



PUBLIC NOTICE

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NOTICE OF DISMISSAL OF CLOSED CAPTIONING EXEMPTION PETITION CG Docket No. 06-181

By this *Notice*, the Federal Communications Commission's (FCC's or Commission's) Consumer and Governmental Affairs Bureau (Bureau) announces the dismissal of the Petition of Los Angeles Unified School District (LAUSD) for exemption from the Commission's closed captioning requirements.¹

The Commission's closed captioning rules allow video programming providers, producers, or owners to obtain an exemption from the closed captioning requirements if they demonstrate that providing captions on their programming would be "economically burdensome."² In 2005, LAUSD filed a Petition for a closed captioning exemption under these rules, and LAUSD supplemented the Petition in March 2006 and July 2006.³ The Bureau then placed the Petition on Public Notice.⁴ In 2012, the Bureau notified LAUSD of the need to file updated information with respect to its pending Petition.⁵ In response, LAUSD updated the Petition on July 5, 2012, and supplemented it further on July 24, 2012.⁶ The Bureau

¹ 47 C.F.R. § 79.1.

² 47 C.F.R. § 79.1(f).

³ Petition for Exemption from Lawrence N. Cohn, Cohn and Marks LLP, on behalf of LAUSD, to Office of Secretary, Federal Communications Commission (Dec. 23, 2005); Supplement to Petition for Exemption from Lawrence N. Cohn, Cohn and Marks LLP, on behalf of LAUSD to the Office of Secretary, Federal Communications Commission (Mar. 17, 2006); Statement for the Record from Lawrence N. Cohn, Cohn and Marks LLP, on behalf of LAUSD to the Office of the Secretary, Federal Communications Commission (Jul. 25, 2006).

⁴ See *Request for Exemption from Commission's Closed Captioning Rules*, Public Notice, 21 FCC Rcd 1613 (CGB 2006). After the Bureau received supplemental materials, it issued a second Public Notice seeking comment on the supplemented Petition. See *Request for Exemption from Commission's Closed Captioning Rules*, Public Notice, 21 FCC Rcd 3009 (CGB 2006).

⁵ See *Notice of Need to File Updated Information with Respect to Pending Petitions for Exemption from Commission's Closed Captioning Rules, Which Were Filed Prior to October 2010*, Public Notice, 27 FCC 3106 (CGB 2012) (alerting petitioners of the need to affirm that information previously provided is still accurate and up-to-date, to update that information, or to withdraw their petitions); see also Letter from Kris Anne Monteith, Acting Chief, Consumer and Governmental Affairs Bureau, to Cohn and Marks LLP (Apr. 5, 2012).

⁶ See Petition for Exemption from Robert B. Jacobi, Cohn and Marks LLP, on behalf of LAUSD, to Office of Secretary, Federal Communications Commission (Jul. 5, 2012); see also Addendum to Petition for Exemption from Robert B. Jacobi, Cohn and Marks LLP, on behalf of LAUSD, to Office of Secretary, Federal Communications Commission (Jul. 24, 2012).

again placed the Petition on Public Notice for comment on October 26, 2012.⁷ Consumer Groups jointly filed an opposition to the Petition, and LAUSD filed a reply to Consumer Groups' opposition.⁸ 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.⁹ In response to a letter from the Bureau, LAUSD supplemented the Petition.¹⁰ The Bureau again placed the Petition on Public Notice for comment on February 10, 2014.¹¹ Again, Consumer Groups jointly opposed the Petition, and LAUSD filed a reply to the Consumer Groups' opposition.¹²

Before the Commission could determine whether to grant or deny the Petition, on August 21, 2014, LAUSD submitted a request to withdraw the Petition. LAUSD asked to withdraw the Petition because it asserts that the video programming that is the subject of the Petition meets the criteria for the self-implementing exemption from the Commission's closed captioning requirements under section 79.1(d)(12) of the Commission's rules,¹³ thereby rendering the Petition moot.¹⁴

This *Notice* serves to inform the public that this Petition has been dismissed without prejudice as of August 21, 2014.¹⁵

⁷ *Request for Comment/Request for Exemption from Commission's Closed Captioning Rules*, Public Notice, 27 FCC Rcd 13403 (CGB 2012).

⁸ 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, California Coalition of Agencies Serving the Deaf and Hard of Hearing, and Cerebral Palsy and Deaf Organization (collectively, Consumer Groups) (Nov. 26, 2012); Reply to Consumer Groups Opposition to Exemption Petition from Robert B. Jacobi, Cohn and Marks LLP, on behalf of LAUSD, to the Office of the Secretary, Federal Communications Commission (Dec. 17, 2012).

⁹ See Letter from Cheryl J. King, Attorney, Disability Rights Office, Consumer and Governmental Affairs Bureau, to Robert B. Jacobi, Cohn and Marks LLP, on behalf of LAUSD (Sept. 27, 2013).

¹⁰ See Letter from Robert B. Jacobi, Cohn and Marks LLP, on behalf of LAUSD, to Office of the Secretary, Federal Communications Commission, Attention: Cheryl J. King (Nov. 27, 2013) (Petition 2013 Supplement).

¹¹ *Request for Comment/Request for Exemption from Commission's Closed Captioning Rules*, Public Notice, 29 FCC Rcd 1248 (CGB 2014).

¹² 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, Cerebral Palsy and Deaf Organization, and California Coalition of Agencies Serving the Deaf and Hard of Hearing (collectively, Consumer Groups) (Mar. 12, 2014); Reply to Georgetown Law Opposition to Exemption Request from Robert B. Jacobi, Cohn and Marks LLP, on behalf of LAUSD, to the Office of the Secretary, Federal Communications Commission (Apr. 1, 2014).

¹³ 47 C.F.R. § 79.1(d)(12) exempts channels and streams that produce annual gross revenues of less than \$3,000,000 during the previous calendar year. Such channels and streams remain obligated to pass through closed captioning of already captioned programs.

¹⁴ Letter from Robert B. Jacobi, Cohn and Marks LLP, on behalf of LAUSD, to Office of the Secretary, Federal Communications Commission, Attention: Suzy Rosen Singleton (Aug. 21, 2014).

¹⁵ We note that LAUSD describes itself as an entity that operates the elementary and secondary public school system in Los Angeles in the State of California, and the licensee of, and operator of KLCS-TV, a "noncommercial educational television station." Petition 2013 Supplement at 4. Although we dismiss herein LAUSD's instant petition based on its assertion that it qualifies for a self-implementing exemption, as we have previously noted, "entities that qualify for an exemption under Section 713 may be obligated under other federal statutes, such as the ADA, to make their services and programs, including video programming services, accessible to an individual with

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disability upon request. We do not intend our rules to preclude or supersede the operation of any other federal laws that may require an entity exempt from Section 713 to make its video programming services accessible to people with disabilities.” *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, 3342, n. 534 (1997).