

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Closed Captioning of Video Programming
Telecommunications for the Deaf and Hard of Hearing, Inc.
Petition for Rulemaking
CG Docket No. 05-231

ORDER

Adopted: June 25, 2015

Released: June 25, 2015

By the Acting Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. In this Order, the Consumer and Governmental Affairs Bureau (CGB) of the Federal Communications Commission (FCC or Commission) grants in part a request made by the National Association of Broadcasters (NAB), along with Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), the National Association of the Deaf (NAD), and the Hearing Loss Association of America (HLAA) (collectively, the Consumer Groups) and the Technology Access Program at Gallaudet University (TAP) to extend for six months the requirement for broadcasters to jointly prepare and submit to the Commission a report on the experiences they have had in following the new Electronic Newsroom Technique (ENT) rules and the extent to which the new ENT rules have been successful in providing full and equal access to live programming on television (ENT Report). Section 79.1(e)(11)(v) of the rules requires this report to be prepared in consultation with closed caption viewers and organizations representing closed caption viewers and to be submitted to the Commission no later than one year after the effective date of the requirement, i.e., no later than June 30, 2015. Pursuant to this order, the new due date for the submission of this ENT Report is extended for 120 days, rather than the requested six months; accordingly, the new due date for the ENT Report is no later than October 28, 2015.

II. BACKGROUND

2. On February 24, 2014, the Commission released a Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking adopting captioning quality standards and technical compliance rules to ensure that video programming on television is fully accessible to individuals who are

1 47 C.F.R. § 79.1(e)(11).

2 See 47 C.F.R. § 79.1(e)(11)(v).

3 See 47 C.F.R. § 79.1(e)(11)(v). Because the substantive portions of 47 C.F.R. § 79.1(e)(11), i.e., 47 C.F.R. §§ 79.1(e)(11)(i) and (ii), became effective on June 30, 2014, the due date of the ENT Report shall be no later than June 30, 2015. See 79 FR 17911, 17926 (Mar. 31, 2014).

deaf and hard of hearing through the provision of closed captioning.⁴ The *Closed Captioning Quality Order* included new ENT rules requiring broadcast stations choosing to meet its captioning obligations through ENT to comply with enhanced ENT procedures by June 30, 2014.⁵ Section 79.1(e)(11)(v) of the rules establishes a due date of one year after the effective date of the requirement, *i.e.*, no later than June 30, 2015, for broadcast stations subject to these enhanced ENT procedures to jointly prepare and submit to the Commission, in consultation with individuals who rely on captions to watch television and organizations representing such individuals, a report on their experiences with following such procedures, and the extent to which ENT has been successful in providing full and equal access to live programming.⁶ Based on recommendations from the Consumer Groups, in the *Closed Captioning Quality Order* the Commission encouraged drafters of the ENT Report to demonstrate the extent to which ENT captioning meets the principles of accuracy, completeness, synchronicity, and placement, the percentage and quantity of uncaptioned programming by stations using ENT, the impact of ENT usage on the ability of consumers who are deaf and hard of hearing to access programming, complaints filed about ENT, the state of the market for real-time captioners, the economic need for stations to continue using ENT in lieu of real-time captioning, and technological progress toward achieving improvements with ENT.⁷

3. On May 27, 2015, NAB, along with the Consumer Groups and TAP, filed a joint petition requesting that the due date for the ENT Report be extended to December 30, 2015.⁸ The Joint Petitioners state that an extension of time is warranted under section 1.46(b) of the Commission's rules in order to have sufficient time to implement the proposed three-prong data collection process—which includes surveys of consumers, surveys of industry, and consumer focus groups and feedback—in addition to the respective groups' independent analyses of the data and the preparation of the ENT Report in a collaborative fashion.⁹ The Joint Petitioners maintain that “given this multi-step process and the overall importance of the report to consumers and industry,” a six-month extension is warranted.¹⁰

III. DISCUSSION

4. As set forth in section 1.46(b) of the Commission's rules,¹¹ the Commission's policy is that extensions of time to submit filings in rulemaking proceedings shall not be routinely granted. In the instant case, however, we find that granting an extension of the due date of the ENT Report will serve the public interest by allowing NAB to work in consultation with caption viewers and organizations representing those individuals to gather the information that it needs to fully prepare the ENT Report. Specifically, the Joint Petitioners have delineated the tasks that are associated with preparing, distributing and collecting data for the consumer and industry surveys, following up with those surveyed to ensure accuracy of the statistics, analyzing the statistics and relevant data, creating focus group research data,

⁴ *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 (2014) (*Closed Captioning Quality Order*).

⁵ *Closed Captioning Quality Order*, 29 FCC Rcd at 2266-74, ¶¶ 71-87; 47 C.F.R. § 79.1(e)(11).

⁶ 47 C.F.R. § 79.1(e)(11)(v); *see also* 79 FR 17911, 17926 (Mar. 31, 2014).

⁷ *Closed Captioning Quality Order*, 29 FCC Rcd at 2272, ¶ 82.

⁸ *In the Matter of Closed Captioning of Video Programming: Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking*, CG Docket No. 05-231, Joint Petition for Temporary Extension of the NAB, TDI, NAD, HLAA, and TAP (filed May 27, 2015) (Joint Petition). We refer to all parties participating in the Joint Petition as the Joint Petitioners.

⁹ Joint Petition at 2-4. 47 C.F.R. § 1.46(b).

¹⁰ *Id.* at 4.

¹¹ 47 C.F.R. § 1.46(a).

and collaborating to prepare the findings for the ENT Report.¹² Because the ENT Report will be critical in assisting the Commission in its efforts to evaluate whether to take additional action to ensure fully accessible live television programming,¹³ we find that the public interest will be served by providing the Joint Petitioners with extra time to collect the necessary data and to provide the Commission with a comprehensive report that fully addresses the ENT issues raised in the *Closed Captioning Quality Order*.¹⁴

5. However, we grant the extension for 120 days rather than the requested six months. Because of the importance of promptly receiving the ENT Report so that it can be considered in the Commission's determination of whether or not the enhanced ENT rules, as implemented, fulfill the requirements for full access to news programming and whether further Commission action is needed to ensure such access,¹⁵ we find that the public interest will be served by granting a shorter extension of the ENT Report's due date than the requested six months. Moreover, because the Joint Petitioners have had notice for over a year of the June 30, 2015 due date of the ENT Report,¹⁶ we believe that an additional 120 days will provide ample time to complete the tasks, as delineated by the Joint Petitioners, that are necessary for the preparation and submission of the ENT Report.¹⁷

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 4(j), and 713 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 613, and sections 0.141, 0.361, and 1.46 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361 and 1.46, the Joint Petition for Temporary Extension of Time filed by NAB, the Consumer Groups, and TAP IS GRANTED to extent indicated herein and IS DENIED in all other respects, and the deadline to file the ENT Report in this proceeding is extended to no later than October 28, 2015.

FEDERAL COMMUNICATIONS COMMISSION

Alison Kutler
Acting Chief
Consumer and Governmental Affairs Bureau

¹² Joint Petition at 3-4.

¹³ For example, in the *Closed Captioning Quality Order*, the Commission noted that the ENT Report can assist in "evaluating whether a further proceeding that may include the phase out of ENT for certain [designated market areas] is necessary to ensure full access to televised news programming by people who are deaf and hard of hearing." *Closed Captioning Quality Order*, 29 FCC Rcd at 2272, ¶ 82. Designated market areas, or DMAs, are geographic areas that represent specific television markets as defined by and updated annually by the Nielsen Company.

¹⁴ See ¶ 2, *supra*.

¹⁵ See ¶ 4, *supra*; *Closed Captioning Quality Order*, 29 FCC Rcd 2272, ¶ 82.

¹⁶ *Notice of Effective Dates of Closed Captioning Quality Report and Order and Declaratory Ruling, and Announcement of Comment and Reply Comment Deadlines for Related Further Notice of Proposed Rulemaking*, CG Docket No. 05-031, Public Notice, 29 FCC Rcd 3656 (CGB 2014).

¹⁷ See ¶ 4, *supra*; Joint Petition at 3-4.