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October 15, 2015
via electronic filing

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

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

Singing Crusade for Christ, Inc./Lloyd Morgan Revivals
CGB-CC-1364

Dear Ms. Dortch:

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), National Association of the Deaf (NAD), Cerebral Palsy and Deaf Organization (CPADO), Association of Late Deafened Adults (ALDA), Deaf Seniors of America (DSA), American Association of the Deaf-Blind (AADB), and California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH), collectively, "Consumer Groups," respectfully submit this opposition to the petition of Singing Crusade for Christ, Inc./Lloyd Morgan Revivals (Singing Crusade for Christ) for exemption of its

* 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.

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. Background

Singing Crusade for Christ, Inc. produces a weekly thirty-minute program entitled "*Lloyd Morgan Revivals*" that is aired on WGGG-TV in Greenville, South Carolina.³ Singing Crusade for Christ filed its petition for an economic burden exemption from closed captioning rules on May 28, 2015.⁴ On July 14, 2015, the Consumer and Governmental Affairs Bureau requested additional information, specifically: (1) detailed quotes from closed captioning vendors; and (2) the annual cost of closed captioning the program.⁵ Singing Crusade for Christ filed a supplement to its petition on August 11, 2015.⁶ The Bureau placed the petition on Public Notice on September 15, 2015.⁷

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 Singing Crusade for Christ Petition (May 28, 2015) at 1 (Petition).

⁴ *Id.*

⁵ CGB Letter to Freida Bishop (July 14, 2015) at 1-2.

⁶ Singing Crusade for Christ Supplement (August 11, 2015) at 1 (Supplement).

⁷ *Request for Comment on Request for Exemption from Commission's Closed Captioning Rules*, Public Notice, DA 15-1029, Dkt. 06-181 (September 15, 2015) (September Public Notice).

III. Singing Crusade for Christ has not demonstrated that it would be economically burdensome to caption its programming.

Singing Crusade for Christ provided three quotes for the captioning of its program in its petition and supplement. However, only two quotes provide information from which the annual cost of closed captioning can be determined. The quote from Caption Technologies varies widely depending on whether or not "encoding" is required – an open question even after Singing Crusade for Christ submitted its supplement. Therefore, the Commission should only consider the quotes from Vanan Group and Caption Associates in its analysis, as their costs are relatively unambiguous.⁸

The lower of these quotes was from Vanan Group. Vanan charges \$150 per thirty-minute episode⁹ with an additional \$1 per minute transcription fee¹⁰ and a \$9 transaction fee.¹¹ The total cost per episode would be \$189, for a total annual cost for 52 episodes of \$9,828.

While this amount exceeds Singing Crusade for Christ's net revenue of \$7,529 in 2014¹² and while the organization experienced a net loss of \$21,738 in 2013,¹³ closed captioning would not be an economic burden. Singing Crusade for Christ had net current assets of \$97,063 in 2014¹⁴ and \$92,034 in 2013¹⁵ from which it could have

⁸ Singing Crusade for Christ's supplement implies that Caption Associates may charge an additional fee for encoding. Supplement at 1. However, the email from Anne Schulman of Caption Associates states that the \$295 per episode cost is "all-inclusive." Supplement at 4. Therefore, it appears that the assertion that encoding is an extra cost is erroneous.

⁹ Petition at 1.

¹⁰ Singing Crusade for Christ states that the vendors require a script, which would impose an additional, unknown cost. Petition at 1. However, the email from Anthony Benedict of Vanan Group includes a \$1 per minute transcription fee. *Id.* at 3. It appears that this modest fee would eliminate the associated costs of hiring an additional party to create a script.

¹¹ *Id.* at 3

¹² *Id.* at 8.

¹³ *Id.*

¹⁴ At the end of FY 2014, Singing Crusade for Christ had \$108,350 in cash and \$200 in other assets, Petition at 11, and \$11,487 in liabilities. *Id.* Therefore, Singing Crusade for Christ had net current assets of \$97,063.

provided captioning and covered its modest loss. Indeed, if Singing Crusade for Christ had provided captioning in both years using its net current assets, it would have had \$87,235 in 2014 and \$82,206 in 2013 left over with which it could have covered its losses. The Bureau has consistently held that closed captioning does not impose an economic burden if a petitioner can provide closed captioning using its net current assets.¹⁶ For these reasons, it would not be economically burdensome for Singing Crusade for Christ to provide closed captioning.

IV. Conclusion

For the reasons described above, Consumer Groups respectfully request that the Bureau deny the waiver petition. Singing Crusade for Christ has adequate net current assets that could be used to provide closed captioning and cover any modest yearly losses. Requiring Singing Crusade for Christ to caption its programming would therefore not be economically burdensome. Nonetheless, should the Bureau conclude that Singing Crusade for Christ has demonstrated that its financial situation makes captioning costs economically burdensome, Consumer Groups ask that the Bureau 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.

¹⁵ At the end of FY 2013, Singing Crusade for Christ had \$103,321 in cash and \$200 in other assets, Petition at 20, and \$11,487 in current liabilities. *Id.* Therefore, Community Television had net current assets of \$92,034.

¹⁶ See, e.g., *Van Buren First Assembly of God*, Dkt. No. 06-181, DA 15-839, ¶ 16 (July 21, 2015) (“[T]hat a petitioner has experienced a net current loss does not in itself, merit a determination of economic burden.”), *Roman Catholic Diocese of Gaylord*, Dkt. No 06-181, DA 15-840, ¶ 19 (July 21, 2015) (finding no economic burden where petitioner experienced net loss in most recent reported year but had net current assets that could cover captioning costs), *First United Methodist Church of Tupelo*, Dkt. No. 06-181, DA 15-154, ¶14 (Feb. 3, 2015) (denying petition where Tupelo experienced total excess of expenses over revenue, but had current assets that would cover cost of captioning), *Dawson Memorial Baptist Church*, Dkt. No 06-181, DA 14-1872, ¶16 (Dec. 19, 2014) (finding no economic burden where petitioner experienced net loss in the two recently reported years, but had net current assets that could cover closed captioning costs).

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Sincerely,

/s/

Drew Simshaw
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Institute for Public Representation

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Counsel to TDI

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.



Claude Stout
October 15, 2015

CERTIFICATE OF SERVICE

I, Niko Perazich, Office Manager, Institute for Public Representation, do hereby certify that, on October 15, 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.

Singing Crusade for Christ, Inc.
Lloyd Morgan Revivals
c/o Freida Bishop, Vice President and Secretary
P.O. Box G
East Flat Rock, NC 28726

/s/

Niko Perazich
Institute for Public Representation

October 15, 2015