Docket 06-181 CGB-CC-0837

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Federal Communications Commission
Office of the Secretary

CHRISTOPHER J. SOVA
(202) 416-6768
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February 9, 2009

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Reply to Opposition to Petition for Exemption
Television Station WSBS-TV-DT
Facility ID No. 72053
Key West, Florida

Class A Television Station WSBS-CA
Facility ID No. 29547
Miami, et al., Florida

Dear Ms. Dortch:

On behalf of WSBS Licensing, Inc., licensee of WSBS-TV-DT, Key West, Florida, and WSBS-CA, Miami, et al., Florida, and pursuant to section 79.1(f) of the Commission's Rules, we hereby submit one original and two copies of a Reply to Opposition to Petition for Exemption of the closed captioning requirements, Docket 06-181.

Please date stamp the enclosed "Return Copy" of this filing and return it to the courier delivering the package.

If you have any questions, please contact the undersigned counsel.

Sincerely yours,

Christopher J. Sova

Christopher J. Sova

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Federal Communications Commission
Office of the Secretary

BEFORE the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the matter of WSBS LICENSING, INC.	)	
WSBS-TV-DT Key West, Florida	)	
WSBS-CA Miami, *et al.*, Florida	)	CGB-CC-0837
Petition for Exemption of Closed Captioning Requirement	)	
TO: The Commission	)	

REPLY TO OPPOSITION TO PETITION FOR EXEMPTION

WSBS Licensing, Inc. ("*WSBS Licensing*"), the licensee of television station WSBS-TV-DT, Key West, Florida, and Class A television station WSBS-CA, Miami, *et al.*, Florida (together "*WSBS-TV*"), by its attorneys and pursuant to Section 79.1(f) of the Commission's Rules, respectfully submits its Reply to the Opposition to Petition for Exemption filed on behalf of Telecommunications for the Deaf and Hard of Hearing, Inc., National Association for the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, Hearing Loss Association of America, Association of Late-Deafened Adults, Inc., American Association of People with Disabilities, and California Coalition of Agencies Serving the Deaf and Hard of Hearing (collectively, the "*Commenters*").

In its Petition (the "*Petition*"), WSBS Licensing requested an exemption of the Commission's closed captioning requirements pursuant to Section 79.1(f) of the Rules due to the undue burden it would place upon WSBS-TV. WSBS Licensing met the

statutory requirements and standards necessary to support an exemption from the closed captioning rules based upon undue burden as set forth in 47 CFR § 79.1(f)(2). The Commenters have filed a standardized letter objection (the "*Objection*") that fails to address the facts that are unique and specific to WSBS Licensing's waiver request. The Objection should be dismissed as facially and patently unresponsive, and because WSBS Licensing met the burdens for obtaining a waiver of the closed captioning rules.[1]

I. Commenters have Failed to Demonstrate Standing.

The Commenters failed to establish that they have standing to participate in this matter. Section 79.1(f)(6) of the Commission's rules provides that "any interested person" may file comments or oppositions to a petition for exemption. 47 CFR §79.1(f)(6). Commenters, however, have neither established that they represent "interested persons" within the meaning of the FCC's rules, nor has any Commenter alleged facts that would establish its standing as a party to this proceeding. *See, e.g., Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333, 343 (1977). The Commenters neither state who they represent, nor allege that the grant of the requested exemption could in any way cause injury to them or their members. The Opposition does not include a statement that any member of any of the groups comprising the Commenters even watches WSBS-TV.

A petitioner is afforded "party-in-interest" status by demonstrating residency within the station's service area, or by regularly listening to or viewing a station, provided that such listening or viewing is not the result of transient contacts with the

[1] In keeping with the form letter nature of the Objection, Commenters rely on an inapposite case, *Anglers for Christ Ministries, Inc., Petitions for Exemption from Closed Captioning Requirements*, Memorandum Opinion and Order, DA 06-1802 (2006), which pertains primarily to non-commercial broadcasters, which WSBS-TV is not. Commenters do not attempt to associate the *Anglers* case to the facts of the instant case. *See* Objection at 3.

station. *CHET-5 Broad., L.P.*, 14 FCC Rcd 13041 (1999), *citing Maumee Valley Broad., Inc.*, 12 FCC Rcd. 3487, 3488-3489 (1997). In this case, Commenters have failed to establish that at least one of their members resides in the service area of WSBS-TV, and they failed to provide a statement from any member claiming to be aggrieved or injured. Accordingly, Commenters have failed to meet the minimum threshold required to establish standing to participate in this matter.

II. WSBS Licensing Presented Sufficient Evidence to Show That Compliance With Closed Captioning Requirements Would Impose An Undue Burden

WSBS Licensing provided ample support to demonstrate that compliance with the closed captioning requirements would constitute an undue burden, and that therefore WSBS-TV qualifies for the closed captioning exemption allowed under Section 79.1(f) of the FCC's Rules. 47 C.F.R. § 79.1(f).

In the context of granting a waiver of the closed captioning requirements, the Commission defines "undue burden" as "significant difficulty or expense." 47 C.F.R. § 79.1(f)(2). In considering whether the requirements for closed captioning impose an undue burden, the Commission looks at: (i) the nature and cost of the closed captions for the programming; (ii) the impact on the operation of the provider or program owner; (iii) the financial resources of the provider or program owner; and (iv) the type of operations of the provider or program owner. 47 C.F.R. § 79.1(f)(2)(i)-(iv). Contrary to Commenters' assertions, WSBS Licensing has shown that the closed captioning requirements impose an undue burden under the aforementioned factors.

A. Nature and Cost of Closed Captions; Operations of WSBS-TV.

WSBS Licensing provided a description of its operations and the nature and costs associated with closed captioning its programming. WSBS Licensing broadcasts original

Spanish language programming, both public affairs and entertainment, including original Spanish language programming produced by its parent, Mega Media Holdings, Inc. ("*MEGA TV*"), which is in the process of growing a new national Spanish language network. WSBS Licensing echoed the Commission's view that while it is technically feasible to caption Spanish language programming, it is logistically more burdensome to close caption Spanish language programming than English language programming, primarily because there is a relatively small number of Spanish language captioners available for hire in the marketplace. Petition at 4. There are significant and daunting costs associated with creating and distributing originally produced Spanish language programming, and the costs of starting up MEGA TV as a fledgling network and producing quality original Spanish language programming has resulted in extremely large financial losses during this period. *Id.*

WSBS Licensing estimated that the cost of obtaining a closed captioning service would be $120 for each hour of programming to be captioned, that additional costs for tapes to record the closed captioning masters would be approximately $26 per hour, and that an additional phone line to facilitate the captioning of live programming would cost approximately $12,000 per year. Petition at 4. In providing the cost estimate of $120 per hour, WSBS Licensing had, in fact, first obtained proposals from several closed captioning providers, and selected one of the less costly estimates received from among three proposals provided by different closed captioning services. Attached hereto as **Exhibit A** are written proposals from three closed captioning service providers, dating from February, 2008, showing proposed closed caption rates of $115 per hour, $120 per hour, and $179 per hour.

Under Section 79.1(b)(3) of the Commission's Rules, through December 31, 2009, WSBS-TV would be required to caption the lesser of at least an average of 1350 hours of Spanish language video programming or all of its new non-exempt Spanish language video programming during each calendar quarter. Using the lower-end cost proposal of $120 per hour, it was estimated that the costs to close caption WSBS-TV would be approximately $820,540 per year. Petition at 6. Even considering that under Section 79.1(d)(11) of the Commission's Rules WSBS-TV would be permitted to limit its closed captioning expenditures to 2% of its gross revenues from the previous calendar year, WSBS-TV's 2008 closed captioning costs would still have been approximately $240,000. As shown in the Petition, and as further updated below, MEGA TV has been incurring substantial financial losses from its operations, and an additional expenditure of $240,000 per year would constitute an undue burden and hamper its ability to develop new Spanish language programming and to grow the MEGA TV Spanish language network. *Id.*

B. Impact on MEGA TV's Operations and Financial Resources.

WSBS Licensing provided specific financial information detailing the substantial losses suffered by MEGA TV's operations and explained how additional significant expenses would constitute an undue burden to MEGA TV and WSBS-TV.

Spanish Broadcasting System, Inc. ("*SBS*"), the direct parent of MEGA TV and the indirect parent of WSBS Licensing, is a publicly-traded corporation whose financial information is transparent, available for public review, and filed regularly with the Securities and Exchange Commission. Petition at 7. WSBS Licensing provided financial information regarding MEGA TV's television operations from SBS's Form 10-K Annual

Report for 2007 and 10-Q Quarterly Report for the period ended March 31, 2008. As indicated therein, the operating loss from television operations was $20,428,000 in 2006, $12,717,000 in 2007, and $3,865,000 for just the first three months of 2008. In total, for 2006, 2007, and the first three months of 2008, television operations lost over $37 million. Petition at 7. Attached hereto as **Exhibit B** is a financial statement from SBS's Form 10-Q Quarterly Report for the period ended September 30, 2008. As indicated in the report, losses for the nine month period ended September 30, 2008 from television operations widened to $28,314,000, bringing total losses from SBS's television operations from 2006 through September 30, 2008 to a staggering $61,459,000.

Clearly, with losses of over $61 million since 2006, coupled with the current unprecedented global economic downturn, MEGA TV cannot both absorb additional expenses and continue to produce quality new Spanish language programming and grow the MEGA TV network. The additional $240,000 it would cost to close caption its programming would constitute an undue burden upon MEGA TV and the television operations of its subsidiary WSBS Licensing. If MEGA TV were to incur substantial additional expenses in closed captioning its programming, the budget available for the production or acquisition of new primetime programming would be reduced and WSBS-TV's viewers would suffer because the amount of new originally produced Spanish-language programming would diminish. Petition at 8.

CONCLUSION

WSBS Licensing has committed to providing closed captioning for its programming in the near future, and in the Petition seeks only a temporary waiver of the closed captioning rules in order to allow it to continue providing new, quality Spanish

language programming to its viewers in Miami, Florida and nationally via the MEGA TV network. WSBS Licensing therefore respectfully requests that the Commission grant its request for a temporary exemption to the closed captioning rules.

Respectfully submitted,

WSBS Licensing, Inc.

By: /s/ Christopher J. Sova
Nancy A. Ory
Christopher J. Sova
Its Attorneys

Lerman Senter PLLC
2000 K Street, NW, Suite 600
Washington, DC 20006-1809

February 9, 2009

Declaration

I, Jose Molina, hereby declare under penalty of perjury that the following is true and correct.

I am Vice President of Finance for Spanish Broadcasting System, Inc. ("Spanish Broadcasting"), parent corporation of WSBS Licensing, Inc. and MEGA TV.

Spanish Broadcasting's television operations incurred a operating loss of $61,459,000 (rounded) during the period January 1, 2006 through September 30, 2008, as determined in accordance with U.S. generally accepted accounting principals.

Jose Molina
Vice President of Finance
Spanish Broadcasting System, Inc.

Date: February 9, 2009

Declaration

I, Alex Aleman, hereby declare under penalty of perjury that the following is true and correct.

I am Vice President of Operations for MEGA TV, which includes the MEGA TV network, WSBS-TV, Key West, Florida, and Class A television station WSBS-CA, Miami, et. al, Florida.

In February, 2008, I received the proposals attached at Exhibit A hereto to close caption MEGA TV's programming, including the programming broadcast on stations WSBS-TV and WSBS-CA.

Alex Aleman
Vice President of Operations
MEGA TV and WSBS-TV
Spanish Broadcasting System, Inc.

Date: February 9, 2009

EXHIBIT A

Close Caption Services Proposal

Mega Media Holdings (SBS)

Presented to:

Mr. Alex Aleman
Mega TV Operations

Friday, February 08, 2008

Mega TV Scope of work:

- Realtime close caption in Spanish various TV programs as requested by Mega TV.
  - Estimate 60 – 80 hours of realtime Spanish → Spanish closed captions.
  - Estimated annual 3,120 to 4,160 annual hours of realtime captioning for Mega TV.
  - Be prepared to start August 1, 2008.

- Additional services available to Mega TV, as needed / requested:
  - Offline closed captioning (Spanish or Spanish → English).
  - Audio Description (service for the blind).
  - Subtitles (Spanish <-> English).
  - Voice-over; dubbing (Spanish <-> English on the SAP channel).

VITAC guarantees to Mega TV:

- **Reliability.**
  - Respond immediately to ***any*** programming / captioning emergencies.
  - Be on time, every time.
  - Provide excellent and significant client service.
    - The best way to check us out is to check our references. A partial client list appears at the back of this proposal, however, suggested VITAC references are:
      - NBC Sunday Night Football: Joe Sopata. (Spanish).
      - ESPN Desportes: Scott Pentoney.
      - NFL Network: Glenn Adamo. (Eng – Spanish).
      - Discovery Kids en Español: Andy Null (offline).
      - Discovery en Español: Andy Null (offline).
      - SAG Awards & Oscars: TNT Latin America: J. Pablo Corona (English – Spanish).
      - Miami Heat Basketball; Sun Sports: Mark Ivy.
      - NFL Films: Kevin McLoughlin (Eng-Spanish subtitles).
      - TuTv: Diana Gonzales (Spanish Realtime)
      - Telemundo: Abe DeJesus (Spanish Realtime)
      - ABC: Dave Dreispan (English – Spanish)

- We have both Engineering and IT departments, available 24x7x365 to troubleshoot ***any*** issues with captioning:
  - We can also recommend equipment – and assist with capital.

- **Accuracy**
  - Please look at our client list...particularly the number of national networks who use VITAC exclusively. Accuracy and quality matter to us and are what we consistently deliver!
  - Our focus is 100% accuracy – and comprehension for your audience, and we will customize / adapt our caption style to meet ***any*** of Mega TV's needs.
- **Value**
  - These same national clients do not over-pay for service, but recognize the unique value we offer of unmatched quality, huge capacity and competitive rates.

Mega TV CC Proposal:

- Term:
  - Offer Mega TV a three year agreement.
- Scope:
  - We are estimating annual volume of 3,120 hours for Mega TV. That would be a minimum of 60 hours a week of realtime Spanish.
- Rates:
  - Realtime closed captioning $179 / hour ($90.00 / half-hour).
  - All prices are based on these estimates of Mega TV's volume of work.
  - Minimum increment is a half hour.
  - Rates guaranteed for two years; 3% COLA in year three.
- Capital:
  - VITAC will include a caption encoder at ***no cost*** to Mega TV as a part of a three-year exclusive caption agreement.
  - VITAC will include an audio coupling device at ***no cost*** to Mega TV as a part of a three-year exclusive caption agreement.
  - Based on discussions with Javier Garcia, our primary path for Mega TV's audio and video will be over Internet Protocol (IP) with regular telephone lines (POTS) as back-up. Our engineers will work with you to suggest the best method to maximize quality and to minimize any expense to Mega TV.
  - We will pay for any IP device necessary to facilitate the audio / video output and closed caption input.
- Operations:
  - VITAC will schedule any hours Mega TV requests.
  - Any changes can be accommodated with 48 hours notice.

VITAC PARTIAL CLIENT LIST

EXCLUSIVE CAPTIONING AGREEMENTS

VITAC is the exclusive captioning provider, captioning up to 20 hours per day per channel for:

- 4Kids
- AZN Television
- BBC America
- BET, BET J
- CNN, CNN Headline News
- Discovery Networks (all English nets): Animal Planet, Discovery Health, Discovery Home, Discovery Kids, FITtv, HD Theater, Investigation Discovery, Military Channel, Planet Green, Science Channel and TLC 9now owned by Cox)
- ESPN Desportes
- Fox Sports Network (and all FSN regional sports networks)
- NBC Universal (live CC on all networks): Bravo, Chiller, CNBC, CNBC World, MSNBC, mun2, NBC, NBC Weather Plus, Oxygen, Sci Fi, Sleuth, Telemundo, Uni HD and USA Network
- Turner Broadcasting (all captioning): TBS, Turner Network Television (TNT), Cartoon Network, Turner Classic Movies (TCM), truTV, Adult Swim and Boomerang
- TV One
- The Weather Channel

SAMPLE NATIONAL BROADCAST TELEVISION PROGRAMS

NBC: *The Tonight Show with Jay Leno, Late Night with Conan O'Brien, Saturday Night Live, Last Call with Carson Daly, Fear Factor, Deal or No Deal, Poker After Dark, The Apprentice, NFL Football (English & Spanish), NBC sports, NBC News, Days of our Lives*
ABC: *ABC World News Tonight, Jimmy Kimmel Live, Nightline, World News Now, ABC sports, Pushing Daisies (Eng & Spanish), Big Shots (Eng & Spanish) and Notes from the Underbelly (Eng & Spanish)*
CBS: *The CBS Early Show, Yes Dear*
Fox: *Fox Major League Baseball (including the World Series), Fox NFL Football*
CW: *Smallville, One Tree Hill, Gilmore Girls, Everwood, Supernatural, Veronica Mars*
PBS: *Independent Lens, Great Performances, Austin City Limits, American Masters, Ask This Old House*

SAMPLE NATIONAL CABLE PROGRAMS

The Discovery Channel: *American Chopper, Mythbusters, Dirty Jobs, Deadliest Catch,*
The Learning Channel: *Trading Spaces, A Baby Story, A Wedding Story, While you were Out*
BBC America: *Benny Hill, Cash in the Attic, Benny Hill, Monty Python's Flying Circus*
Lifetime: *Lifetime Original Movies, Strong Medicine, Missing*
C-Span: *Washington Journal*
MTV Networks: *Pimp My Ride, Totally Obsessed, Viva La Bam*
The Food Network: *Paula's Home Cooking, Semi-Homemade Cooking*
Mun2: *Vivo, One Nation Under Hip Hop, Reventon, Daily Shift, Chicas, The Shuffle, Have You Seen It*

TELEVISION PROGRAM PRODUCERS

Warner Bros. Television
NFL Films
Sony Pictures Entertainment
Touchstone Television

Tribune Broadcasting
Screaming Flea Productions
Broadway Video

February 12, 2008

Mega TV
Alex Aleman
2601 S. Bayshore Drive, #2020
Coconut Grove, FL 33133

Dear Alex,

Thank you for your interest in Aberdeen Captioning's services. The following is a description of services and pricing based on approximately 12 hours of closed captioning per day:

Live Spanish Captioning

$115 per hour
98% accuracy or better for dialogue under 200 wpm

Mega TV will need to provide two phone lines, one for connecting to an audio feed and the second for connecting to the encoder's modem. A list of all speakers, subject matter, program rundown, and any technical words that may be used within the program needs to be provided to Aberdeen Captioning prior to the program's live recording. This is necessary to provide a more accurate captioning service. If this is not provided, some unique words may be jumbled on the screen.

Please call me with any questions you may have. We look forward to providing you with excellent captioning to reach the hearing-impaired and others.

Best regards,

Matthew Cook

Matthew Cook
Principal
Email: matt@abercap.com

NCI and Mega TV

A Captioning Partnership

Proposal for Mega TV Channel 22
Spanish Broadcasting System, Inc.

February 6, 2008

Presented by:

Lydy Pinzón-Dadley
Account Executive
National Captioning Institute
V: 703-917-7611
Cell: 240-355-5968
E-mail: ldadley@ncicap.org

February 6, 2008

Alex Aleman
MegaTV
2601 South Bayshore Dr. Ste. 2020
Coconut Grove, FL 33133

Dear Alex,

It was a pleasure speaking with you yesterday, thank you so much for the opportunity to provide you with the enclosed proposal. We are looking forward to working with you and your team at Mega TV.

NCI has the experience, resources and staff to caption for Mega TV and we will ensure that Mega TV can meet its FCC mandates. NCI has thousands of hours of experience in captioning real-time as well as prerecorded programs. Our Spanish clients include Univision Networks, Telemundo PR, MTV LA, HBO Latino, WAPA and PBS.

I'm certain that we can develop a partnership that is mutually beneficial. I will contact you over the next few days to answer any questions you might have or please contact me at 703-917-7611 or via email at ldadley@ncicap.org. Also, I would be happy to meet with you and your team at your offices at the appropriate time. Please let me know if you have a date in mind and I can schedule accordingly.

Sincerely,

Lydy Pinzón-Dadley
Account Executive
National Captioning Institute

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A. Introduction

1. Company Background and History

The National Captioning Institute (NCI) was established in 1979 by the federal government as a nonprofit corporation with the mission of ensuring that deaf and hard-of-hearing people, as well as others who can benefit from the service, have access to television's entertainment and news through the technology of closed captioning. NCI introduced closed captioning of prerecorded national television programs in 1980 and real-time captioning of live programming in 1982. In 1989, NCI partnered with ITT Corporation to develop the first caption-decoding microchip that could be built directly into new television sets. Over the past 27 years, NCI has grown into one of the largest captioning company in the world, with a staff of 200 employees. With a highly skilled captioning staff and state-of-the-art facilities, NCI provides the highest quality captioning services to the broadcast television, cable and home video industries. NCI also provides subtitling and language translation services in more than 44 languages.

Spanish Captioning History

NCI began researching the possibility of captioning for the Spanish market in the spring of 1998. After thoroughly researching and reviewing Spanish court reporting theories, we decided to create our own theory because it would provide higher quality standards than what was available. This theory took two years to create and is taught to bilingual court reporters. In order to achieve the necessary skill level to caption live on air, the bilingual court reporters must go through intensive training. We are very proud of our achievements with Spanish captioning and we believe our product is the best available.

2. Facilities

NCI is headquartered in Vienna, Virginia, just outside of Washington, D.C. NCI's other main production facilities are located in Dallas, Texas; Burbank, California, and London. A brief description of each facility follows.

- **Vienna, Virginia (Headquarters & Production).** The Vienna facility performs a significant portion of NCI's off-line work, as well as most of its real-time national program captioning in English. The real-time and engineering staff in Vienna also coordinates real-time captioning performed at ten fully equipped satellite studios around the country and 30 remote locations.

- **Dallas, Texas (Production).** NCI Dallas is a full-scale, digital, on-line production facility with complete redundancy and engineering support. NCI provides both English and Spanish real-time captioning from this facility. This facility is staffed 24/7/365.

- **Burbank, California (Production).** The Burbank facility, which handles off-line captioning, is efficiently located to serve networks, studios, producers, and post-production firms, particularly those located on the West Coast. This facility is available, if needed, 24 hours per day, 365 days per year, to meet the tight deadlines and changing demands of the industry.

- **London, England (Production).** Owned by NCI, the European Captioning Institute (ECI) was established in 1992 to provide captioning for home video releases in the British Isles. Production capabilities were subsequently expanded to include subtitling and translation services in more than 44 different languages for the growing worldwide DVD market.

3. Client Base

NCI has approximately 600 clients, including broadcast television networks, cable networks, program producers, home video/DVD producers, advertising agencies, and government agencies. A partial list of clients follows.

- Univision Networks
- Telemundo Puerto Rico
- HBO Latino
- MTV Latin America
- MTV Networks
- Showtime Networks
- Sesame Workshop (Plaza Sesamo)
- WAPA
- NBC
- Fox News Channel
- Sony Television
- Nickelodeon/Nick at Nite
- King World
- Paramount Domestic Television
- Touchstone Television
- Twentieth Century Fox
- MGM Home Entertainment
- PBS
- Turner Studios
- UPN
- Bloomberg
- APT

4. Current Volume of Captioning Work

NCI's Production Department is responsible for creating the captions and subtitles for thousands of hours of television programs and videos each year, using both off-line (prerecorded) and live (real-time) capabilities. In 2007, NCI delivered approximately 75,000 hours of real-time captioning and approximately 7,000 hours of Spanish real-time captioning. With this volume of captioning, NCI can successfully handle the production and scheduling challenges associated with all types of programming.

B. Scope of Work

According to our conversation, I understand Mega TV is planning to start providing captions by August-September of 2008 to its live programming of approximately 84 hours weekly. We would like to confirm that NCI has the resources and flexibility to add this work to its schedule. Below is snapshot of the captioning procedures:

1. Captioning Procedures:

Preparation. Captioners begin preparing at least 1 to 2 hours in advance of the program start time. The captioner first prepares his or her computer dictionary by compiling a list of names and unique words likely to be used during the program. All available resources, including reliable Internet sites, are used to verify the accuracy of these materials. The real-time

captioners then add these words to their computer dictionaries so that they appear properly during the broadcast.

Captioning. To provide the highest quality captioning, the Project Director, through the captioning supervisors, assigns a captioner or a team of captioners. Captioner assignments are determined on a show-by-show basis for the type of captioning being provided. Approximately 15 minutes before the beginning of the program, a data connection is established with the broadcaster and its integrity is verified. The captioning computer system is loaded and checked. Captioning begins with the start of the broadcast, with captioners having access to the program at the same time the audience views it. The captioner either watches and listens to a live broadcast or cable signal of the program or just listens to the audio over a telephone line connection if the televised program is not available to the captioner. The caption data is transmitted instantaneously via modem to the master control at Mega TV. There, the caption data is inserted into Line 21 of the television signal through an encoder. Captioning is continuous and concludes at the end of the broadcast.

2. Technical Capabilities

NCI's facilities are designed to meet the ever-changing demands placed on high-quality caption service providers. Each facility has redundancy of operation, alternative power support, and contingency operation programs in place. NCI has processes and systems to ensure the completion and delivery of captioning under virtually any circumstance on a 24/7/365 basis.

NCI has two Technical Operations Centers (TOC). Each TOC is the central point for all incoming video/audio and all live outgoing caption data transmissions. Both NCI's Vienna and Dallas offices have a permanent satellite receiver arrays. NCI Dallas has 3 dishes, 1 simulcast dish that covers the spectrum and 2 ATSI 4.5 meter adjunct dishes. NCI Vienna has 5 patriot 4.5 meter dishes, 2 of them are adjunct dishes. This setup permits access to all domestic communications satellites. Additionally, a permanent cable television feed (consisting of two cable demodulators) and a master antenna system (consisting of three master antenna system demodulators) provide redundant access to video signals.

The broadcast and caption data signals are distributed to and from the caption studios and related computer systems via an audio/video/data matrix router. The router has back-up power sources, redundant controller cards and spare cards to swap if problems arise. The router provides total flexibility to reroute signals at a moment's notice should there be any technical difficulties. All satellite RF, video, audio and data passes through patchpanels in the TOC for ease of troubleshooting and rerouting if problems arise.

Each of the NCI's Dallas and Vienna facility is equipped with eight live-captioning studios that connect to the TOC. Each of the eight studios has redundant real-time computer systems and steno machines, an in-house smart encoder with monitor, and a decoded program monitor to verify captioning with a local master antenna system for backup. Each studio has the capability to switch between 12 different audio sources such as the main satellite feed, several Telco feeds, and audio. In addition, NCI has set up ten off-site live captioning facilities with redundant steno captioning systems as well as uninterruptible power supplies and back-up telephones.

Each TOC has complete monitoring capabilities for the on-site and satellite captioning studios. It monitors the incoming signals and outgoing data transmissions to identify when corrective actions are required.

The TOC distributes the caption data transmissions to its clients via telephone lines. The TOC in Dallas is equipped with 39 phone lines (10 incoming modem, 15 out-going modems, and 14 audio lines), and the TOC in Vienna is equipped with 41 phone lines (11 incoming modems, 16 out going modems, and 14 audio lines.

All NCI production facilities are supported by uninterruptable power supplies to prevent problems associated with local power outages. In addition, the Vienna and Dallas centers have a backup generator capable of powering all captioning production equipment as well as the TOC. The TOC also has complete facilities for conducting preventative maintenance and making timely repairs. The TOC is staffed with engineering personnel virtually around the clock, every day of the year.

For each type of captioning service, clients have a designated NCI production coordinator assigned to handle routine issues and expedite special requests. NCI also maintains a special "live line" telephone number guaranteeing 24-hour access to production and engineering personnel in the event of any emergency.

3. Spanish Real-time Captioning Accuracy

To ensure that NCI's closed-captioned services meets the highest standards in the industry, NCI has in place a well-established, effective quality control and quality improvement program for captioning services. For live programming, NCI has state-of-the-art facilities to monitor live program feeds. The captioning of live feeds is monitored for completeness and correctness. For Spanish real-time captioning, accuracy will be maintained at a minimum of 97 percent. In all cases, NCI strives to provide as near verbatim captioning as possible.

NCI has maintained extremely high quality standards and will not allow real-time captioners on the air if they do not meet these standards. NCI's standard for real-time captioning services requires a minimum accuracy level of 97 percent for Spanish. This accuracy level is judged against an average rate of 225 words per minute. Accuracy is calculated using the following formula:

$$100 \text{ minus } \frac{\text{Total Errors} \times 100}{\text{Total Words Written}} = \text{Accuracy \%}$$

A key element in analyzing and improving caption quality is ongoing review and critique of the captioning. Every captioning project receives some level of review. This review process is a significant portion of the captioner's overall responsibilities. The reviews check for correct representation of the spoken word and adherence to captioning style guidelines. Additionally, while captioners work toward the highest levels of proficiency, they receive a documented review of randomly selected samples of their captioning work on a regular basis. These documented reviews provide a complete analysis of all captioning errors, including misstrokes, misspellings and other types of errors.

These reviews are conducted both at the supervisory and peer levels, and captioners are given copies of their review results. Each captioner uses the information to make needed corrections in preparation for future captioning assignments.

In addition to the documented reviews, NCI has developed training aids to improve caption accuracy. NCI has found that numbers cause the highest incidence of errors for most real-time writers. In response to this, NCI staff developed number drills to provide captioners practice and to improve their accuracy when writing numbers.

Another quality improvement tool is the captioning team's "words to share" program. Through the diligent application of this program, a list of new, unusual and difficult words is compiled and distributed each month. All captioners are required to make personal dictionary entries for each word on the list. Thus, each captioner benefits from the "words to share" encountered by other captioners.

NCI provides a rigorous training program for its real-time captioners. Initial training prior to captioning on the air lasts three to six months, depending on the trainee's skill level. The training program incorporates the use of a comprehensive training syllabus and manual, various resource materials. and practice tapes. Real-time training includes building, structuring and maintaining a real-time captioning dictionary, plus instruction in pre-broadcast preparation and on-air procedures. Practice sessions are conducted using representative programs. Once a candidate captioner has achieved the required level of expertise, she or he becomes an on-air captioner. It should be noted that NCI's screening process for hiring real-time captioners is so stringent that only one in ten applicants screened for a position is accepted as a training candidate.

4. Flexibility

With more than 27 years of experience, state-of-the-art captioning systems and one of the largest captioning staff in the business in three time zones and four locations, NCI has the skills and capabilities needed to meet all of the varied and often-changing needs of our clients. NCI has continued to grow and remain one the largest captioning company in the world because of its reputation for very high quality customer service and the confidence that clients have in knowing that deadlines will be met and changes will be responded promptly.

The management staff of NCI's Real-Time Captioning Department began working with NCI in 1984, when only 30 minutes per day of programming were real-time captioned. Prior to joining NCI, each worked in court and/or in a deposition setting. NCI's real-time captioning manager and supervisors are members in good standing of the National Court Reporters Association and they hold various certifications from that association.

Over 100 real-time captioners work for NCI, including 7 Spanish captioners, and contractors allowing tremendous flexibility in terms of handling regularly scheduled work and responding to changes. All of the captioners are NCI trained and consistently caption at a 97-98% accuracy rate or better. NCI captioners have captioned every type of program, including infomercials, news, sports, and entertainment.

Real-time captioner capacity is perhaps the most challenging issue in the closed-captioning business today. To keep up with demand, NCI has formed a partnership with the Court Reporting Institute of Dallas, which has an enrollment of over 700 students. NCI's real-time

management staff teaches a weekend course over an eight-week period every year to qualified students who are nearing graduation. The students have the opportunity to learn the theories and procedures needed for real-time captioning. NCI has the opportunity to make employment offers for its Dallas facility to candidates who will make good real-time captioners.

NCI has the experience and people in place to handle Mega TV programming. If there are any sudden changes to the schedule, an NCI engineer or a captioning supervisor will determine what schedule assignment changes are necessary in order to provide captions.

5. Requirements

NCI's goal is to make captioning seamless for Mega TV. NCI requires the following to provide Spanish real-time captions to Mega TV:

- An Encoder and audio coupler. You mentioned you already have an encoder, please let me know which encoder you currently have
- At least 2 phone lines. One to send the caption data through the encoder and one to receive the audio. If needed you can provide a back-up audio line.
- A contact for continuity testing
- Program schedules

We can discuss the technical requirements in further detail with our engineers.

C. Rates

Real-time Captioning

Category	*Hourly Rate
Spanish-Spanish real-time captioning	$120/program hour
Refeeds if needed	$100/program hour

**NCI's rates are prorated to the quarter hour.*
***Rates above are based on a two-year contract with NCI*

Rates above includes:

- Two technical, full production centers, Vienna, VA and Dallas, TX (digital capable facility)
- Fully trained Spanish real-time captioners
- 24/7/365 support
- Full redundancy in signal access, equipment, power supply and staff
- Ability to handle refeeds and program fix-ups while simultaneously captioning feeds in different time zones
- All NCI production facilities are supported by an un-interruptible power supply to prevent problems associated with local power outages
- NCI also maintains a special "live line" telephone number guaranteeing 24-hour access to production and engineering personnel in the event of an emergency.

EXHIBIT B

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4. Operating Segments

Statement of Financial Accounting Standards ("SFAS") No. 131, *"Disclosures about Segments of an Enterprise and Related Information,"* establishes standards for the way public business enterprises report information about operating segments in annual financial statements and requires those enterprises to report selected information about operating segments in interim financial reports. We have two reportable segments: radio and television. The following summary table presents separate financial data for each of our operating segments (in thousands):

	Three-Months Ended September 30,		Change		Nine-Months Ended September 30,		Change	
	2008	2007	$	%	2008	2007	$	%
Net revenue:								
Radio	$ 36,411	44,333	(7,922)	(18%)	110,445	126,421	(15,976)	(13%)
Television	4,842	2,439	2,403	99%	12,421	7,159	5,262	74%
Consolidated	$ 41,253	46,772	(5,519)	(12%)	122,866	133,580	(10,714)	(8%)
Engineering and programming expenses:								
Radio	$ 9,438	8,957	481	5%	29,590	26,867	2,723	10%
Television	4,554	3,596	958	27%	14,520	10,357	4,163	40%
Consolidated	$ 13,992	12,553	1,439	11%	44,110	37,224	6,886	18%
Selling, general and administrative expenses:								
Radio	$ 13,579	15,351	(1,772)	(12%)	45,449	48,068	(2,619)	(5%)
Television	3,006	1,868	1,138	61%	8,348	5,255	3,093	59%
Consolidated	$ 16,585	17,219	(634)	(4%)	53,797	53,323	474	1%
Corporate expenses:	$ 2,707	3,881	(1,174)	(30%)	9,972	10,596	(624)	(6%)
Depreciation and amortization:								
Radio	$ 817	716	101	14%	2,397	2,153	244	11%
Television	578	170	408	240%	1,022	440	582	132%
Corporate	397	308	89	29%	1,177	843	334	40%
Consolidated	$ 1,792	1,194	598	50%	4,596	3,436	1,160	34%
(Gain) loss on the disposal of assets, net:								
Radio	$ (5)	51	(56)	(110%)	(10)	50	(60)	(120%)
Television	—	—	—	0%	—	—	—	0%
Corporate	—	—	—	0%	—	—	—	0%
Consolidated	$ (5)	51	(56)	(110%)	(10)	50	(60)	(120%)
Impairment of FCC broadcasting licenses and restructuring costs:								
Radio	$ 2,191	—	2,191	100%	381,606	—	381,606	100%
Television	8	—	8	100%	16,845	—	16,845	100%
Corporate	—	—	—	0%	—	—	—	0%
Consolidated	$ 2,199	—	2,199	100%	398,451	—	398,451	100%
Operating income (loss):								
Radio	$ 10,391	19,258	(8,867)	(46%)	(348,587)	49,283	(397,870)	(807%)
Television	(3,304)	(3,195)	(109)	3%	(28,314)	(8,893)	(19,421)	218%
Corporate	(3,104)	(4,189)	1,085	(26%)	(11,149)	(11,439)	290	(3%)
Consolidated	$ 3,983	11,874	(7,891)	(66%)	(388,050)	28,951	(417,001)	(1440%)
Capital expenditures:								
Radio	$ 326	342	(16)	(5%)	2,643	1,358	1,285	95%
Television	2,826	1,005	1,821	181%	12,525	3,030	9,495	313%
Corporate	60	974	(914)	(94%)	423	2,343	(1,920)	(82%)
Consolidated	$ 3,212	2,321	891	38%	15,591	6,731	8,860	132%

Total Assets:	September 30, 2008	December 31, 2007
Radio	$ 447,300	862,048
Television	63,519	62,462

Corporate	9,464	11,619
Consolidated	$ 520,283	936,129

CERTIFICATE OF SERVICE

I, Deborah Morris, hereby certify that on this 9th day of February, 2009, a copy of the foregoing Reply to Opposition to Petition for Exemption is being sent via first class, U.S. Mail, postage prepaid, to the following:

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