

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 21, 2015

Released: May 27, 2015

By the Commission: Chairman Wheeler and Commissioners Rosenworcel, Pai, and O’Rielly issuing separate statements.

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, 2016. 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, 2015. Extending the pilot program enables the NDBEDP to continue providing communications equipment to low-income individuals who are deaf-blind without interruption while the Commission considers whether 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 pilot NDBEDP 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 each state, plus the

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 adds 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, CG Docket No. 10-210, Report and Order, 26 FCC Rcd 5640, 5649-50, ¶ 22 (2011) (NDBEDP Pilot Program Order). See also 47 C.F.R. § 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, ¶ 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.

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 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.⁷

3. On August 1, 2014, the Bureau released a Public Notice inviting comment on which rules governing the NDBEDP pilot program should be retained and which should be modified to make the permanent NDBEDP more effective and more efficient.⁸ Among other things, the Bureau asked about the following: an appropriate structure for a permanent program;⁹ the appropriate criteria and application process for becoming a certified program and the length of time such certification should be granted;¹⁰ consumer eligibility criteria;¹¹ the need for national, state, and local outreach efforts;¹² the need for rule changes governing individualized assessments of consumers' communications needs, equipment distribution, installation, and consumer training;¹³ the need for additional training resources;¹⁴ the system for allocating funding and reimbursing certified programs for their costs, including administrative costs;¹⁵ and changes needed to certified programs' reporting obligations and audit requirements.¹⁶ In response to the Public Notice, the Commission received over 40 comments from disability organizations, certified

⁴ See *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 assist state programs on how to comply with the Commission's NDBEDP rules. See, e.g., “NDBEDP Frequently Asked Questions,” available at <http://r-l-s-a.com/TRS/NDBEDP-FAQ.pdf> (last viewed Apr. 28, 2015).

⁶ *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, 29 FCC Rcd 1234 (CGB 2014) (*NDBEDP Pilot Program Third Year Order*).

⁷ See, e.g., “iCanConnect is “Life-Changing” for Georgia Woman,” “New Equipment is Key to Success for University of Utah Student,” “Georgia Poet Communicates ‘Like Never Before’ Thanks to iCanConnect,” “Illinois Accountant with Combined Hearing & Vision Loss says Smartphone Changed her Life,” “Communications Technology is Helping Kansans with Hearing and Vision Loss Live Independently,” “New Technology Brings Wisconsin Woman Back into the Lives of her 25+ Grandchildren,” available at <http://www.icanconnect.org/news> (last viewed Apr. 28, 2015).

⁸ *Consumer and Governmental Affairs Bureau Seeks Comment on the National Deaf-Blind Equipment Distribution Program*, CG Docket No. 10-210, Public Notice, 29 FCC Rcd 9451 (CGB 2014) (*Permanent NDBEDP PN*).

⁹ *Id.* at 9452, ¶ 3.

¹⁰ *Id.* at 9453, ¶¶ 5-6.

¹¹ *Id.* at 9456-57, ¶¶ 13-15.

¹² *Id.* at 9460, ¶¶ 20-21.

¹³ *Id.* at 9459, ¶¶ 16-18.

¹⁴ *Id.* at 9459, ¶ 19.

¹⁵ *Id.* at 9455, ¶¶ 8-11.

¹⁶ *Id.* at 9461, ¶¶ 22-23. In addition, the Bureau asked about the adoption of a centralized web-based system for certified programs to generate their reports and reimbursement claims, and about the responsibilities of the NDBEDP Administrator and the TRS Fund Administrator. *Id.* at 9452-53, ¶¶ 4, 7.

programs, and individual consumers, which will help to inform the preparation of a Notice of Proposed Rulemaking to establish a permanent NDBEDP when the pilot program ends.

III. EXTENSION OF PILOT NDBEDP

4. We extend the existing NDBEDP pilot program rules for one additional year, until June 30, 2016. As noted above, we have sought comment on whether certain changes should be made when the NDBEDP transitions from a pilot to a permanent program. Completion of this rulemaking and implementation of any new rules will take longer than June 30, 2015, when the rules governing the NDBEDP pilot program will expire.¹⁷ Extending the pilot program will provide time to receive and thoroughly consider public input on proposed rules for a permanent program, as well as to implement final rules for the permanent NDBEDP without interrupting the distribution of communications equipment and provision of related services to low-income individuals who are deaf-blind, which we find serves the public interest. The extension will also provide greater programmatic certainty to entities that are currently certified to participate in the NDBEDP and enable the Commission to provide a smooth transition from the NDBEDP pilot program to a permanent program. The Commission commits to continue the pilot NDBEDP as long as necessary to ensure a seamless transition between the pilot and permanent programs to ensure the uninterrupted distribution of equipment to this target population. When the Commission adopts final rules for the permanent program, we will consider the extent to which the pilot program needs to be extended further. To provide reasonable notice to the certified programs operating under the pilot program rules prior to June 30, 2015, this extension of the pilot program rules shall be effective upon publication of this Order in the Federal Register.

IV. ORDERING CLAUSES

5. 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), and 620, that this Order IS ADOPTED.

6. IT IS FURTHER ORDERED that this Order shall be effective upon publication in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁷ See 47 C.F.R. §§ 64.610(a), (k).

**STATEMENT OF
CHAIRMAN THOMAS E. WHEELER**

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

Communications technology has the power to transform people's lives. Few initiatives more vividly illustrate that power than the National Deaf-Blind Equipment Distribution Program, what we call iCanConnect.

For thousands of Americans who have both limited sight and hearing, iCanConnect has helped ease their sense of isolation and open up the world in immeasurable ways. iCanConnect reminds us of this agency's power to make a difference. Today, we move to make this life-changing program permanent.

Established by the FCC in July 2012, the National Deaf-Blind Equipment Distribution Program empowers low-income individuals who are deaf-blind to access 21st Century communications services.

The program provides up to \$10 million annually for free communications equipment designed for individuals who have both limited sight and hearing. In addition, it supports outreach to those communities to ensure that improved access is coupled with increased usage.

Programs are in place in all 50 states, plus the District of Columbia, Puerto Rico, and the Virgin Islands, and they are having powerful impact. Thousands of individuals have been served, thousands of pieces of equipment have been distributed, and many hours of training have been delivered.

The response from the program's beneficiaries has been profound.

Lori Siedman of Boston says, "I feel more equal, more independent. It changed my life."

Rosetta Brown of Conyers, Georgia reports, "I just don't have the words to explain how exciting this is for me and how very significant this is to me."

Riverdale, Utah's Ramona Rice adds, "I've been given a chance to be a productive member of society."

Although iCanConnect is transforming lives across America, it's currently is set to expire on June 30, 2015. Our companion order extends the pilot program for one year and includes a commitment to seamlessly transition to a permanent program. The Commission launched the National Deaf-Blind Equipment Distribution Program, which is authorized by the Twenty-First Century Communications and Video Accessibility Act (CVAA), as a pilot program.

Today's Order and Notice of Proposed Rulemaking would extend the pilot program past June 30 and simultaneously move forward with rules to establish the permanent program and improve upon the pilot program. To start along this road, the Commission had already issued a public notice asking for comments on how to improve the program. The proposed rules reflect ideas for improvements gathered from the public notice and lessons learned from the pilot program.

Communications technology can tear down barriers for people who are deaf-blind, opening up new opportunities for more active daily lives, community involvement, and even employment. No deaf-blind American should be denied access to this life-altering technology because they can't afford it. Today, we move to make sure none will be denied. By extending and improving the National Deaf-Blind Equipment Distribution Program, we empower thousands to lead more independent lives and ensure that the fundamental American promise of opportunity for all includes low-income Americans with disabilities.

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL**

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

It was nearly five years ago that the Twenty-First Century Communications and Video Accessibility Act was signed into law. I know because I had the honor of being there. Now seeing civil rights legislation signed into law is a powerful thing. But the Twenty-First Century Communications and Video Accessibility Act itself is also powerful—because it built on the blueprint of the Americans with Disabilities Act and pried open the doors of opportunity and access for the Internet era.

Of course, five years is a virtual eternity when it comes to the equipment we now use to communicate. That is why I am glad we are taking a fresh look at the National Deaf-Blind Equipment Distribution Program in order to take this program from pilot to permanent. This is not only the right thing to do—it's the law. That's because in the Twenty-First Century Communications and Video Accessibility Act, Congress charged the Commission with developing this program to make telephone and Internet services accessible to individuals who are deaf-blind all across the country. Already, our efforts have helped nearly two thousand people lead lives that are more productive, more connected, and more independent. I am convinced there is more good to do, more doors to pry open, and more opportunity to offer through this program. I am pleased we are on course to do so.

**STATEMENT OF
COMMISSIONER AJIT PAI**

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

Helen Keller said, “blindness separates people from things; deafness separates people from people.” It follows that the combination of these two conditions can have a devastating effect on one’s capacity to interact and engage with the world.

But technology can help make a difference. Over the last few decades, we have witnessed incredible advances in accessible technologies for deaf-blind individuals. Whether it’s an automated Braille keyboard and display or an amplified speakerphone, whether it’s a screen reader or a vibrating signaler, these technologies give deaf-blind individuals the opportunity to communicate and improve their quality of life beyond measure.

But this new technology doesn’t come cheap. The cost of buying specialized equipment, installing it, and learning how to use it can exceed \$5,000 per person.¹ So Congress directed the FCC to allocate up to \$10 million each year to support programs that distribute specialized equipment to low-income individuals who are deaf-blind.²

After three years, it’s clear that our pilot, the National Deaf-Blind Equipment Distribution Program, has been a resounding success. For example, Willie Bivins, a 64-year-old poet and freelance writer from Georgia, reports that the equipment “saved [his] life tremendously.” He says it has encouraged him to write about “how hard it is sometimes to be deaf and blind, to communicate and to live.” He also “want[s] people to know that the equipment made a difference”—as he puts it, “Finally, the miracle happened. Finally, the dream came true.”³ And he’s just one of 1,893 individuals who have realized this dream so far.

It’s now time to transition to a permanent program, and I want to emphasize the importance of a smooth and timely transition—with no lapse in the equipment distribution process. I commend the staff of the Consumer and Governmental Affairs Bureau for their diligent work running the pilot, and I want to extend my gratitude to Bob Aldrich, Darryl Cooper, Rosaline Crawford, Jackie Ellington, Elaine Gardner, Karen Peltz Strauss, and Caitlin Vogus for fostering this program. Your efforts have improved the lives of so many deaf-blind individuals already. I look forward to working with you and my colleagues to improve the lives of thousands more.

¹ *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, Notice of Proposed Rulemaking, FCC 15-58, Appendix C (adopted May 21, 2015) (“Expenditures per person for assessments, equipment, installation, and training = \$5,252.”).

² Communications Act § 719.

³ Georgia Poet Communicates “Like Never Before” Thanks to iCanConnect, <http://bit.ly/1eggr6E> (Sept. 15, 2014).

**STATEMENT OF
COMMISSIONER MICHAEL P. O'RIELLY**

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

The item before us represents an important effort to improve the communications resources of deaf-blind individuals who face unique challenges in their daily lives. I strive to treat everyone as I would like to be treated. To me, that includes attempts to make communications with those deaf-blind individuals a bit easier through the reasonable allocation and use of technology. Without speaking for my colleagues, I believe there is universal agreement to make our best effort, via implementing the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), to do just that.

I generally support this Notice of Proposed Rulemaking (NPRM) to seek comment on rules for the National Deaf-Blind Equipment Distribution Program that is required by the CVAA. The current Pilot Program appears to have helped a number of deaf-blind individuals 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 consumers. Therefore, I appreciate the willingness of the Chairman’s office, my colleagues, and Commission staff to accommodate my requests on ways to improve the program to achieve this objective.

First, it is critical that any funding program, whether it be part of TRS or USF, have clearly defined and demonstrable goals from the outset, so that consumers who pay to support the programs – everyday Americans, rich and poor alike – can be assured that their money will be well utilized. The NPRM now proposes three goals for the program: (1) ensuring that the program effectively increases access to covered services by the target population; (2) ensuring that the program is administered efficiently; and (3) ensuring that the program is cost-effective.

Equally important, the NPRM seeks comment on performance measures and tailored reporting requirements to help us ascertain whether the program is actually meeting those goals. That way, we will have the information necessary to make adjustments should we find that performance is lacking in some respect. These are necessary ingredients for any final rules package, as highlighted in the recent U.S. Government Accountability Office (GAO) report to Congress.

Second, with demand for the program likely to outstrip available funding in the near future, the NPRM now seeks comment on how to prioritize funding within the cap, with an eye towards maximizing equipment to low-income individuals. Relatedly, the NPRM also seeks comment on the standard to be applied when funding is shifted among state programs, which will become increasingly important as multiple state programs vie for any reallocated funding. The Commission must make these decisions proactively to provide certainty about how support will be targeted. That will enable state programs to plan and budget accordingly.

Regarding prioritization, I recognize that many commenters supported funding other services, including expanded travel and “train the trainer” programs, which cause me deep concern. And it’s because we need to face the simple fact that the program is already at 90 percent of capacity and will soon exceed our allocated resources. However popular those add-ons are, they are not identified in the statute and could drain funding away from the core purpose of providing equipment to low-income consumers, potentially leaving some qualifying individuals completely unserved. To the extent those additional features or services are necessary to the successful operation of the program, the FCC should make sure that Congress is aware of the issue and our elected leaders can decide whether adjustments to the law are needed. But it is not our role, and we have no authority, to expand the program to include items not included in the law. In the meantime, we should move forward with the clear focus of expanding equipment to those truly low-income individuals rather than use 15 percent, 20 percent, 30 percent or more on indirect purposes.

Third, the NPRM now proposes several measures to help prevent waste, fraud, and abuse. These include re-verifying income eligibility when consumers apply for additional equipment to ensure that funding continues to be targeted to low-income individuals, and a uniform consumer certification that attests to the individual's eligibility and understanding that equipment funded by the program cannot be given to other individuals. In addition, the NPRM proposes that entities applying to be certified as a state program must demonstrate their administrative and financial management experience.

On the other hand, one change that I had sought, and will continue to press for when we go to order, is that we establish a sunset date for this iteration of the program. It is true that the Commission may re-examine the program at any time by issuing another NPRM. But more often than not, once rules are adopted, they continue on autopilot for quite a while, especially if the Commission shifts its focus to other issues. A sunset provision would provide a mechanism to ensure that the Commission actually reviews the program and determines whether to extend it as is or make modifications. It would be common sense for such a review to occur after two cycles under the new rules. This is a simple question of good government and something we should incorporate into more FCC rulemaking proceedings as a matter of course. Mark this down as another idea for the Process Review Task Force to examine.

On balance, I approve this NPRM and I look forward to reading the comments it generates. I also approve the Order extending the Pilot Program for another year while the Commission finalizes the proposed rules for the permanent program.