

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

In the Matter of)	
)	
Joy Ministries)	CGB-CC-0044
)	
Petition for Exemption from the)	CG Docket No. 06-181
Closed Captioning Requirements)	

MEMORANDUM OPINION AND ORDER

Adopted: March 4, 2015

Released: March 4, 2015

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 Joy Ministries for an exemption from the Federal Communications Commission’s (FCC’s or Commission’s) closed captioning requirements for its program, *Joy in the Morning*. Because we conclude that Joy Ministries 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, Joy Ministries must provide closed captioning for *Joy in the Morning* no later than June 2, 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*, 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. Joy Ministries initially filed a petition for exemption by letter filed on December 16, 2005 (hereinafter Petition) and subsequently supplemented this by letter filed on December 27, 2005.¹² In response to a Consumer and Governmental Affairs Bureau (CGB or Bureau) letter dated January 10, 2006, Joy Ministries again supplemented its Petition in a letter filed on January 30, 2006.¹³ On February 7, 2006, the Bureau invited comment on the Petition, as supplemented.¹⁴ In 2012, the Bureau notified Joy

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. Danette Crawford, President & Founder, Joy Ministries, to Commission's Secretary, Office of the Secretary, FCC (filed Dec. 16, 2005) (Petition); Letter from Danette Crawford, President, Joy Ministries to FCC (filed Dec. 27, 2005) (December 2005 Petition Supplement).

¹³ *See* Letter from Amelia Brown, Disability Rights Office, FCC, to Danette Crawford, Joy Ministries, (Jan. 10, 2006); Letter from Rev. Danette Crawford, President of Joy Ministries, to Amelia Brown, Disabled Rights Office, FCC (Jan. 30, 2006) (January 2006 Petition Supplement).

¹⁴ *Consumer & Governmental Affairs Bureau Action; Request for Exemption from Commission's Closed Captioning Rules; CGB-CC-0044*, Public Notice, 21 FCC Rcd 1274 (CGB 2006).

Ministries of the need to file updated information with respect to its pending Petition.¹⁵ In response, on May 23, 2012, Joy Ministries affirmed that its Petition was accurate and up-to-date.¹⁶ 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.¹⁷ In response, Joy Ministries supplemented its Petition.¹⁸ The Bureau again invited comment on the Petition on October 26, 2012.¹⁹ In response, various consumer organizations jointly filed an opposition to the Petition.²⁰ On two subsequent occasions, in letters to Joy Ministries, the Bureau again requested 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.²¹ In response to these Bureau letters, dated September 27, 2013, and May 30, 2014, Joy Ministries further supplemented its Petition.²² The Bureau again placed the Petition on Public Notice for comment on November 19, 2014.²³ Again, several consumer groups jointly filed an opposition to the Petition.²⁴ In response, Joy Ministries filed a reply to the Consumer Groups Opposition.²⁵

¹⁵ 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, CG Docket No. 06-181, 27 FCC Rcd 3106 (CGB 2012). See also Letter from Kris Anne Monteith, Acting Chief, CGB, to Joy Ministries (Apr. 5, 2012).

¹⁶ Letter from Danette J. Crawford, President and Founder, to Communications Commission (May 23, 2012) (filed May 30, 2012).

¹⁷ See Letter from Roger Holberg, Disability Rights Office, CGB, to Joy Ministries (July 18, 2012).

¹⁸ See Letter from Danette J. Crawford, President, Joy Ministries, to FCC (July 31, 2012) (July 2012 Petition Supplement); Letter from Danette J. Crawford, President, Joy Ministries, to Office of the Secretary FCC (Sept. 17, 2012) (September 2012 Petition Supplement).

¹⁹ *Request for Comment/Request for Exemption from Commission's Closed Captioning Rules*, CG Docket No. 06-181, Public Notice, 27 FCC Rcd 13403 (CGB 2012).

²⁰ See Re: Joy Ministries Petition for Exemption from the Commission's Closed Captioning Rules, Case No. CGB-CC-0044, CG Docket No. 06-181, filed by Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), National Association of the Deaf (NAD), 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 Cerebral Palsy and Deaf Organization (CPADO) (Nov. 26, 2012).

²¹ See Letter from Cheryl J. King, Disability Rights Office, CGB, to Joy Ministries, "Joy in the Morning," (Sept. 27, 2013); Letter from E. Elaine Gardner, Disability Rights Office, CGB, to Danette J. Crawford, Joy Ministries (May 30, 2014).

²² See Letter from Danette J. Crawford, President, Joy Ministries, to FCC (Oct. 22, 2013) (filed Oct. 29, 2013) (October 2013 Petition Supplement); Letter from Danette J. Crawford, President, Joy Ministries, to FCC (June 13, 2014) (filed June 25, 2014) (June 2014 Petition Supplement).

²³ See *Request for Comment, Request for Exemption from Commission's Closed Captioning Rules*, CG Docket No. 06-181, Public Notice, 29 FCC Rcd 13907 (CGB 2014) (*2014 Public Notice*).

²⁴ See Re: Opposition to Petition for Exemption from the Commission's Closed Captioning Rules, CGB Dkt. No. 06-181, Joy Ministries Evangelistic Association, Inc., CGB-CC-0044, filed by TDI, NAD, CCASDHH, CPADO, ALDA, Deaf Seniors of America (DSA) (collectively, Consumer Groups) (Dec. 19, 2014) (Consumer Groups Opposition).

²⁵ See Re: Opposition to Case made by Georgetown Law Institute and TDI, NAD, CCASDHH, CPADO, ALDA, DSA to Joy Ministries request for exemption from the Commission's Closed Captioning Rules CGB Dkt. No. 06-181 (Jan. 6, 2014 [*sic*]) (filed Jan. 8, 2015) (Reply to Opposition).

III. DISCUSSION

7. Joy Ministries produces *Joy in the Morning*, a half-hour program that is broadcast weekly on six networks.²⁶ Joy Ministries reports that it is a donor-supported “evangelistic outreach ministry”²⁷ that provides assistance to “the poor and disadvantaged” in the Hampton Roads community in Virginia.²⁸ Joy Ministries reports that it displays the text of scripture on the television screen as part of its program and provides study notes related to *Joy in the Mornings* upon request, but contends that it, as a non-profit organization, does not have the means to provide closed captioning for its program.²⁹

8. Joy Ministries obtained two quotes to caption its program,³⁰ one for \$535 per half-hour program provided in BetaSP format from Video Caption Corporation³¹ and another for \$400.00 per half-hour program provided in BetaSP format from Studio Center Total Production.³² Based on these quotes, Joy Ministries states that the cost of captioning services for a full year of *Joy in the Morning* (i.e., 52 programs) would be \$27,820 or \$20,800, respectively.³³

²⁶ Petition at 1.; December 2005 Petition Supplement at 1; October 2013 Petition Supplement at 1.

²⁷ July 2012 Petition Supplement at 2.

²⁸ October 2013 Petition Supplement at 1.

²⁹ *Id.* at 1-2.

³⁰ Joy Ministries also states that it received a quote from Caption Media in October 2013 to provide closed captioning at a cost of \$360 per episode. *Id.* at 3 (Attachment A). However, because Joy Ministries did not provide documentation of the quote from Caption Media, we do not consider it in evaluating whether providing closed captioning would be economically burdensome for Joy Ministries.

³¹ *Id.* at 3 (Attachment A).

³² June 2014 Petition Supplement at Attachment A. Studio Center Total Productions provided four closed captioning quotes to Joy Ministries: (1) \$350 per show for roll up closed captions with “Digital encode”; (2) \$400 per show for roll up closed captions with “Beta SP encode”; (3) \$500 per show for pop on closed captions with “Digital encode”; and (4) \$550 per show for pop on closed captions with “Beta SP encode.” We conclude that, for purposes of determining whether providing closed captioning would be economically burdensome to Joy Ministries, we should consider the quote of \$400, the lower of the two quotes for programs delivered in BetaSP format, because Joy Ministries delivers its program for captioning in BetaSP format. We conclude that Joy Ministries provides its program for captioning in BetaSP format because the quote from Video Caption Corporation states, “As I understand it, you would supply your show to us on BetaSP.” October 2013 Petition Supplement at 3 (Attachment A). Further, Joy Ministries bases its estimate of the annual cost to provide closed captioning for its program on the quote for \$400 per show. *See* June 2014 Petition Supplement at 1.

³³ October 2013 Petition Supplement at 1; June 2014 Petition Supplement at 1. Joy Ministries states that the total annual costs of \$27,820 or \$20,800 do not include shipping and handling costs, the complete cost of tape stock, or “integrating closed captioning on previously recorded programs.” October 2013 Petition Supplement at 1; June 2014 Petition Supplement at 1. Joy Ministries claims that the “true cost” of closed captioning would double when shipping and handling and tape stock costs are included. *Id.* We do not consider the additional costs of tape stock or shipping and handling in determining whether closed captioning would be economically burdensome for Joy Ministries for two reasons. First, the quote from Video Caption Corporation states that the price quoted “includes . . . tape stock.” October 2013 Petition Supplement at 3 (Attachment A). Second, Joy Ministries does not provide documentation or annualization of the alleged costs for shipping and handling and tape stock, and so we cannot determine the actual annual cost for each of these additional expenditures. We also do not consider the cost of integrating closed captioning on previously recorded programs in determining whether closed captioning would be economically burdensome to Joy Ministries. Under the Commission’s rules, Joy Ministries is not required to provide closed captioning on previously recorded programs until they are broadcast.

9. Joy Ministries submitted financial statements for 2012 and 2011.³⁴ For 2012, Joy Ministries reports total income of \$961,439, total expenses of \$924,231, and an excess of revenue over expenses of \$37,208.³⁵ For 2011, Joy Ministries reports total income of \$721,616, total expenses of \$741,271, and an excess of expenses over revenue (net loss) of \$19,655.³⁶

10. Joy Ministries reports current assets as of December 31, 2012 of \$63,873 and current liabilities of \$7,052, resulting in net current assets of \$56,821.³⁷ Joy Ministries reports current assets as of December 31, 2011 of \$21,351 and current liabilities of \$5,934, resulting in net current assets of \$15,417.00.³⁸

11. Joy Ministries reports that it requested captioning assistance from each of its six video programming distributors; however, its video programming distributors were unable to offer captioning assistance.³⁹ Joy Ministries also reports that it contacted “several businesses to request sponsorship” for closed captioning, but its requests for sponsorship were declined.⁴⁰ Joy Ministries asserts that, absent an exemption from the captioning requirements, “money would be taken from vital humanitarian educational and mentoring programs” that Joy Ministries provides and Joy Ministries would cease broadcasting *Joy in the Morning* on “several of the television networks” that currently show the program.⁴¹

12. Consumer Groups, which were the only parties to comment on the Petition in response to the 2014 *Public Notice*, contend that Joy Ministries failed to satisfy the statutory and regulatory requirements to demonstrate that captioning would be economically burdensome on several grounds.⁴² First, Consumer Groups argue that the Petition fails to demonstrate that providing closed captioning for *Joy in the Morning* would be economically burdensome because Joy Ministries “could provide closed captioning and still have excess revenues and assets.”⁴³ In this regard, Consumer Groups argue that the quotes provided by Joy Ministries show that it could provide closed captioning for its program at an annual cost of \$18,720,⁴⁴ and that Joy Ministries had “\$63,873 in excess revenues” in 2012, “\$21,351 in

³⁴ October 2013 Petition Supplement at 6-14 (“Joy Ministries Evangelistic Association, Inc. Financial Statements For The Years Ended December 31, 2012 and 2011”)

³⁵ *Id.* at 10.

³⁶ *Id.* at 10.

³⁷ *Id.* at 9. Joy Ministries’ net current assets as of December 31, 2012 are computed as follows: \$63,873.00 (current assets as of December 31, 2012) minus \$7,052.00 (current liabilities as of December 31, 2012) = \$56,821.00.

³⁸ *Id.* at 9. Joy Ministries’ net current assets as of December 31, 2011 are computed as follows: \$21,351 (current assets as of December 31, 2011) minus \$5,934 (current liabilities as of December 31, 2011) = \$15,417.

³⁹ December 2005 Petition Supplement at 1; September 2012 Petition Supplement at 1; October 2013 Petition Supplement at 1 (stating that Joy Ministries had requested sponsorship and discounted services from “all of [its] current networks (six total)”), 4 (Attachment B).

⁴⁰ October 2013 Petition Supplement at 1.

⁴¹ *Id.* at 1-2.

⁴² See Consumer Groups Opposition at 4-6.

⁴³ *Id.* at 4.

⁴⁴ *Id.* at 4 (citing October 2013 Petition Supplement at Attachment A, the quote provided by Caption Media). Consumer Groups also argue that “[a]lthough Joy Ministries states that its [captioning] costs would be much higher, its calculations grossly overstate its captioning costs” because “it is unclear how tape stock and shipping and handling would cause the expenses to double” and because “Joy Ministries is incorrect to project additional costs for ‘integrating closed captioning on previously recorded programs,’ because the Commission’s rules do not require Petitioner to retroactively caption previously aired programming.” Consumer Groups Opposition at 4-5, n.10. For the reasons stated previously, see n.33, *supra*, we agree with Consumer groups that the costs of tape stock, shipping
(continued....)

profits” in 2011, and “net assets of \$83,390 in 2012 and \$45,064 in 2011.”⁴⁵ Accordingly, Consumer Groups argue, Joy Ministries could have spent \$18,720 on captioning in 2012 and 2011 and retained \$42,522 and \$2,631 in excess revenue or net assets of \$64,670 and \$26,344 in each year, respectively.⁴⁶ In addition, Consumer Groups argue that the Commission should reject Joy Ministries’ argument that “paying for captioning will divert funds from several other ministries and thus would constitute an economic burden” because the Bureau has previously found that “a petition must ‘focus on the impact that captioning will have on the petitioner’s programming activities . . . not other activities or missions that are unrelated to that programming.’”⁴⁷ Finally, Consumer Groups note that Joy Ministries has received “nearly \$558,000 in cash donations in 2012 for its operations” and argue that “captioning should be treated just like any other expense associated with producing television programming.”⁴⁸

13. Joy Ministries filed a reply to the Consumer Groups Opposition, arguing that it “has not had excess funding to use for closed captioning services” and that providing closed captioning would be economically burdensome.⁴⁹ Joy Ministries acknowledges that it had “\$63,873 in excess revenues at the end of 2012 and \$21,351 in profits in 2011.”⁵⁰ However, it argues that these excess profits “were due to large end of the year donations” and, accordingly, were not available throughout the year to pay for closed captioning.⁵¹ In addition, Joy Ministries argues that any excess revenues at the end of one year are used to pay for general expenses at the beginning of the following year and, as a result “there has not been excess funding that could be used to pay for closed captioning.”⁵²

14. *Determination.* After a careful review of the record, the Bureau finds that Joy Ministries has not demonstrated that the provision of closed captioning for *Joy in the Morning* would be economically burdensome. As an initial matter, the Commission has previously determined that, when conducting an economically burdensome analysis, “all of the petitioners’ available resources” must be taken into consideration.⁵³ 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.⁵⁴ Rather, consistent with prior Commission orders, we consider the overall

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and handling, and integrating closed captioning on previously recorded programs should not be considered in estimating the annual cost to provide closed captioning for *Joy in the Morning*.

⁴⁵ *Id.* at 4-5.

⁴⁶ *Id.* at 5. It is not clear how Consumer Groups reached the determination that, if Joy Ministries had provided closed captioning at a cost of \$18,720 in 2012, it would have been left with an excess of revenue of \$42,522. Consumer Groups argue that Joy Ministries had an excess of revenue of \$63,873 in 2012. \$63,873 minus \$18,720 = \$45,153.

⁴⁷ *Id.* at 5-6 (quoting *First Baptist Church, Jonesboro, Arkansas; Request for Exemption from the Closed Captioning Requirements*, CGB-CC-0303, CG Docket No. 06-181, Memorandum Opinion and Order, 29 FCC Rcd 12833, 12840, ¶ 14 (CGB 2014)).

⁴⁸ *Id.* at 6.

⁴⁹ Reply to Opposition at 2.

⁵⁰ *Id.* at 3.

⁵¹ *Id.* at 3.

⁵² *Id.* at 4.

⁵³ *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”).

⁵⁴ *Id.*

financial resources available to Joy Ministries 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, Joy Ministries operated with an excess of revenues over expenses of \$37,208 in 2012.⁵⁵ In addition, Joy Ministries had net current assets of \$56,821 as of December 31, 2012.⁵⁶ When we compare the closed captioning estimate submitted by Joy Ministries of \$20,800.00 annually⁵⁷ to Joy Ministries' excess of revenue over expenses in 2012 and net current assets as of December 31, 2012, we conclude that such excess of revenues over expenses, together with Joy Ministries' net current assets, were sufficient to cover the cost of captioning *Joy in the Morning*. Specifically, Joy Ministries could have provided closed captioning and still operated at a profit of \$16,408 in 2012, and retained the entirety of its net current assets. Based on our review and analysis, we conclude that closed captioning would not be economically burdensome for Joy Ministries.

16. Joy Ministries asserts that, if not granted a captioning exemption, "money would be taken from vital humanitarian educational and mentoring programs that operate among long-income neighborhoods."⁵⁸ The Commission previously has explained that in making its determinations on captioning exemptions, it must consider the extent to which the provision of captioning will impact the petitioner's programming activities, and not the extent to which it would "curtail other activities important to [a petitioner's] mission."⁵⁹ As the Commission previously stated, it is impermissible for "regulated parties to decide whether it is more important to comply with captioning requirements or to use their resources for other non-programming-related purposes."⁶⁰ For this reason, we do not consider Joy Ministries' assertion that a denial of the Petition would require it to divert funds from its other activities besides its television program as a factor in making our determination of whether the costs of captioning would be economically burdensome for Joy Ministries.⁶¹

⁵⁵ See ¶ 9, *supra*. As noted above, Joy Ministries' excess of revenues over expenses is the difference between its total revenue (\$961,439) and total expenses (\$924,231) in 2012.

⁵⁶ See *id.* Consumer Groups state that Joy Ministries reported net assets of \$83.390 in 2012. See ¶ 12, *supra*. However, this figure is the amount of Joy Ministries' total net assets, including both current and long-term net assets. In determining whether providing closed captioning would be economically burdensome to Joy Ministries, we consider the amount of Joy Ministries' net *current* assets in order to determine the current financial resources of the organization. Net current assets are determined by taking current assets, which are financial resources that are cash or items that can be easily converted into cash (i.e., highly liquid assets) and subtracting current liabilities, which are debts due within a year.

⁵⁷ See ¶ 8, *supra*. We do not rely upon the estimate for the cost of closed captioning provided by Caption Media for the reasons stated above. See n.30, *supra*. We note, however, that our determination would not differ even if we were to utilize the higher estimate. See n.33, *supra*.

⁵⁸ October 2013 Petition Supplement at 1.

⁵⁹ *Anglers Reversal MO&O*, 26 FCC Rcd at 14951, ¶ 20.

⁶⁰ *Id.* at 14952, ¶ 21 (noting that allowing covered entities to consider such factor is "impermissibly vague and inappropriate").

⁶¹ See *Dawson Memorial Baptist Church; Petition for Exemption from the Closed Captioning Requirements*, CGB-CC-0144, CG Docket No. 06-181, Memorandum Opinion and Order, 29 FCC Rcd 15509, 15517, ¶ 17 (CGB 2014) (rejecting the petitioner's argument that providing closed captioning would be an economic burden because it would require the petitioner to forgo other activities in order to afford the cost of closed captioning); *First Baptist Church, Jonesboro, Arkansas; Petition for Exemption from the Closed Captioning Requirements*, CGB-CC-0303, CG Docket No. 06-181, Memorandum Opinion and Order, 29 FCC Rcd 12833, 12840, ¶ 14 (CGB 2014).

17. Additionally, we do not accept Joy Ministries' claim that, as a non-profit organization, it does not have the means to provide closed captioning for its program.⁶² The Commission has rejected the use of the non-profit status of an entity "as a threshold criteria" for determining individual exemption requests, and instead has ruled that the process for determining closed captioning exemptions on the basis of purported economic burden is "designed to consider the unique, individual circumstances of each petitioner on a case-by-case basis."⁶³

18. We also reject Joy Ministries' argument that any excess revenues at the end of one year are used to pay for general expenses at the beginning of the following year and, as a result, it cannot afford to provide closed captioning for its program. In determining whether providing closed captioning would be economically burdensome, we examine the overall financial resources of Joy Ministries over a two-year period.⁶⁴ Based on the information provided by Joy Ministries, we conclude that Joy Ministries has adequate financial resources to enable it to afford the costs of captioning its television program.⁶⁵ Thus, we do not find credible Joy Ministries' claim that it will cease broadcasting *Joy in the Morning* on "several of the television networks" that currently show the program if it must provide closed captioning.⁶⁶ Accordingly, we find that it would not be "economically burdensome" for Joy Ministries to caption its program within the meaning of the Communications Act or the Commission's rules.

IV. ORDERING CLAUSES

19. 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,⁶⁷ IT IS ORDERED that the Petition filed by Joy Ministries, requesting an exemption from the Commission's closed captioning rules, IS DENIED.

20. IT IS FURTHER ORDERED that Joy Ministries shall commence closed captioning of the programming that is the subject of its Petition no later than June 2, 2015, which is 90 days from the date of the release of this Order.

21. IT IS FURTHER ORDERED that Joy Ministries 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.⁶⁸ The e-mail attachment must reference Case Identifier CGB-CC-0044.

FEDERAL COMMUNICATIONS COMMISSION

Karen Peltz Strauss
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⁶² See October 2013 Petition Supplement at 1; see also ¶ 7, *supra*.

⁶³ *Anglers Reversal MO&O*, 26 FCC Rcd at 14951, 14959, ¶¶ 19, 35.

⁶⁴ See *id.* 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").

⁶⁵ See ¶ 15, *supra*.

⁶⁶ See ¶ 11, *supra*.

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

⁶⁸ See *Notice of New Electronic Filing Procedures for Television Closed Captioning Exemption Requests*, CG Docket No. 06-181, Public Notice, 29 FCC Rcd 3960 (CGB 2014).