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November 26, 2012

*via hand delivery*

Marlene H. Dortch, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TW-A325  
Washington, DC 20554

**Attn: CGB Room 3-B431**

**Re: Casa Sobre la Roca Iglesia Cristina Integral Petition for Exemption from the  
Commission's Closed Captioning Rules  
Case No. CGB-CC-1216  
CG Docket No. 06-181**

**FILED/ACCEPTED**

**NOV 26 2012**

Federal Communications Commission  
Office of the Secretary

Dear Ms. Dortch:

Pursuant to the Commission's Request for Comment, Telecommunications for the Deaf and Hard of Hearing Inc. (TDI), the National Association of the Deaf (NAD), the Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), the Association of Late-Deafened Adults (ALDA), California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH), and the Cerebral Palsy and Deaf Organization (CPADO), collectively, "Consumer Groups," respectfully submit this opposition to the petition of Casa Sobre la Roca Iglesia Cristina Integral ("Integral") to exempt its program *Hechos y Cronicas* from the Commission's closed captioning rules, 47 C.F.R. § 79.1.<sup>1</sup> Consumer Groups oppose the petition because it does not sufficiently

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<sup>1</sup> *Public Notice, Request for Comment: Request for Exemption from Commission's Closed Captioning Rules*, CG Docket No. 06-181 (October 26, 2012), [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1729A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1729A1.pdf); *Integral Petition for Exemption*, Case No. CGB-CC-1216, CG Docket No. 06-181 (February 22, 2012), <http://apps.fcc.gov/ecfs/document/view?id=7021902045> ("*Integral Petition*"). The Consumer and Governmental Affairs Bureau initially determined that the *Integral Petition* was deficient. *Letter from the*

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demonstrate that Integral has sought out the most reasonable price for captioning services, that it cannot afford closed captioning, or that it has exhausted all alternative avenues of funding captioning.

Consumer Groups acknowledge Integral's efforts to "share a Christian message that will fortify the ethics and moral of [the] Hispanic community."<sup>2</sup> Integral's requested exemption, however, would deny equal access to its programming to community members who are deaf or hard of hearing. Maximizing accessibility through the comprehensive use of closed captions is critical to ensuring that all viewers can experience the important benefits of video programming on equal terms.

Because the stakes are so high for the millions of Americans who are deaf or hard of hearing, it is essential that the Commission grant petitions for exemptions from captioning rules only in the rare case that a petitioner conclusively demonstrates that captioning its programming would impose a truly untenable economic burden. To make such a demonstration, a petitioner must present detailed, verifiable, and specific documentation that it cannot afford to caption its programming, either with its own revenue or with alternative sources.

Under section 713(d)(3) of the Communications Act of 1934 ("1934 Act"), as added by the Telecommunications Act of 1996 Act ("1996 Act")<sup>3</sup> and amended by section

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*Consumer and Governmental Affairs Bureau*, Case No. CGB-CC-1216, CG Docket No. 06-181 (April 18, 2012), <http://apps.fcc.gov/ecfs/document/view?id=7021913484> ("CGB Letter"). Integral then filed a supplement. *Integral Supplement*, Case No. CGB-CC-1216 (May 11, 2012), <http://apps.fcc.gov/ecfs/document/view?id=7021922236>. The Consumer and Governmental Affairs Bureau then determined that the *Integral Supplement* was still deficient. *Letter from the Consumer and Governmental Affairs Bureau*, Case No. CGB-CC-1216, CG Docket No. 06-181 (August 8, 2012), <http://apps.fcc.gov/ecfs/document/view?id=7022004496> ("CGB Letter II"). Integral then filed another supplement. *Integral Supplement II*, Case No. CGB-CC-1216 (September 5, 2012), <http://apps.fcc.gov/ecfs/document/view?id=7022022093>.

<sup>2</sup> *Integral Supplement* at 1.

<sup>3</sup> Pub. L. 104-104, 110 Stat. 56 (codified as amended at 47 U.S.C. § 613(d)(3)).

202(c) of the 21st Century Communication and Video Accessibility Act of 2010 (“CVAA”),<sup>4</sup> “a provider of video programming or program owner may petition the Commission for an exemption from the [closed captioning] requirements of [the 1934 Act], and the Commission may grant such petition upon a showing that the requirements . . . would be economically burdensome.” In its July 20, 2012 Report and Order, the Commission formally adopted the analysis set forth in its October 20, 2011 Interim Standard Order and Notice of Proposed Rulemaking.<sup>5</sup> In doing so, the Commission interpreted the term “economically burdensome” as being synonymous with the term “undue burden” as defined in section 713(e) of the 1934 Act and ordered the Consumer and Governmental Affairs Bureau to continue to evaluate all exemption petitions using the “undue burden” standard pursuant to the Commission’s amended rules in 47 C.F.R. § 79.1(f)(2)-(3).<sup>6</sup>

To satisfy the requirements of section 713(e), a petitioner must first demonstrate its inability to afford providing closed captions for its programming.<sup>7</sup> If a petitioner

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<sup>4</sup> Pub. L. 111-260, 124 Stat. 2751 (codified at 47 U.S.C. § 613(d)(3)).

<sup>5</sup> The *Interim Standard Order* and the *NPRM* were part of a multi-part Commission decision. See *Anglers for Christ Ministries, Inc., New Beginning Ministries, Petitioners Identified in Appendix A, Interpretation of Economically Burdensome Standard; Amendment of Section 79.1(f) of the Commission’s Rules; Video Programming Accessibility*, Memorandum Opinion and Order, Order, and Notice of Proposed Rulemaking, CG Docket Nos. 06-181 and 11-175, 26 FCC. Rcd. 14941 (Oct. 20, 2011) (“*Anglers 2011*”).

<sup>6</sup> *Report and Order, Interpretation of Economically Burdensome Standard; Amendment of Section 79.1(f) of the Commission’s Rules; Video Programming Accessibility*, CG Docket No. 11-175, ¶ 8 (July 20, 2012) (“*Economically Burdensome Standard Order*”). In some early adjudications, the Commission specifically analyzed exemption petitions under the four-factor rubric in section 713(e), analyzing whether each of the four factors weighed for or against granting a particular petition. *E.g., Home Shopping Club L.P.*, Case No. CSR 5459, 15 FCC Rcd. 10,790, 10,792-94 ¶¶ 6-9 (CSB 2000). Over the past decade, however, this factor-based analysis has evolved into several specific evidentiary requirements that must be satisfied to support a conclusion that a petitioner has demonstrated an undue economic burden sufficient to satisfy the requirements of section 713(e). See *Anglers 2011*, 26 FCC Rcd. at 14,955-56, ¶ 28.

<sup>7</sup> See *Anglers 2011*, 26 FCC Rcd. at 14,955-56, ¶ 28.

sufficiently demonstrates an inability to afford captioning, it must also demonstrate that it has exhausted alternative avenues for obtaining assistance with captioning.<sup>8</sup> Where a petition fails to make either of those showings, it fails to demonstrate that providing captions would be economically burdensome, and the Commission must dismiss the petition.<sup>9</sup>

### **I. Integral's Ability to Afford Captioning**

To sufficiently demonstrate that a petitioner cannot afford to caption its programming, a petition must provide both verification that the petitioner has diligently sought out and received accurate, reasonable information regarding the costs of captioning its programming, such as competitive rate quotes from established providers, and detailed information regarding the petitioner's financial status.<sup>10</sup> Both showings must demonstrate that the petitioner in fact cannot afford to caption its programming and eliminate the possibility that captioning would be possible if the petitioner reallocated its resources or obtained more reasonable price quotes for captioning its programming.

#### **A. The Cost of Captioning Integral's Programming**

To successfully demonstrate that captioning would be economically burdensome, a petitioner must demonstrate a concerted effort to determine "the most reasonable price" for captioning its programming.<sup>11</sup> To allow the Commission and the public to evaluate whether a petitioner's cost estimates are reasonable, it is essential that a petition provide, at a bare minimum, detailed information about the basis and validity

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<sup>8</sup> *See id.*

<sup>9</sup> *See id.*

<sup>10</sup> *See id.*

<sup>11</sup> *See The Wild Outdoors*, Case No. CSR 5444, 16 FCC Rcd. 13,611, 13,613-14 ¶ 7 (CSB 2001), *cited with approval in Anglers 2011*, 26 FCC Rcd. at 14,956, ¶ 28 n.101.

of cost estimates for captioning, such as competitive hourly rate quotes and associated correspondence from several established captioning providers.<sup>12</sup>

Integral initially claims that captioning its thirty-minute program would cost \$355 per week, but provides another estimate for rates as low as \$220 and offers no explanation as to why the lower rate would be untenable.<sup>13</sup> Integral also provides no evidence that it actually contacted any providers to substantiate these estimates. Rather, it appears that Integral simply relied on its video programming distributor to provide it with information and did not attempt to negotiate a discounted rate with any captioning providers for its routine captioning needs.<sup>14</sup> Accordingly, it is impossible for the Commission or the public to conclude that Integral engaged in the necessary good-faith effort to determine the most reasonable price to caption its programming, turning to the exemption process only as a last resort.

#### **B. Integral's Financial Status**

A successful petition requires, at a bare minimum, detailed information regarding the petitioner's finances and assets, gross or net proceeds, and other documentation "from which its financial condition can be assessed" that demonstrates captioning would present an undue economic burden.<sup>15</sup> Integral's financial statement shows \$26,222.90 in net income for 2011.<sup>16</sup> Even assuming Integral had submitted a reasonable assessment of the cost of captioning its programming, it does not explain why it cannot use its substantial net income to pay for closed captioning.

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<sup>12</sup> Compare, e.g., *Outland Sports, Inc.*, Case No. CSR 5443, 16 FCC Rcd. 13,605, 13,607, ¶ 7 (CSB 2001) (approving of a petitioner's inclusion of rate quotes and associated correspondence from at least three captioning providers in its petition) with *The Wild Outdoors*, 16 FCC Rcd. at 13,613-14, ¶ 7 (disapproving of a petitioner's bald assertion of the cost to caption a program without supporting evidence).

<sup>13</sup> *Integral Petition* at 1, 7; *Integral Supplement II* at 8.

<sup>14</sup> *Integral Supplement II* at 1.

<sup>15</sup> E.g., *Survivors of Assault Recovery*, Case No. CSR 6358, 20 FCC Rcd. 10,031, 10,032, ¶ 3 (MB 2005), cited with approval in *Anglers 2011*, 26 FCC Rcd. at 14,956, ¶ 28 n.100.

<sup>16</sup> *Integral Petition* at 6.

## II. Conclusion

Integral has not sufficiently demonstrated that it has sought out the most reasonable price for captioning services, that it cannot afford closed captioning, or that it has exhausted all alternative avenues of funding captions. Accordingly, we respectfully urge the Commission to dismiss the petition and require Integral to bring *Hechos y Cronicas* into compliance with the closed captioning rules.

Respectfully submitted,



Blake E. Reid†

November 26, 2012

*Counsel for Telecommunications for the  
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† Counsel thanks Georgetown Law student Jessica Lee for her assistance in preparing these comments.

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

                  /s/                  

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**National Association of the Deaf (NAD)**

                  /s/                  

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                  /s/                  

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**California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH)**

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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*

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Claude Stout  
November 26, 2012

**CERTIFICATE OF SERVICE**

I, Niko Perazich, Office Manager, Institute for Public Representation, do hereby certify that, on November 26, 2012, pursuant to the Commission's aforementioned Request for Comment, a copy of the foregoing document was served by first class U.S. mail, postage prepaid, upon the petitioner:

Casa Sobre la Roca Iglesia Cristina Integral  
2149 Orinoco Drive, Suite 1  
Orlando, FL 32837



Niko Perazich  
November 26, 2012