

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
First Lutheran Church of Albert Lea) CGB-CC-0143
)
Petition for Exemption from the) CG Docket No. 06-181
Closed Captioning Requirements)

MEMORANDUM OPINION AND ORDER

Adopted: July 30, 2014

Released: July 30, 2014

By the Deputy Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. In this Memorandum Opinion and Order (Order), we address a petition filed by First Lutheran Church of Albert Lea (FLC) for an exemption from the Federal Communications Commission’s (FCC’s or Commission’s) closed captioning requirements for its program, *Peace & Power*. Because we conclude that FLC has not demonstrated that its compliance with the Commission’s closed captioning requirements would be economically burdensome to it, we deny the Petition. In light of our action, *Peace & Power* must be closed captioned no later than October 28, 2014, which is 90 days from the date of the release of this Order.

II. BACKGROUND

2. In 1996, Congress added section 713 to the Communications Act of 1934, as amended (Communications Act), establishing requirements for closed captioning of video programming to ensure access to such programming by people who are deaf or hard of hearing,¹ and directing the Commission to prescribe rules to carry out this mandate.² In 1997, the Commission adopted rules and implementation schedules for closed captioning, which became effective on January 1, 1998.³ The Commission’s closed

¹ Section 305 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. § 613). As recognized by Congress, the goal in captioning video programming is “to ensure that all Americans ultimately have access to video services and programs, particularly as video programming becomes an increasingly important part of the home, school and workplace.” H.R. Rep. 104-458 (Conf. Rep.) at 183-184, 104th Cong., 2d Sess. (1996). “Video programming” means “programming by, or generally considered comparable to programming provided by a television broadcast station.” 47 U.S.C. § 613(h)(2).

² 47 U.S.C. §§ 613(b), (c).

³ See 47 C.F.R. § 79.1; *Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility*, Report and Order, 13 FCC Rcd 3272 (1997) (*Closed Captioning Report and Order*); *Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility*, Order on Reconsideration, 13 FCC Rcd 19973 (1998) (*Closed Captioning Reconsideration Order*).

captioning rules currently require video programming distributors, absent an exemption, to caption 100% of all new, English and Spanish language programming.⁴

3. Section 713(d)(3) of the Communications Act authorizes the Commission to grant individual exemptions from the television closed captioning requirements upon a showing that the requirements would be economically burdensome, defined as imposing on the petitioner a “significant difficulty or expense.”⁵ Any entity in the programming distribution chain, including the owner, provider, or distributor of the programming, may petition the Commission for such an exemption under section 79.1(f) of the Commission’s rules.⁶ When making its determination as to whether a petitioner has made the required showing, the Commission, in accordance with section 713(e) of the Communications Act and section 79.1(f)(2) of the Commission’s rules, 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.⁷

4. The Commission requires the following information and documentation to be submitted with closed captioning exemption petitions to enable its consideration of the above factors:

⁴ 47 C.F.R. §§ 79.1(b)(1)(iv), (b)(3)(iv). A “video programming distributor” is defined as (1) any television broadcast station licensed by the Commission; (2) any multichannel video programming distributor (MVPD) as defined in section 76.1000(e); and (3) 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. 47 C.F.R. § 79.1(a)(2). The Commission’s rules also require closed captioning of 75% of a programming distributor’s pre-rule, nonexempt English and Spanish language programming that is distributed and exhibited on each channel during each calendar quarter. 47 C.F.R. §§ 79.1(b)(2)(ii), (b)(4)(ii). “Pre-rule” programming refers to analog video programming first published or exhibited before January 1, 1998, or digital video programming first published or exhibited before July 1, 2002. 47 C.F.R. § 79.1(a)(6). Bilingual English-Spanish language programming is subject to the same closed captioning requirements for new and pre-rule programming. *See Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking*, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 29 FCC Rcd 2221, 2288-89, ¶ 115 (2014).

⁵ *See* 47 U.S.C. §§ 613(d)(3),(e); *see also* 47 C.F.R. § 79.1(f)(2). As originally enacted in 1996, section 713 of the Communications Act authorized the Commission to grant individual closed captioning exemptions upon a showing that providing closed captioning would “result in an undue burden.” Pub. L. No. 104-104, § 305, 110 Stat. 126 (1996). Section 202(c) of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) replaced the term “undue burden” with the term “economically burdensome.” Pub. L. No. 111-260, § 202(c), 124 Stat. 2771, amending 47 U.S.C. § 613(d)(3). For purposes of evaluating individual exemptions, the Commission has determined that Congress intended the term “economically burdensome” to be synonymous with the term “undue burden” as defined by section 713(e) of the Communications Act and section 79.1(f)(2) of the Commission’s rules. *See Interpretation of Economically Burdensome Standard, Amendment of Section 79.1(f) of the Commission’s Rules, Video Programming Accessibility*, Report and Order, 27 FCC Rcd 8831, 8834, ¶ 7 (2012) (*Economically Burdensome Standard Order*).

⁶ 47 C.F.R. § 79.1(f)(1). A “video programming provider” is defined as “[a]ny video programming distributor and any other entity that provides video programming that is intended for distribution to residential households including, but not limited to broadcast or nonbroadcast television network and the owners of such programming.” 47 C.F.R. § 79.1(a)(3). *See also* n.4, *supra* (for definition of “video programming distributor”). A petitioner may seek an exemption for “a channel of video programming, a category or type of video programming, an individual video service, a specific video program or a video programming provider.” 47 C.F.R. § 79.1(f)(1).

⁷ 47 U.S.C. § 613(e); 47 C.F.R. § 79.1(f)(2). A petitioner may also present for the Commission’s consideration “any other factors the petitioner deems relevant to the Commission’s final determination,” including alternatives that might constitute a reasonable substitute for closed captioning. 47 C.F.R. § 79.1(f)(3). The Commission has delegated the responsibility for evaluating and ruling on these petitions to the Consumer and Governmental Affairs Bureau. *Economically Burdensome Standard Order*, 27 FCC Rcd at 8834-35, ¶ 8.

- the name of the programming (or channel of programming) for which an exemption is requested;
- information and documentation about the petitioner's costs associated with closed captioning each program and efforts to find companies that can provide captioning at a reasonable cost;
- an explanation of the impact that having to provide closed captioning will have on the petitioner's programming activities;
- information and documentation of the petitioner's financial resources, including its income, expenses, current assets, and current liabilities for the two most recent completed calendar or fiscal years;
- verification that the petitioner has sought closed captioning assistance from its video programming distributor(s); and
- verification that the petitioner has sought additional sponsorships (other than from its video programming distributor(s)), or other sources of revenue for captioning.⁸

5. Each petition must contain a detailed, full showing of any facts or considerations relied upon, supported by affidavit.⁹ Failure to support an exemption request with adequate explanation and evidence may result in the dismissal of the request.¹⁰ While a petition is pending, the programming subject to the request for exemption is considered exempt from the closed captioning requirements.¹¹

6. FLC initially filed a petition for exemption in 2005.¹² The Consumer and Governmental Affairs Bureau (CGB or Bureau) granted the petition and issued an exemption to FLC by letter order dated September 12, 2006.¹³ On November 7, 2006, the Bureau issued a Public Notice holding in abeyance various letter orders granting exemptions, including that to FLC, and inviting comments on certain exemption petitions, including FLC's.¹⁴ In 2011, the Commission reversed certain Bureau grants of exemption, including that to FLC.¹⁵ By letter dated October 25, 2011, the Bureau notified FLC of this

⁸ This is a summary of the list of "Required Information to Provide in Filing a New Petition to be Exempt from the Closed Captioning Requirements," provided by the staff to captioning exemption petitioners and available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-323421A1.pdf, which the Bureau developed, based on the Communications Act, the Commission's rules, and Commission history and experience evaluating such petitions. *See Anglers for Christ Ministries, Inc., et al.; Amendment of Section 79.1(f) of the Commission's Rules; Video Programming Accessibility*, Memorandum Opinion and Order, Order, and Notice of Proposed Rulemaking, 26 FCC Rcd 14941, 14955-56, ¶ 28 (2011) (*Anglers Reversal MO&O*).

⁹ 47 C.F.R. § 79.1(f)(9). A petition for exemption may also be supported by an unsworn written statement signed by a declarant under penalty of perjury. 47 C.F.R. § 1.16.

¹⁰ *Anglers Reversal MO&O*, 26 FCC Rcd at 14955-56, ¶ 28 (citing *The Wild Outdoors, Video Programming Accessibility, Petition for Waiver of Closed Captioning Requirements*, Memorandum Opinion and Order, 16 FCC Rcd 13611, 13614, ¶ 12 (Cable Services Bureau, 2001) (*Wild Outdoors 2001*)).

¹¹ 47 U.S.C. § 613(d)(3); 47 C.F.R. § 79.1(f)(11).

¹² *See* Letter from Rev. John F. Holt, Lead Pastor, First Lutheran Church, to Office of the Secretary, Federal Communications Commission (Nov. 30, 2005).

¹³ *See* Letter from Thomas E. Chandler, Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau, to Rev. John F. Holt, Lead Pastor, First Lutheran Church (Sept. 12, 2006).

¹⁴ *Consumer and Governmental Affairs Bureau Action Request for Exemption from Commission's Closed Captioning Rules*, Public Notice, DA 06-2287 (Nov. 7, 2006).

¹⁵ *Anglers Reversal MO&O*, 26 FCC Rcd at 14949, ¶ 25. The Commission reversed this and other Bureau letter orders that had failed to analyze the individual circumstances of the petitioners under the "undue burden" criteria, as
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reversal and explained that FLC would need to file a new exemption petition and supplement the record with up-to-date information, supported by affidavit, about its inability to provide closed captioning if it wished to receive a closed captioning exemption.¹⁶ FLC filed a new petition on January 17, 2012 (hereinafter Petition).¹⁷ On February 10, 2012, the Bureau invited comment on the Petition.¹⁸ Consumer Groups jointly filed an opposition to the Petition.¹⁹ Subsequently, the Bureau determined that it required additional and updated information to enable it to determine whether the programming that was the subject of the Petition should be exempt from the Commission's closed captioning obligations. In response to a Bureau letter dated September 27, 2013, FLC supplemented its Petition.²⁰ The Bureau again placed the Petition on Public Notice for comment on December 26, 2013.²¹ Again, Consumer Groups jointly opposed the Petition.²²

III. DISCUSSION

7. FLC produces *Peace & Power*, a one-hour program that is broadcast weekly on Station KAAL(TV), Austin, Minnesota, on Sunday mornings.²³ FLC records its worship service at 8:00 a.m. and sends the video and audio to KAAL(TV) by "microwave transmitter" to air at 10:00 a.m. the same day.²⁴ FLC indicates that its program is aimed at church members and others who are not otherwise able to attend local worship services.²⁵ FLC reports that it displays the liturgy, words to hymns, sermon notes,

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required under the Communications Act and the Commission's rules. *Id.*, 26 FCC Rcd at 14949, ¶ 26. As explained earlier, the economically burdensome criteria now used by the Commission to evaluate closed captioning exemption requests are identical to the undue burden criteria. *See* n.5, *supra*.

¹⁶ *See* Letter from Joel Gurin, Chief, Consumer and Governmental Affairs Bureau, to First Lutheran Church (Oct. 25, 2011). *See also* 47 C.F.R. § 79.1(f)(11); *Anglers Reversal MO&O*, 26 FCC Rcd at 14949, ¶ 16, n.60.

¹⁷ Letter from Rev. John F. Holt, Lead Pastor, and David L. Van Fossen, Congregation Treasurer, First Lutheran Church, to Office of the Secretary, Federal Communications Commissions, Attention: Disability Rights Office (Jan. 17, 2012) (Petition).

¹⁸ *Request for Comment, Request for Exemption from Commission's Closed Captioning Rules CGB-CC-0143*, Public Notice, DA 12-180 (Feb. 10, 2012).

¹⁹ *See* Opposition of Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, the Association of Late-Deafened Adults, and Cerebral Palsy and Deaf Organization (collectively, Consumer Groups) (Mar. 9, 2012).

²⁰ *See* Letter from Rev. John F. Holt, Lead Pastor, and David L. Van Fossen, Congregation Treasurer, First Lutheran Church, to Office of the Secretary, Federal Communications Commissions, Attention: Disability Rights Office (Oct. 26, 2013) (Petition Supplement).

²¹ *Request for Comment/Request for Exemption from Commission's Closed Captioning Rules*, Public Notice, 28 FCC Rcd 17100 (2013) (2013 Public Notice).

²² *See* Opposition to Petitions for Exemption from the Commission's Closed Captioning Rules, Telecommunications for the Deaf and Hard of Hearing, Inc., Deaf and Hard of Hearing Consumer Advocacy Network, Cerebral Palsy and Deaf Organization, California Coalition of Agencies Serving the Deaf and Hard of Hearing, National Association of the Deaf, and the Association of Late-Deafened Adults (collectively, Consumer Groups) at 2, 8-10 (Jan. 27, 2014) (Consumer Groups Comments).

²³ Petition Supplement at 1, 3, 24.

²⁴ *Id.* at 1.

²⁵ *Id.* at 2.

and references to Bible passages on the television screen as part of its program, but contends that it is unable to afford closed captioning for the entire hour of its program.²⁶

8. *Recurring Captioning Costs.* FLC obtained two quotes to caption its program in real-time, one for \$105.00 per hour from Dynamic Captioning LLC, and another for \$175.00 per hour from Caption Associates LLC.²⁷ Based on these quotes, FLC states that the cost of real-time captioning services for a full year of *Peace & Power* (i.e., 52 programs) would be \$5,460.00 and \$9,100.00, respectively.²⁸ In addition to the cost of real-time captioning services, FLC also indicates that it would incur costs of \$83.00 a month, or \$996.00 per year, for two telephone lines necessary to provide real-time closed captioning.²⁹ Accordingly, the cost of real-time captioning services combined with the cost of telephone lines results in an ongoing annual cost of \$6,456.00 and \$10,096.00, respectively.³⁰

9. *Start-Up Captioning Costs.* In addition, FLC provides information about its projected start-up costs associated with captioning its program. First, FLC estimates a cost of \$2,347.00 to purchase an “Analog CC Encoder/Decoder.”³¹ Second, FLC estimates a cost of \$80.00 for the installation of the two telephone lines at KAAL(TV) that are needed to provide real-time closed captioning services.³² Accordingly, FLC would incur a one-time startup cost of \$2,427.00 to caption its program.³³ In total, the cost of the encoder and telephone installation, plus the cost to provide closed captioning services and two telephone lines would be \$8,883.00 or \$12,523.00, respectively, in the first year.³⁴

10. With its Petition, as supplemented, FLC submitted separate income and expense statements for itself and for the Peace & Power Broadcast Ministry, apparently an FLC broadcast-related activity, for 2011 and 2012.³⁵ For 2011, FLC reports income of \$774,130.43, expenses of \$765,283.34, and a net profit of \$8,847.09.³⁶ For 2012, FLC reports income of \$785,791.88, expenses of \$754,227.18, and a net profit of \$31,564.70.³⁷ With respect to the Peace & Power Broadcast Ministry, FLC reports 2011 income of \$45,207.10, expenses of \$35,554.47, and a net profit of \$9,652.63.³⁸ FLC also reports

²⁶ *Id.* at 1-2.

²⁷ *Id.* at 8-9.

²⁸ *Id.*

²⁹ *Id.* at 15.

³⁰ *See id.* at 4.

³¹ *Id.* *See also id.* at 14 (stating the cost of an “Analog CC Encoder/Decoder & Data Recovery Decoder,” “Optional Internal Telephone Modem for PDR-885” and “AUDIO AUTOCOUPLER/DUPLEX HYBRID RA4 RACK ADAPTER OPTIONAL” as \$2,347.25).

³² *Id.* at 15. *See also id.* at 7.

³³ *Id.* at 4, 15.

³⁴ *See id.* at 4, 15. FLC also states, without explanation, that it “project[s] closed captioning would cost about \$8,596 annually.” *Id.* at 2.

³⁵ *See id.* at 20 (“Stmt. of Activity (Income Statement) for 01/2012 thru 12/2012” for Peace & Power Broadcast Ministry), 21 (“Stmt. of Activity (Income Statement) for 01/2012 thru 12/2012”), 22 (“Stmt. of Activity (Income Statement) for 01/2011 thru 12/2011” for Peace & Power Broadcast Ministry), 23 (“Stmt. of Activity (Income Statement) for 01/2011 thru 12/2011”).

³⁶ *Id.* at 23.

³⁷ *Id.* at 21. FLC further reports a deficit of \$43,793.00 as of September 30, 2013, an increase of \$9,033.00 over the \$34,760 deficit it had at the same time in 2012. *Id.* at 3.

³⁸ *Id.* at 22.

2012 income for the Peace & Power Broadcast Ministry of \$41,778.05, expenses of \$31,203.05, and a net profit of \$10,575.00.³⁹ Given the facts, FLC's net profit must be combined with that of its Peace & Power Broadcast Ministry to accurately reflect FLC's financial situation: an aggregate net profit of \$18,499.72 for 2011; and \$42,139.70 for 2012.⁴⁰

11. FLC also submitted separate balance sheets for itself and for the Peace & Power Broadcast Ministry.⁴¹ FLC reports current assets as of December 2011 of \$146,123.45, current liabilities of \$542.48, and net current assets of \$145,580.97.⁴² FLC reports current assets as of December 2012 of \$185,606.37, current liabilities of \$1,659.84, and net current assets of \$183,946.53.⁴³ With respect to the Peace & Power Broadcast Ministry, FLC reports current assets as of December 2011 of \$21,382.64 and current liabilities of \$33,767.00, resulting in net current liabilities of \$12,384.36.⁴⁴ FLC also reports current assets as of December 2012 for the Peace & Power Broadcast Ministry of \$31,957.64 and current liabilities of \$28,435.00, resulting in net current assets of \$3,522.64.⁴⁵ FLC's net current assets, combined with the net current liabilities of its Peace & Power Broadcast Ministry, result in \$133,196.61 total net current assets for FLC as of December 2011, and FLC's net current assets combined with the net current assets of its Peace & Power Broadcast Ministry result in \$187,469.17 total net current assets for FLC as of December 2012.⁴⁶

³⁹ *Id.* at 20. FLC reports that the Peace & Power Broadcast Ministry income is derived from "viewer donations, memorial & special gifts from First Lutheran Church members and others, along with some donations from area churches whose homebound members are also viewers . . . [and] a modest endowment fund that has provided \$3,900 for 2013." *Id.* at 2.

⁴⁰ As discussed more fully in paragraph 14 *infra*, the Commission has held that, in conducting an economically burdensome analysis, "all of the petitioners' available resources" must be taken into consideration. Accordingly, for purposes of this analysis, we consider the financial information submitted by FLC, both for itself and for Peace & Power Broadcast Ministry. Confirming the appropriateness of this approach, in its Petition filed in 2012, FLC reported the *combined* income and expenses for itself and the Peace & Power Broadcast Ministry for 2011. *See* Petition at 20-21 ("Stmt. of Activity (Income Statement) for 12/2011" showing FLC total income of \$818,185.90 and total expenses of \$808,057.34, which includes Peace & Power income totaling \$45,207.10 and expenses totaling \$35,554.47). In its Petition Supplement filed in 2013, FLC reported the income and expenses for itself and the Peace & Power Broadcast Ministry *separately* for 2011. *See* Petition Supplement at 20-23 (reporting FLC total income of \$774,130.43 and total expenses of \$765,283.34, and Peace & Power total income of \$45,207.10 and total expenses of \$35,554.47). We are able to reconcile the information and documentation provided in the Petition and Petition Supplement sufficiently to conclude that FLC's income and expenses, as reported in the Petition Supplement, do not include the income and expenses of its Peace & Power Broadcast Ministry. As a result, the separate reports of income and expenses for FLC and its Peace & Power Broadcast Ministry must be combined to accurately reflect FLC's total net profit. Therefore, FLC's total net profit for 2011 is computed as follows: \$8,847.09 (FLC) plus \$9,652.63 (Peace & Power Broadcast Ministry) = \$18,499.72. FLC's total net profit for 2012 is computed as follows: \$31,564.70 (FLC) plus \$10,575.00 (Peace & Power Broadcast Ministry) = \$42,139.70.

⁴¹ Petition Supplement at 6 ("Stmt. of Financial Position (Bal. Sheet) for 12/2012 [and 12/2011]"), 24 ("2012, 2011, 2010 Peace & Power Balance Sheet").

⁴² *Id.* at 6.

⁴³ *Id.*

⁴⁴ *Id.* at 6, 24.

⁴⁵ *Id.*

⁴⁶ FLC's total net current assets as of December 2011 are computed as follows: \$145,580.97 (FLC net current assets) minus \$12,384.36 (Peace & Power Broadcast Ministry net current liabilities) = \$133,196.61 (FLC total net current assets). FLC's total net current assets as of December 2012 are computed as follows: \$183,946.53 (FLC net
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12. FLC reports that it requested captioning assistance from its video programming distributor KAAL(TV); however, KAAL(TV) was unable to offer captioning assistance.⁴⁷ FLC asserts that, absent an exemption from the captioning requirements, it would have to discontinue its broadcast of *Peace & Power*.⁴⁸

13. Consumer Groups, which were the only parties to comment on the Petition in response to the 2013 *Public Notice*, contend that FLC failed to satisfy the statutory and regulatory requirements to demonstrate that captioning would be economically burdensome on several grounds. First, Consumer Groups acknowledge that FLC obtained captioning quotes from multiple providers, but argue that it did not provide documentation that it bargained with those providers for lower costs or to identify the most affordable provider or most reasonable rates.⁴⁹ Second, Consumer Groups acknowledge that FLC sought closed captioning assistance from the broadcast station that airs its program, but argue that FLC's "unwillingness to engage [other] sponsors cannot be used to avoid its captioning obligations."⁵⁰ Third, with regard to FLC's financial resources, Consumer Groups argue that FLC's ability to provide closed captions on its program must be assessed with respect to its overall finances, not "the budget allocated for or expenses incurred by the specific program at issue."⁵¹ Consumer Groups assert that if one considers FLC's overall budget, its estimated closed captioning costs of \$6,456.00 represents less than 1% of its annual budget of \$804,000.00 in 2012 and \$780,000.00 in 2011.⁵² Thus, Consumer Groups conclude, requiring FLC to caption its program cannot be considered economically burdensome.⁵³ Finally, Consumer Groups assert that FLC's request for a permanent exemption to the captioning requirement should be denied.⁵⁴ They argue that FLC has not had to caption its program since the filing of its initial petition eight years ago and has made no measureable progress toward providing captioning in that time.⁵⁵ In addition, they argue that waivers of the Commission's closed captioning requirements are intended to be temporary.⁵⁶

14. *Determination.* After a careful review of the record, the Bureau finds that FLC has not demonstrated that the provision of closed captioning for *Peace & Power* would be economically burdensome. As an initial matter, as noted above, the Commission has previously determined that, when conducting an economically burdensome analysis, "all of the petitioners' available resources" must be

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current assets) plus \$3,522.64 (Peace & Power Broadcast Ministry net current assets) = \$187,469.17 (FLC total net current assets).

⁴⁷ Petition Supplement at 19. FLC did not solicit captioning assistance from other sources. *Id.* at 4. It explains, "In keeping with our religious piety, it is our church policy to not solicit commercial sponsorship of support for our various ministries within the church, such as . . . *Peace & Power*." *Id.*

⁴⁸ *Id.* at 1-2.

⁴⁹ Consumer Groups Opposition at 6, 8-9.

⁵⁰ *Id.* at 8-9.

⁵¹ *Id.* at 9.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.* at 10.

taken into consideration.⁵⁷ The Commission has rejected suggestions “to consider only the resources available for a specific program” in making the determination of whether provision of closed captioning is economically burdensome.⁵⁸ Therefore, although FLC at times has reported income, expenses, current assets, and current liabilities for itself and the Peace & Power Broadcast Ministry separately,⁵⁹ we now consider the overall financial resources available to FLC in determining whether it would be economically burdensome to comply with the Commission’s closed captioning requirements.

15. According to the information and documentation it has provided, FLC has been operating at a profit for at least the past two years: \$18,499.72 for 2011; and \$42,139.70 in 2012.⁶⁰ Compared to these net profits is the closed captioning estimate submitted by FLC of a one-time start-up cost of \$2,427.00 and \$6,456.00 in annual closed captioning costs, or a total cost of \$8,883.00 for the first year.⁶¹ Based on this estimate, in 2011 and 2012, FLC’s net profits were sufficient to cover to the cost to caption its program. In other words, FLC could have begun providing closed captioning and still have operated at a profit of \$9,616.72 in 2011 or \$33,256.70 in 2012. In addition, FLC had net current assets of \$133,196.61 as of December 2011, and \$187,469.17 as of December 2012,⁶² which provides further evidence that the provision of closed captioning would not be economically burdensome. Based on our review and analysis, we conclude that closed captioning would not be economically burdensome for FLC at this time.⁶³

IV. ORDERING CLAUSES

16. Accordingly, pursuant to section 713 of the Communications Act of 1934, as amended, and sections 0.141(f) and 79.1(f) of the Commission’s rules,⁶⁴ IT IS ORDERED that the Petition filed by FLC, requesting an exemption from the Commission’s closed captioning rules, IS DENIED.

⁵⁷ *Anglers Reversal MO&O*, 26 FCC Rcd at 14950, ¶ 17 (explaining that consideration of a petitioner’s request for exemption must take into account “the overall financial resources of the provider or program owner”).

⁵⁸ *Id.*

⁵⁹ Petition Supplement at 6, 20-24.

⁶⁰ See ¶ 10, *supra*.

⁶¹ See ¶ 8-9, *supra*.

⁶² See ¶ 11, *supra*.

⁶³ Contrary to the suggestion by Consumer Groups, we do not require petitioners to demonstrate that they negotiated with closed captioning service providers for captioning costs that are lower than the quotes they provide to the Commission, or to identify the most affordable provider or most reasonable rates. See ¶ 13, *supra*. Consumer Groups do not cite to any authority in support of such a requirement, and generally information on captioning costs from multiple sources has been sufficient to aid the Bureau in its analysis of the impact that closed captioning obligations can have on a petitioner’s programming operations. See *Anglers Reversal Order*, 26 FCC Rcd at 14955-56, ¶ 28, n.101 (citing, e.g., *Outland Sports*, Memorandum Opinion and Order, 16 FCC Rcd 13605, 13607, ¶ 7 (noting the importance of demonstrating efforts “to seek information from various sources on the cost of captioning”); *Wild Outdoors 2001*, 16 FCC Rcd at 13614, ¶ 7 (noting the need for “a listing of various prices quoted” as evidence of “their efforts to find companies that provide captioning at a reasonable cost”). Further, we do not reach the question of whether FLC can avoid its closed captioning obligations because it is unwilling to seek additional sponsorships (other than from its program distributor) or other sources of revenue to caption its program, because we conclude that providing closed captioning for its program, even without this effort, would not be economically burdensome to it. *Id.* In addition, because we deny FLC’s Petition, we do not need to address Consumer Groups’ opposition to our granting FLC a *permanent* exemption.

⁶⁴ 47 U.S.C. § 613, 47 C.F.R. §§ 0.141(f), 79.1(f).

17. IT IS FURTHER ORDERED that FLC shall commence closed captioning of the programming that is the subject of its Petition no later than October 28, 2014, which is 90 days from the date of the release of this Order.

18. IT IS FURTHER ORDERED that FLC must inform the Commission of the date on which it commences closed captioning of its programming in accordance with this Order and the Commission's rules by e-mail to captioningexemption@fcc.gov.⁶⁵ The e-mail must reference Case Identifier CGB-CC-0143.

FEDERAL COMMUNICATIONS COMMISSION

Karen Peltz Strauss
Deputy Chief
Consumer and Governmental Affairs Bureau

⁶⁵ See *Notice of New Electronic Filing Procedures for Television Closed Captioning Exemption Requests*, Public Notice, 29 FCC Rcd 3960 (CGB 2014).