) and Brushy Creek Baptist Church/Brushy Creek Baptist Church (Brushy Creek) for

* 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.

exemption of their programming from the Federal Communications Commission's 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." When determining whether a petitioner has made the required showing under the economically burdensome standard, the Commission considers the following factors on a case-by-case basis: (1) the nature and cost of the closed captions for the programming; (2) the impact on the operation of the provider or program owner; (3) the financial resources of the provider or program owner; and (4) the type of operations of the provider or program owner.[1] The Commission will assess the overall financial resources available to a petitioner by looking at a petitioner's current assets, current liabilities, revenues, expenses, and other documentation "from which its financial condition can be assessed."[2]

II. Greater Community Temple has not demonstrated that it would be economically burdensome to caption its programming.

Greater Community Temple produces two programs entitled "*Touched by the Truth Ministries*," one that is one-hour long and airs weekly on WREG Channel 3 in Memphis, Tennessee, and another that is a half-hour long and airs weekly on The WORD Network.[3] It is unclear the extent to which the content of these programs differ, and how any similarities might lower the quoted captioning prices, which are questionably high and include unexplained delivery fees. Greater Community Temple filed its original petition for exemption from closed captioning requirements in 2007,[4] which it reaffirmed in 2012[5] following the Anglers Reversal Order.[6] That petition was dismissed on May 20, 2013 for failure to provide additional information requested by

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[1] *First Baptist Church, Jonesboro, Arkansas*, 29 FCC Rcd 12833, ¶3 (2014).
[2] *Id.* at ¶¶ 13-14; *see also First United Methodist Church of Tupelo*, Dkt. No. 06-181, DA 15-154, ¶13 (Feb. 3, 2015); *Curtis Baptist Church*, 29 FCC Rcd 14699, ¶14 (2014); *First Lutheran Church of Albert Lea*, 29 FCC Rcd 9326, ¶¶14-15 (2014).
[3] Greater Community Temple Petition (Apr. 7, 2015); Greater Community Temple Supplement (May 15, 2015) at 1. *See* http://www.thewordnetwork.org/.
[4] Greater Community Temple Petition (Apr. 13, 2007).
[5] Greater Community Temple Supplement (Jun. 29, 2012).
[6] *Anglers for Christ Ministries, Inc.*, 26 FCC Rcd 14941 (2011).

the Bureau.[7] Greater Community Temple filed a new petition on April 7, 2015,[8] along with supplements on May 15[9] and June 17, 2015[10] before being placed on public notice.[11]

Greater Community Temple provided two quotes for captioning both the 30-minute and the 60-minute programs. The lower of the two, from Caption Labs, indicates that captioning would be available for $277 per 60-minute episode and $95 per 30-minute episode. With delivery fees, which are not fully explained, of $95 and $35 respectively, the total fee for both programs would be $502 per week or $26,104 per year.[12] However, these costs might be lower if the content of the programs is similar. The Caption Labs quote refers to "the 60 minute *version* and the 30 minute *versions*,"[13] suggesting that the 30-minute program might be a shortened version of content from the one-hour version. For these reasons, captioning might be more affordable than the petition suggests.

Even if the actual lowest captioning cost is $26,104 per year, Greater Community Temple has not demonstrated that these costs would be economically burdensome. In 2013, Greater Community Temple reported revenues of $2,293,566 and expenses of $2,065,211, for a profit of $208,355.[14] Similarly, in 2014, Greater Community Temple reported revenues of $2,428,422 and expenses of $2,158,681, for a profit of $269,741.[15] Therefore, even if Greater Community Temple had incurred $26,104 in captioning costs each year, it still would have had profits of $182,251 in 2013 and $243,637 in 2014. Greater Community Temple also ended the last two calendar years with cash and cash equivalents of $51,471 in 2013[16] and $43,241 in 2014,[17] meaning that even if it had used current assets to pay for captioning, it would have been left with $25,367 in 2013 and

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[7] CGB Letter to Takisha Strong (Jul. 17, 2013) at 1.
[8] Greater Community Temple Petition (Apr. 7, 2015).
[9] Greater Community Temple Supplement (May 15, 2015).
[10] Greater Community Temple Supplement (Jun. 17, 2015).
[11] *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).
[12] *See* Greater Community Temple Petition (Apr. 7, 2015) at 2; Greater Community Temple Supplement May 15, 2015 at 1 (correcting the annualized amount).
[13] Greater Community Temple Petition (Apr. 7, 2015) at 2 (emphasis added).
[14] *Id*. at 14.
[15] *Id*. at 23.
[16] *Id*. at 15.
[17] *Id*. at 24.

$17,137 in 2014. For these reasons, it would not be economically burdensome for Greater Community Temple to caption its programming.

III. Brushy Creek Baptist Church has not demonstrated that it would be economically burdensome to caption its programming.

Brushy Creek Baptist Church produces a 60-minute program, also entitled "*Brushy Creek Baptist Church*," which airs on WGGS-TV in Greenville, South Carolina on Sunday nights at 9:30pm.[18] Brushy Creek filed its petition for exemption from the Commission's closed captioning rules on April 29, 2015, which it supplemented, at the Bureau's request, on June1, 2015.[19]

Brushy Creek provided two captioning quotes, one from Quick Transcription Services for $7 per minute, or $420 per show,[20] and one from Aberdeen Broadcast Services for $488.22 per show.[21] Using Quick Transcription Services as the lower of the two quotes, Brushy Creek's annual captioning costs would be $21,840 per year.

Brushy Creek saw modest profits in 2012-13 and 2013-14. In 2012-13, it reported revenues of $1,783,392.55[22] of expenses of $1,613,382.38[23] for a profit of $170,010.17.[24] Therefore, even if it had paid $21,840 in captioning expenses, it still would have had a profit of $148,170.17. In 2013-14, it reported revenues of $1,711,622.58[25] and expenses of $1,703,581.13[26] for a profit of $8,041.45.[27] This amount would not be enough to fully cover captioning costs. However, the remaining cost could be covered by funds from Brushy Creek's cash assets.

Brushy Creek has large cash assets in the form of a checking account which had a balance of $313,308.78 in 2013[28] and $316,687.98 in 2014.[29] Brushy Creek notes in its

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[18] Brushy Creek Petition (Apr. 29, 2015) at 1-2.
[19] Brushy Creek Supplement (Jun. 1, 2015).
[20] Brushy Creek Petition at 2.
[21] *Id*. at 5.
[22] Brushy Creek Petition at 9.
[23] *Id*. at 12.
[24] *Id*. of 13.
[25] *Id*. at 14.
[26] *Id*. at 18.
[27] *Id*.
[28] *Id*. at 7.
[29] *Id*. at 8.

petition, without documentation, that it is in the final phases of a renovation to its facilities and will take on a $1,500,000 loan, which will require monthly payments of $10,000.[30] Even if these future payments are taken into consideration, Brushy Creek's modest profits and large cash reserves indicate that it would be able to afford both captioning costs and loan payments. Therefore, it would not be economically burdensome for Brushy Creek to caption its programming.

IV. Conclusion

For the reasons described above, Consumer Groups respectfully request that the Commission deny the waiver petitions of Greater Community Temple and Brushy Creek Baptist Church. Both Petitioners are financially stable with ample financial resources that could cover their modest captioning costs. Requiring Petitioners to caption their programming would therefore not be economically burdensome. Nonetheless, should the Commission conclude that either of the Petitioners have demonstrated that their financial situation makes captioning costs economically burdensome, Consumer Groups ask that the Commission only approve an extremely limited exemption. 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.

Sincerely,

/s/

Drew Simshaw
Angela Campbell
Institute for Public Representation

Counsel to TDI

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

/s/

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[30] *Id.* at 1.

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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.

Claude L. Stout

Claude Stout
August 17, 2015

CERTIFICATE OF SERVICE

I, Niko Perazich, Office Manager, Institute for Public Representation, do hereby certify that, on May 11, 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.

Stephanie M. Hill,
Executive Assistant to Senior Pastor
Greater Community Temple COGIC
P.O. Box 70271
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James H. Sanders, Jr., Operations Pastor
Brushy Creek Baptist Church
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/s/

Niko Perazich
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August 17, 2015