

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

In the Matter of
Implementation of the Twenty-First Century
Communications and Video Accessibility Act of
2010, Section 105, Relay Services for Deaf-Blind
Individuals
CG Docket No. 10-210

ORDER

Adopted: May 26, 2016

Released: May 27, 2016

By the Commission: Commissioner O’Rielly issuing a separate statement.

I. INTRODUCTION

1. In this Order, the Federal Communications Commission (FCC or Commission) extends the National Deaf-Blind Equipment Distribution Program (NDBEDP), as a pilot program, for one additional year, until June 30, 2017. The NDBEDP provides up to \$10 million annually to support programs that distribute communications equipment to low-income individuals who are deaf-blind. The NDBEDP has operated as a pilot program since July 2012 and is currently set to expire on June 30, 2016. Extending the pilot program for an additional year will enable the NDBEDP to continue providing communications equipment to low-income individuals who are deaf-blind without interruption while the Commission completes the proceeding that is underway to adopt rules to govern a permanent NDBEDP.

II. BACKGROUND

2. The Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) directed the Commission to establish rules to provide up to \$10 million annually from the Interstate Telecommunications Relay Service Fund (TRS Fund) to support programs that distribute communications equipment to low-income individuals who are deaf-blind.1 In accordance with this directive, the Commission established the NDBEDP as a two-year pilot program, with an option to extend this program for an additional year.2 The Consumer and Governmental Affairs Bureau (CGB or Bureau) launched the NDBEDP as a pilot program on July 1, 2012.3 To implement the program, the Bureau certified 53 entities to participate in the NDBEDP – one entity to distribute communications equipment in

1 Pub. L. No. 111-260, 124 Stat. 2751, § 105 (2010); Pub. L. No. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA). Section 105 of the CVAA added section 719 to the Communications Act of 1934, as amended, and is codified at 47 U.S.C. § 620.

2 Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, Report and Order, 26 FCC Rcd 5640, 5649-50, para. 22 (2011) (NDBEDP Pilot Program Order); see also 47 CFR § 64.610 (NDBEDP pilot program rules).

3 Commission Announces Launch of the National Deaf-Blind Equipment Distribution Program, Public Notice, 27 FCC Rcd 7403 (CGB 2012); see also NDBEDP Pilot Program Order, 26 FCC Rcd at 5685, para. 105 (delegating authority to the Bureau to take the administrative actions necessary to implement and administer the NDBEDP). CGB designated Jacqueline Ellington, Attorney Advisor, Disability Rights Office, as the NDBEDP Administrator.

each state, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands⁴ – and selected a national outreach coordinator to support the outreach and distribution efforts of these state programs.⁵ On February 7, 2014, the Bureau extended the pilot program for a third year, until June 30, 2015.⁶

3. On August 1, 2014, the Bureau released a Public Notice inviting comment on the extent to which rules governing the NDBEDP pilot program should be retained, modified or replaced to make the permanent NDBEDP more effective and more efficient.⁷ Guided by over 40 comments received in response to that Public Notice, on May 27, 2015, the Commission released a comprehensive Notice of Proposed Rulemaking (NPRM) to obtain additional input from the public on how best to design and administer a permanent NDBEDP.⁸ In addition, the Commission simultaneously issued an Order that extended the pilot program for an additional year, until June 30, 2016.⁹ In response to the NPRM, numerous programs certified under the pilot NDBEDP, organizations representing consumers with disabilities, and individual consumers submitted their feedback and suggestions.

III. EXTENSION OF THE NDBEDP PILOT PROGRAM

4. To ensure the uninterrupted administration of the NDBEDP until the conclusion of the rulemaking proceeding and the establishment of a permanent program for the delivery of communications equipment to low-income individuals who are deaf-blind, we hereby extend the existing NDBEDP pilot program rules for one additional year, until June 30, 2017. We adopt this extension because we anticipate that this rulemaking proceeding and the implementation of new rules that may result will not be completed by June 30, 2016, when the rules governing the NDBEDP pilot program are scheduled to expire.¹⁰ Among other things, implementation may require time for the preparation and receipt of new applications for certification; the selection of newly certified entities; and approval from the Office of

⁴ *Commission Announces Entities Certified to Participate in the National Deaf-Blind Equipment Distribution Program*, Public Notice, 27 FCC Rcd 7397 (CGB 2012). Reference to “state programs” or “certified programs” refers collectively to all of the jurisdictions that participate in the NDBEDP.

⁵ *See Perkins School for the Blind to Conduct National Outreach for the National Deaf-Blind Equipment Distribution Program*, Public Notice, 27 FCC Rcd 6143 (CGB 2012). In addition, during the pilot program, the Bureau has provided guidance to state programs on compliance with the Commission’s NDBEDP rules. *See, e.g.*, “NDBEDP Frequently Asked Questions,” available at <http://www.rolkaloube.com/#!/ndbedpfaq/c1nlj> (last viewed Apr. 6, 2016).

⁶ *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Order, 29 FCC Rcd 1234 (CGB 2014) (extending the NDBEDP pilot program through June 30, 2015).

⁷ *Consumer and Governmental Affairs Bureau Seeks Comment on the National Deaf-Blind Equipment Distribution Program*, Public Notice, 29 FCC Rcd 9451 (CGB 2014).

⁸ *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Notice of Proposed Rulemaking, 30 FCC Rcd 5255 (2015). For example, this NPRM sought comment on the structure of the permanent program; the criteria for becoming a certified program; certification duration; certification application and renewal processes; developing a centralized database for reporting, reimbursement, and oversight; consumer eligibility criteria; outreach efforts; individualized assessments of consumers’ communications and technology needs; equipment distribution, installation, and consumer training; the need for additional training resources; the system for allocating funding and reimbursing certified programs for their costs; certified programs’ reporting, audit, and record retention requirements; consumer complaints; and other considerations.

⁹ *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Order, 30 FCC Rcd 5247 (2015) (*NDBEDP Pilot Program 2015 Extension Order*).

¹⁰ *See* 47 CFR §§ 64.610(a), (k); *NDBEDP Pilot Program 2015 Extension Order*, 30 FCC Rcd 5247, 5249, para. 4 (extending the NDBEDP pilot program through June 30, 2016).

Management and Budget for modified information collection requirements in accordance with the Paperwork Reduction Act of 1995.¹¹

5. As the Commission stated previously, many individuals who have received equipment and training under the NDBEDP have reported that this program has vastly improved their daily lives, significantly enhancing their ability to live independently and expanding their educational and employment opportunities.¹² Extending the pilot program will serve the public interest because it will provide additional time to consider and address public comment in final rules for the permanent NDBEDP, to allow a seamless transition between the pilot and permanent programs. This extension will also provide greater programmatic certainty and stability to entities that are currently certified to participate in the NDBEDP in each of the 50 states plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. To prevent a lapse in the pilot program, this extension of the pilot program rules shall be effective on July 1, 2016.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), and 719 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 620, that this Order IS ADOPTED.

7. IT IS FURTHER ORDERED that this Order shall be effective July 1, 2016.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹¹ Pub. L. No. 104-13, 109 Stat. 163. See 44 U.S.C. §§ 3501-3520.

¹² *NDBEDP Pilot Program 2015 Extension Order*, 30 FCC Rcd at 5248, para. 2.

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, CG Docket No. 10-210

One year ago, I voted to approve a Notice of Proposed Rulemaking seeking comment on rules for the National Deaf-Blind Equipment Distribution Program that is required by the CVAA. I noted that the current pilot program appears to have helped a number of deaf-blind individuals, who face unique challenges, to live more independently and take advantage of education and employment opportunities. Structured correctly, the so-called “permanent program” could extend these benefits to an even greater number of people in need of such equipment.

I will reluctantly support the order extending the pilot program for another year to ensure the program is not interrupted, but I am beyond disappointed that the Commission was not able to complete rules for the permanent program during this *past year*. This rulemaking has had the support of all five Commissioners and a number of outside parties, which does not happen too often. Moreover, the permanent program is actually authorized by law, whereas the pilot program is in a more questionable state. Perhaps if the Commission had prioritized this rulemaking over others, we could have adopted final rules by now. I would love for someone to share with me which other projects were so important to justify such inaction on this matter.

In the meantime, I expect that this additional time will be put to good use and that no further extensions of the pilot program will be required. In particular, I offered several suggestions for the permanent program in my prior statement, such as establishing clearly defined and demonstrable goals; adopting performance measures and tailored reporting requirements; clarifying how funding will be prioritized should demand exceed the budget; and implementing safeguards against waste, fraud, and abuse. These steps are similar to measures that have been adopted for various universal service programs, and some have also been recommended by the Government Accountability Office. Together, they would help ensure that program is as efficient as possible and that the funding is targeted to provide the maximum possible benefit to consumers. I hope that these recommendations, along with the feedback provided in the record, will be given full consideration as staff continues to work towards the final rules in the *coming months*. I look forward to engaging with staff in the near future to learn how the permanent program will be properly structured.