



Federal Communications Commission
Washington, D.C. 20554

October 10, 2012

Case Identifier: CGB-CC-0907

CliffDweller Productions, LLC
Attn: Richard D. Holcomb
3791 Southern Blvd., SE
Suite 101
Rio Rancho, NM 87124

Re: *Travel Guide New Mexico*

Dear Mr. Holcomb:

The Consumer and Governmental Affairs Bureau (CGB) of the Federal Communications Commission (“FCC”) has reviewed your petition for exemption from the closed captioning rules. As discussed in further detail below, CGB has found that the petition provides some, but not all, of the information needed for us to make a determination as to whether or not the FCC closed captioning requirements would be economically burdensome for you.

As an initial matter, your petition states that *Travel Guide New Mexico* should be exempt based on Section 79.1(d)(8), which exempts from the closed captioning rules “locally produced and distributed non-news programming with no repeat value.” This exemption applies to “programming that is locally produced *by the video programming distributor*, has no repeat value, is of local public interest, is not news programming, and for which the ‘electronic news room’ technique of captioning is unavailable” (emphasis added). Video programming distributor is defined in Section 79.1(a)(2) as follows: “Any television broadcast station licensed by the Commission and any multi-channel video programming distributor as defined in Section 76.1000(e) of the rules, and any other distributor of video programming for residential reception *that delivers such programming directly to the home and is subject to the jurisdiction of the Commission*” (emphasis added). We note that this self-implementing exemption is a narrowly focused exemption.¹ CliffDweller Productions, LLC, does not explain or provide adequate support for its contention that *Travel Guide New Mexico* falls within the scope of this exemption. Further, we note that CliffDweller Productions, LLC, is not a video programming distributor within the meaning of the FCC’s Rules. As a result, based on the information before us, it does not appear that this exemption applies to CliffDweller Productions, LLC’s particular circumstances.

With respect to the remainder of your petition, it included information on your financial status, the cost of captioning in 2009, on the type of your operation(s) and the impact that providing captions would have on your programming activities, and verification that you have sought captioning assistance from your video programming distributors. We conclude, however, that because your petition is missing required information, we cannot take further action on your petition.

¹ See, e.g., *New Life Team*, Memorandum Opinion and Order, 20 FCC Rcd 3679, 3680, ¶3 (MB, 2005).

If you wish for this petition to receive further consideration for a closed captioning exemption, you must supplement your petition by providing us with the information described below by **November 9, 2012**, which is 30 days from the date of this letter:

- Updated information about the costs associated with captioning the specific program(s) for which you are requesting an exemption;
- Verification that you have sought additional sponsorship sources or other sources of revenue for captioning, and that, even if these efforts have not successfully produced assistance, you do not otherwise have the means to provide captioning for the program(s)(see TIP #3 on accompanying information sheet); and,
- An affidavit (*i.e.*, a written sworn statement made under oath before an official attesting to the truthfulness and accuracy of the material in your petition) or a signature made under penalty of perjury. Neither the notarized signature on your submission dated June 20, 2012, nor the Declaration attached to your original petition conformed to these requirements.

You also may provide any additional information that you deem relevant to an exemption determination, as well as any alternatives that could be a reasonable substitute for the closed captioning requirement. Please note that all supplemental information must be accompanied **by an affidavit** (*i.e.*, a written sworn statement made under oath before an official attesting to the truthfulness and accuracy of the material in your petition) **or be signed under penalty of perjury**. If you do not file the additional information **by November 9, 2012**, or the information that you provide is still deficient, your petition will be dismissed without prejudice to re-filing **on January 8, 2013**, and you will be required to begin providing closed captioning for the above-referenced programming **on January 9, 2013**.

If you decide to supplement your petition, your petition, as well as any supporting financial information provided, will be available for public inspection. If your petition contains confidential information, the FCC's rules provide a way for you to request "confidential treatment," while still providing enough information on a second version of your petition, so that the public can understand the basis for your exemption request and comment on its merits. See TIP #4 on the accompanying information sheet for more information on how to seek confidential treatment.

For your convenience, we have enclosed additional information that may help you better understand how the FCC processes individual requests for captioning exemptions. If you have additional questions pertaining to the filing of an exemption request, please contact the FCC's Disability Rights Office at captioningexemption@fcc.gov.

Roger Holberg, Attorney
Disability Rights Office
Consumer and Governmental Affairs Bureau

Enclosures