

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

In the Matter of)
)
First Baptist Church, Jonesboro, Arkansas) CGB-CC-0303
)
Request for Exemption from the) CG Docket No. 06-181
Closed Captioning Requirements)

MEMORANDUM OPINION AND ORDER

Adopted: October 24, 2014

Released: October 24, 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 Baptist Church (FBC), Jonesboro, Arkansas, for an exemption from the Federal Communication Commission’s (FCC’s or Commission’s) closed captioning requirements for FBC’s weekly worship service broadcast on Sunday morning. Because we conclude that FBC has not demonstrated that its compliance with the Commission’s closed captioning requirements for this program would be economically burdensome to it, we deny the Petition. In light of our action, FBC must provide closed captioning for its program no later than January 22, 2015, 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*, MM Docket No. 95-176, 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*, MM Docket No. 95-176, 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 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*, CG Docket No. 05-231, 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*, CG Docket No. 11-175, 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.

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:

- 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. FBC initially filed a petition for exemption by letter dated December 23, 2005, which was received by the Commission on January 10, 2006.¹² The Consumer and Governmental Affairs Bureau (CGB or Bureau) granted the petition and issued an exemption to FBC by letter order dated September 11, 2006.¹³ On November 7, 2006, the Bureau issued a Public Notice that held in abeyance various letter orders granting exemptions, including the letter order that had granted an exemption to

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*, CG Docket Nos. 06-181 and 11-175, 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 Bruce Tippit, Senior Pastor, First Baptist Church, Jonesboro, AR, to Federal Communications Commission (Dec. 23, 2005).

¹³ See Letter from Thomas E. Chandler, Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau, to Bruce Tippit, Senior Pastor, First Baptist Church (Sept. 11, 2006).

FBC, and invited comments on certain exemption petitions, including FBC's.¹⁴ In 2011, the Commission reversed FBC's grant of exemption.¹⁵ By letter dated October 25, 2011, the Bureau notified FBC of this reversal and explained that FBC 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 FBC filed a new petition dated January 12, 2012 (hereinafter Petition).¹⁷ On March 1, 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.²⁰ In response to a Bureau letter dated September 27, 2013, FBC supplemented its Petition.²¹ The Bureau again placed the Petition on Public Notice for comment on December 26, 2013.²² Again, Consumer Groups jointly filed an opposition to the Petition.²³

III. DISCUSSION

7. FBC produces a one-hour program of a religious nature that is broadcast weekly on Station KAIT(TV), Channel 8, Jonesboro, Arkansas (KAIT), on Sunday mornings.²⁴ FBC broadcasts its program live from 11:00 a.m. until noon Central Standard Time each week, except for the week of the

¹⁴ *Consumer and Governmental Affairs Bureau Action Request for Exemption from Commission's Closed Captioning Rules*, CG Docket No. 06-181, 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 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 Baptist 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 Bruce Tippit, Pastor, First Baptist Church, to Office of the Secretary, Federal Communications Commission, Attention: Disability Rights Office (Jan. 12, 2012) (Petition).

¹⁸ *Request for Comment, Request for Exemption from Commission's Closed Captioning Rules*, CGB-CC-0303, CG Docket No. 06-181, Public Notice, 27 FCC Rcd 2207 (CGB 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, Hearing Loss Association of America, the Association of Late-Deafened Adults, and Cerebral Palsy and Deaf Organization (collectively, Consumer Groups) (Mar. 16, 2012).

²⁰ *See* Letter from Cheryl J. King, Attorney, Disability Rights Office, Consumer and Governmental Affairs Bureau, to First Baptist Church – Jonesboro, AR, Attn: Bruce Tippit (Sept. 27, 2013).

²¹ *See* Letter from Ross Burton, Minister of Administration, First Baptist Church, to Office of the Secretary, Federal Communications Commission, Attention: Disability Rights Office (Oct. 29, 2013) (Petition Supplement).

²² *Request for Comment, Request for Exemption from Commission's Closed Caption Rules*, CG Docket No. 06-181, Public Notice, 28 FCC Rcd 17100 (CGB 2013) (*2013 Public Notice*).

²³ *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, 11-12 (Jan. 27, 2014) (Consumer Groups Comments).

²⁴ Petition at 1-2. FBC refers to its program as "our weekly worship service broadcast." Petition Supplement at 1.

Indianapolis 500 car race.²⁵ FBC reports that it has broadcast its services since the 1970s.²⁶ FBC contends that it is unable to afford closed captioning for its program.²⁷

8. FBC obtained two quotes to caption its program, one for \$120 per week from KAIT,²⁸ and another for \$110 per week from Aberdeen Captioning.²⁹ Based on these quotes, FBC states that the cost of captioning services for a full year of its program (*i.e.*, 51 programs) would be \$6,120 and \$5,610, respectively.³⁰ FBC also reports that it contacted Link Electronics regarding the cost of purchasing closed captioning equipment and software to provide closed captioning in-house.³¹ FBC states that Link Electronics recommended closed captioning equipment that costs \$2,550, along with two types of closed captioning software, one that costs \$3,600 and the other that costs \$8,500.³² FBC did not provide information regarding the annual costs associated with hiring personnel to operate equipment necessary to provide closed captioning in-house.³³

9. FBC submitted financial statements for 2011 and 2012.³⁴ For 2011, FBC reports total income of \$2,925,814, total expenses of \$2,565,779, and excess of revenues over expenses of \$360,035.³⁵ For 2012, FBC reports total income of \$2,862,435, total expenses of \$2,540,276, and excess of revenues over expenses of \$322,159.³⁶

10. FBC reports current assets as of December 31, 2011, of \$1,128,490³⁷ and current liabilities of \$327,137,³⁸ resulting in net current assets of \$801,353.³⁹ FBC reports current assets as of

²⁵ Petition Supplement at 1.

²⁶ Petition at 1.

²⁷ Petition at 2; Petition Supplement at 1.

²⁸ Petition Supplement at 1, 34.

²⁹ *Id.* at 1, 33.

³⁰ *Id.*

³¹ *Id.* at 1.

³² *Id.* at 1, 35.

³³ In its Petition, FBC states, “The additional staff burdens for closed captioning [are] unknown to FBC at this time. However, any additional labor associated with closed captioning would most likely cause FBC to incur additional labor costs since time constraints and conflicts of volunteers makes it difficult to rely upon volunteers exclusively.” Petition at 2.

³⁴ Petition Supplement at 18-30 (“Financial Statements, December 31, 2011”), 4-17 (“Financial Statements, December 31, 2012”).

³⁵ *Id.* at 22.

³⁶ *Id.* at 8.

³⁷ *See id.* at 21 (reporting “Cash on Hand” of \$200 and “Cash in Bank” of \$1,128,290 as of December 31, 2011).

³⁸ Current liabilities are obligations (or debts) as of the last day of the calendar or fiscal year that must be paid within the following year. FBC reports “Total Liabilities” of \$1,702,867 as of December 31, 2011, consisting of \$327,137 in “Accounts Payable” and \$1,375,730 in “Notes Payable.” *See id.* at 21, 7. The Notes Payable amount represents the remaining balance as of December 31, 2011 on a loan secured by FBC through a local bank, originally in the amount of \$5,700,000. *Id.* at 11, 25. The note requires interest-only payments. *Id.* FBC reports that it “is servicing the interest expense as a regular budget item, and is paying all receipts to the capital campaign directly on note principal.” *Id.* Over time, FBC has reduced the balance of this loan through payments on principal. In 2011, FBC applied \$786,457 to the principal of the loan, reducing the balance to \$1,375,730 as of December 31, 2011. *Id.* Because the amount categorized as Notes Payable is the remaining principal balance of an interest-only loan, and the principal is not an obligation that must be paid within the following year, we conclude that the amount categorized

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December 31, 2012, of \$1,058,678⁴⁰ and current liabilities of \$381,285,⁴¹ resulting in net current assets of \$677,393.⁴²

11. FBC reports that it requested captioning assistance from its video programming distributor KAIT; KAIT offered such assistance by extending an offer to provide closed captioning for FBC's program at cost, which was \$120 per week.⁴³ FBC reports that its 2014 budget does not include funds for closed captioning.⁴⁴ FBC asserts that, absent an exemption from the captioning requirements, it would have to implement savings in other areas, resulting in the elimination of or reduction in existing ministries and programs.⁴⁵ Because the cost of closed captioning was not included in its 2014 budget, FBC claims that it does not know how it will be able to continue its Sunday morning broadcast if it must provide closed captioning.⁴⁶

12. Consumer Groups, which were the only parties to comment on the Petition in response to the *2013 Public Notice*, contend that FBC failed to satisfy the statutory and regulatory requirements to demonstrate that captioning would be economically burdensome on several grounds. First, Consumer Groups acknowledge that FBC 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.⁴⁷ Second, Consumer Groups acknowledge that FBC sought closed captioning assistance from the broadcast station that airs its program, but argue that FBC failed to seek out sponsors specifically for closed captioning "either because it is unwilling to accept commercial sponsorship or does not believe that it will be successful in finding sponsors" and that this justification is insufficient to support an exemption.⁴⁸ Third, with regard to FBC's financial resources, Consumer Groups argue that FBC's estimated closed captioning costs of \$6,120 represents 0.1% of its annual budget

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as Notes Payable is not a current liability. Accordingly, FBC's current liabilities as of December 31, 2011 consist only of the amount categorized as Accounts Payable.

³⁹ FBC's net current assets as of December 31, 2011, are computed as follows: \$1,128,490 (FBC current assets) minus \$327,137 (FBC current liabilities) = \$801,353.

⁴⁰ See Petition Supplement at 7 (reporting "Cash on Hand" of \$150 and "Cash in Bank" of \$1,058,528 as of December 31, 2012).

⁴¹ FBC reports "Total Liabilities" of \$1,006,562 as of December 31, 2012, consisting of \$381,285 in "Accounts Payable" and \$625,277 in "Notes Payable." *Id.* In 2012, FBC applied \$750,453 to the principal of the loan discussed in n.38, *supra*, reducing the Notes Payable balance from \$1,375,730 to \$625,277 as of December 31, 2012. *Id.* at 11. For the reasons stated in n.38, *supra*, we conclude that the amount categorized as Notes Payable is not a current liability. Accordingly, FBC's current liabilities as of December 31, 2012 consist only of the amount categorized as Accounts Payable.

⁴² FBC's net current assets as of December 31, 2012, are computed as follows: \$1,058,678 (FBC current assets) minus \$381,285 (FBC current liabilities) = \$677,393.

⁴³ *Id.* at 2. FBC did not solicit captioning assistance from other sources. *Id.* It explains, "We avoid appeals for special offerings, as these tend to reduce the amount given to the general operating fund, which supports our normal, day to day operations. Because of this, we have not sought additional sponsorships." *Id.*

⁴⁴ *Id.* at 1.

⁴⁵ Petition at 2.

⁴⁶ Petition Supplement at 1.

⁴⁷ Consumer Groups Opposition at 12.

⁴⁸ *Id.*

of “nearly \$3 million” in 2012 and 2011.⁴⁹ Thus, Consumer Groups conclude, requiring FBC to caption its program cannot be considered economically burdensome.⁵⁰

13. *Determination.* After a careful review of the record, the Bureau finds that FBC has not demonstrated that the provision of closed captioning for its program would be economically burdensome. According to the information and documentation it has provided, FBC has been operating with an excess of revenue over expenses for at least two out of the last three years: \$360,035 for 2011; and \$322,159 for 2012.⁵¹ When we compare the closed captioning estimate submitted by FBC of \$5,610 annually⁵² to FBC’s excesses of revenue over expenses in 2011 and 2012, we conclude that such revenue was sufficient to cover the cost of captioning FBC’s Sunday morning program. Specifically, FBC could have provided closed captioning and still operated with an excess of revenue over expenses of \$354,425 in 2011 and \$316,549 in 2012. In addition, FBC had net current assets of \$801,353 and \$677,393 as of December 31, 2011 and December 31, 2012, respectively, which provides further evidence that the provision of closed captioning is not economically burdensome for FBC.⁵³ Based on our review and analysis, we conclude that closed captioning would not be economically burdensome for FBC at this time.⁵⁴

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ See ¶ 9, *supra*.

⁵² See ¶ 8, *supra*. In addition to providing two closed captioning quotes, as noted above, FBC provided information about the costs of purchasing equipment and software to provide captioning in house. *Id.* However, because FBC did not provide information regarding the annual costs associated with hiring personnel to operate equipment necessary to provide closed captioning in-house, we are unable to determine the total estimated cost of providing captions in-house, and, accordingly, we cannot consider whether providing closed captioning in-house would be economically burdensome for FBC. See *Anglers Reversal MO&O*, 26 FCC Rcd at 14955, ¶ 28 (stating the criteria for determining whether providing closed captioning would be economically burdensome, including “the nature and cost of the closed captions for the program”). In any event, according to the closed captioning quotes that FBC provided, obtaining closed captioning from Aberdeen Captioning or KAIT would be less expensive than purchasing equipment and software to provide captioning in-house, even without considering any costs associated with hiring personnel to operate the equipment.

⁵³ See ¶ 10, *supra*. As explained above, we conclude that FBC’s current liabilities as of December 31, 2011 and December 31, 2012 consist only of the amounts categorized as Accounts Payable, and do not include the amounts categorized as Notes Payable. See nn.38 and 41, *supra*. However, even if we were to categorize FBC’s Notes Payable as a current liability, our conclusion that closed captioning is not economically burdensome for FBC would remain the same. FBC’s current liabilities as of December 31, 2011, including FBC’s Notes Payable, would be computed as follows: \$327,137 (accounts payable) plus \$1,375,730 (notes payable) = \$1,702,867 (total liabilities). Accordingly, FBC’s net current assets/liabilities as of December 31, 2011, would be computed as follows: \$1,128,490 (current assets) minus \$1,702,867 (total liabilities) = \$574,377 net current liabilities. FBC’s current liabilities as of December 31, 2012, including FBC’s Notes Payable, would be computed as follows: \$381,285 (accounts payable) plus \$625,277 (notes payable) = \$1,006,562. Accordingly, FBC’s net current assets/liabilities as of December 31, 2012, would be computed as follows: \$1,058,678 (current assets) minus \$1,006,562 (total liabilities) = \$52,116 net current assets. Like FBC’s net current assets that were computed *without* its Notes Payable amounts, FBC’s net current assets of \$52,116 as of December 31, 2012, computed *with* its Notes Payable amount, demonstrates not only an improvement in its financial position over its net current liabilities of \$574,377 as of December 31, 2011 (a net gain of \$626,493), it provides further evidence that the provision of closed captioning is not economically burdensome for FBC.

⁵⁴ 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 ¶ 12, *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

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14. FBC asserts that, if not granted a captioning exemption, it would have to implement savings in other areas and that this would result in the elimination of or reduction in existing ministries and programs.⁵⁵ The Commission may consider additional factors besides those set forth in section 713(e) of the Act when making a determination for an individual closed captioning exemption.⁵⁶ However, the Commission has previously explained that any additional factors that it considers “must focus on the impact that captioning will have on the petitioner’s programming activities – for example the extent to which *programming* might not be shown if program owners or providers are required to provide captions – not other activities or missions that are unrelated to that programming.”⁵⁷ For this reason, we do not consider FBC’s assertion that a denial of the Petition would result in the elimination of or reduction in existing ministries and programs besides its television program as a factor in making our determination of whether the costs of captioning would be economically burdensome for FBC. Additionally, because we conclude, based on the information provided by FBC, that FBC has adequate financial resources to enable it to afford the costs of captioning its television program,⁵⁸ we do not find credible FBC’s claimed uncertainty about continuing its program if it must provide closed captioning.⁵⁹ Accordingly, we find that it would not be “economically burdensome” for FBC to caption its program within the meaning of the Communications Act or the Commission’s rules.

IV. ORDERING CLAUSES

15. 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,⁶⁰ IT IS ORDERED that the Petition filed by FBC, requesting an exemption from the Commission’s closed captioning rules, IS DENIED.

16. IT IS FURTHER ORDERED that FBC shall commence closed captioning of the programming that is the subject of its Petition no later than January 22, 2015, which is 90 days from the date of the release of this Order.

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obligations can have on a petitioner’s programming operations. *See Anglers Reversal MO&O*, 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 FBC 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.*

⁵⁵ *See* ¶ 11, *supra*.

⁵⁶ *Anglers Reversal MO&O*, 26 FCC Rcd at 14951-52, ¶ 20 (citing 47 C.F.R. § 79.1(f)(3)).

⁵⁷ *Anglers Reversal MO&O*, 26 FCC Rcd at 14952, ¶ 20.

⁵⁸ *See* ¶ 13, *supra*.

⁵⁹ *See* ¶ 11, *supra*.

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

17. IT IS FURTHER ORDERED that FBC 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.⁶¹ The e-mail must reference Case Identifier CGB-CC-0303.

FEDERAL COMMUNICATIONS COMMISSION

Karen Peltz Strauss
Deputy Chief
Consumer and Governmental Affairs Bureau

⁶¹ See *Notice of New Electronic Filing Procedures for Television Closed Captioning Exemption Requests*, CG Docket Nos. 06-181 and 05-231, Public Notice, 29 FCC Rcd 3960 (CGB 2014).