

Received & Inspected

OCT 30 2013

FCC Mail Room

**MICHAEL R. WALLER  
ATTORNEY AT LAW  
18 SAINT ANDREWS STREET  
ABILENE, TEXAS 79606**

**TELEPHONE AND FAX NUMBER: 325-691-5671**

**E-MAIL: [mr-abwaller@sbcglobal.net](mailto:mr-abwaller@sbcglobal.net)**

*CG Docket 06-181*

October 29, 2013

**VIA FEDERAL EXPRESS**

Office of the Secretary  
Federal Communications Commission  
Attention: Disability Rights Office, Room 3-C438  
9300 East Hampton Drive  
Capitol Heights, MD 20743

RE: Petition of St. Paul United Methodist Church for Exemption from  
Closed Captioning of Telecasts, CGB-CC-1293

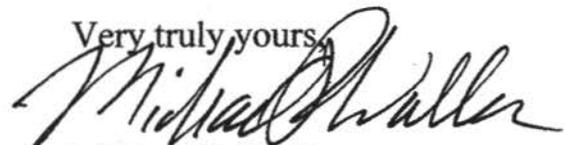
Dear Secretary:

Enclosed for filing are the original and one counterpart of the Amended Petition of St. Paul United Methodist Church for Exemption from Closed Captioning of its telecasts pursuant to § 79.1 of the Commission's rules, and St. Paul's Response to the Request for Supplemental Information of the Consumer & Governmental Affairs Bureau. Also enclosed is a second counterpart of this cover letter which I request to be file stamped showing the filing date and returned to me.

I call to your attention that both the Amended Petition and the Response are in the form of affidavits sworn to by St. Paul's senior pastor, Rev. Felicia Hopkins.

Thank you for your attention to this matter.

Very truly yours,



Michael R. Waller

Enclosures:

Original and 1 counterpart of Petition

Original and 1 counterpart of Response

OCT 30 2013

FCC Mail Room

**UNITED STATES OF AMERICA  
FEDERAL COMMUNICATIONS COMMISSION**

**CG DOCKET NO. 06-181**

**CGB-CC-1293**

**AMENDED PETITION OF ST. PAUL UNITED  
METHODIST CHURCH, ABILENE, TEXAS, FOR A  
DETERMINATION OF EXEMPTION FROM THE  
COMMISSION'S REQUIREMENTS FOR CLOSED CAPTIONS**

St. Paul United Methodist Church, Abilene, Texas, ("St. Paul") hereby amends its Petition for a determination by the Federal Communications Commission ("FCC") that St. Paul's television programming is exempt from the Commission's rules for closed captioning at 47 C.F.R. § 79.1 (f) promulgated under § 713 of the Communications Act, 47 U.S.C. § 613.

The persons authorized to receive notices and other pleadings in this proceeding are:

Michael R. Waller, Esq.  
18 Saint Andrews Street  
Abilene, Texas 79606

Telephone-(325)691-5671      E-mail: [mr-abwaller@sbcglobal.net](mailto:mr-abwaller@sbcglobal.net)

Rev. Felicia Hopkins  
Senior Pastor  
St. Paul United Methodist Church  
525 Beech Street  
Abilene, Texas 79604

Telephone (325) 672-7814      Email: [fhopkins@stpaulabilene.org](mailto:fhopkins@stpaulabilene.org)

**I. THE AMENDMENT:**

St. Paul amends its Petition as set out below; except to the extent inconsistent with this amendatory language, St. Paul incorporates by reference the text of its original Petition.

St. Paul believes that closed captioning of the live telecasts of its weekly Sunday worship services and its Christmas Eve worship service is neither required by law nor the FCC's rules because (i) these telecasts are exempt from closed captioning requirements under the self-implementing exemption of subparagraph (12) of the FCC's section 79.1(f) rules, and also (ii) because St. Paul is entitled to be exempted from the requirement for closed captioning of its live telecasts because, as demonstrated by this Amended Petition (supplemented by its Response to the request for information served on it by the FCC's Consumer & Governmental Affairs Bureau contemporaneously with this Amended Petition), the cost and effort for St. Paul to close caption its telecasts is economically burdensome and operationally impractical.

## **II. ST. PAUL IS SELF-EXEMPT FROM THE FCC'S CLOSED CAPTION REQUIREMENTS**

Section 79.1 (d) of the Commission's rules concerning closed captioning contains several exemptions to those rules, including twelve self-implementing exemptions. The self-implementing exemption at subparagraph (12) states that "No video programming provider shall be required to expend any money to caption any channel or video programming producing annual gross revenues of less than \$3,000,000 during the previous calendar year other than the obligation to pass through video programming already captioned when received pursuant to paragraph (c) of this section." As set out elsewhere in this Amended Petition and in its Response to the Bureau, St. Paul did not receive the requisite amount of gross revenue from its telecasts during the calendar year 2012, and in fact has never received \$3,000,000.00 of gross revenue from the telecasts of its worship services. It is clear therefore that St. Paul's television programming falls within the purview of the twelfth self-implementing exemption of section 79.1(d).

## **III. THE FCC SHOULD PROVIDE ST. PAUL SOME DETERMINATION THAT IT QUALIFIES AS SELF-EXEMPT**

St. Paul recognizes that the FCC does not certify that a provider of programming qualifies under any of these exemptions. However, in this case there is a compelling reason why the FCC should at a minimum provide St. Paul a determination in writing that it qualifies under subparagraph (12) of section 79.1(f). The necessity of such a determination is clearly demonstrated by the fact that KTXS, the television station provides St. Paul broadcast service, has required as a condition to broadcasting St. Paul's programming that St. Paul certify to KTXS

that its programming either complies with the FCC's closed captioning requirements or will as broadcast by KTXS be exempt from those requirements. More importantly KTXS requires that St. Paul indemnify KTXS from and against "any and all losses, damages, liabilities, or expenses of any nature whatsoever, including reasonable attorneys' fees, in connection with any investigation, inquiry, or enforcement action by the FCC involving the Programming or any threatened or actual private claim or action involving the programming." (See copy of such required Certificate attached hereto as Exhibit A).

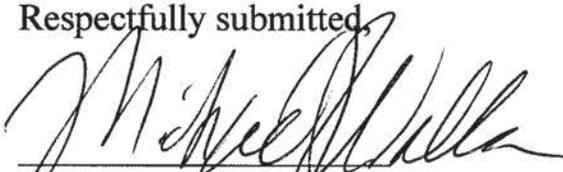
As a nonprofit entity with limited financial resources, St. Paul can neither accept nor insure against the risk of issuing this certification and indemnity without some assurance from the FCC that its programming as described herein is exempt from the requirement of closed captioning. Therefore, without a determination of exemption by the FCC as requested herein, St. Paul will be compelled to either cease telecasting its programming or bear the practical difficulty and burdensome expense of closed captioning its telecasts. St Paul does not believe that the FCC contemplated or intended such an outcome when it announced that it would not "certify" eligibility for the self-implementing exemptions it promulgated in section 79 (d) of its rules. Indeed, such a result renders the self-implementing portions of section 79 ineffective in this case.

#### **IV. CONCLUSION AND REQUEST FOR RELIEF:**

St.Paul believes it is entitled to either (i) a written determination or some form of written confirmation issued by the FCC that it is exempt from the FCC's requirements to provide closed captioning for its worship service programming under subparagraph (12) of section 79.1(d); or (ii) a finding and order by the FCC that its worship service programming is exempt from such requirements because providing closed captions for such programming would result in a significant difficulty or expense for St. Paul and would be economically burdensome. Therefore, St. Paul respectfully requests that the Commission grant such relief.

Dated: October 29, 2013

Respectfully submitted,



Michael R. Waller

Attorney for St. Paul United Methodist Church

Texas Bar # 20783000



Felicia Hopkins

Senior Pastor

St. Paul United Methodist Church

Abilene, Texas

STATE OF TEXAS §

COUNTY OF TAYLOR §

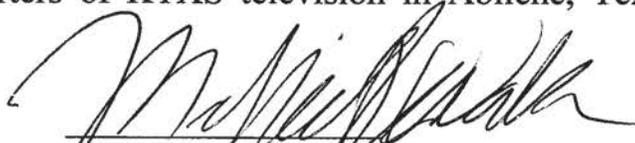
BEFORE ME, the undersigned Notary Public, on this 29<sup>th</sup> day of October, 2013, personally appeared Felicia Hopkins, who being first duly sworn on her oath stated that she is the Senior Pastor of St. Paul United Methodist Church in Abilene, Texas, and that the information stated in the above and foregoing Petition are true and correct based on her personal knowledge.



Notary Public

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete counterpart of this document was deposited with Federal Express for next day delivery to the FCC and hand delivered to the station headquarters of KTXS television in Abilene, Texas on October 29, 2013.



Michael R. Waller

**EXHIBIT A**



**Abilene - Sweetwater Broadcasting Company - - A Division of Benton Media Group**

**Closed Captioning Compliance Certification**

St. Paul United Methodist Church("Programmer") certifies to Abilene Sweetwater Broadcasting Company("Licensee"), licensee of Station, KTXS in Abilene Texas that the "St. Paul Church Service", a [30-MINUTE] [WEEKLY] program provided to the Station for broadcast by the Station, complies with the closed captioning requirements of the Federal Communications Commission (47 C.F.R. § 79.1) or will, as broadcast by the Station, be exempt from those requirements. Programmer agrees to notify Licensee of any change in this certification within 24 hours of such change, including any action by the Federal Communications Commission ("FCC") on any pending petition to waive the captioning requirements for the Programming (such as an FCC request to supplement the waiver petition or a grant or denial of the waiver petition).

Programmer agrees, to the fullest extent permitted by law, to protect, save, defend, and keep Licensee and its corporate parent and affiliates, and each of their officers, directors, employees, and agents, harmless and indemnify them from and against any and all losses, damages, liabilities, or expenses of any nature whatsoever, including reasonable attorneys' fees, in connection with any investigation, inquiry, or enforcement action by the FCC involving the Programming or any threatened or actual private claim or action involving the Programming.

St. Paul United Methodist Church

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date