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Public Service Commission

December 15, 2010

VIA ELECTRONIC FILING

The Honorable Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: *Ex Parte* Comments of the Florida Public Service Commission in GC Docket No. 10-210, PN Comments – Specialized CPE Distribution Program

Dear Ms. Dortch:

Forwarded herewith are *ex parte* comments of the Florida Public Service Commission in the above docket regarding the specialized CPE distribution program.

Bob Casey at (850) 413-6974 is the primary staff contact on these comments.

Sincerely,

/ s /

Cindy B. Miller
Senior Attorney

CBM:tf

Cc: James Bradford Ramsay, NARUC

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

In the Matter of:)	
)	CG Docket No. 10-210
PN Comments – Specialized CPE)	
Distribution Program)	

**EX PARTE COMMENTS OF
THE FLORIDA PUBLIC SERVICE COMMISSION**

FLORIDA PUBLIC SERVICE COMMISSION

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INTRODUCTION AND SUMMARY

The Florida Public Service Commission (FPSC) submits these ex parte comments in response to the Public Notice¹ (PN) released on November 3, 2010. In this PN, the Federal Communications Commission (FCC) seeks comment on issues related to the FCC's implementation of the requirement for a National Deaf-Blind Equipment Distribution Program (NDBEDP) as set forth in Section 105 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (Accessibility Act).² Specifically, the FCC is looking for comments on eligibility, covered equipment, state program options, logistics and criteria for funding support, and oversight and reporting.

The Deaf-Blind community in Florida is becoming increasingly active. The Florida Deaf-Blind Association (FDBA) was formed in 2004 to enhance independence through economic and social opportunities for all people who are Deaf-Blind in Florida. A new Web site for the FDBA was created in 2010,³ along with an e-mail group of the Florida Deaf-Blind that communicate on a regular basis. The Helen Keller National Center For Deaf-Blind Youths and Adults (HKNC)⁴ registry includes 321 Deaf-Blind Floridians. According to the Southeast Regional Representative of HKNC, this does not include many others, especially the large number of senior citizens who do not self-identify as Deaf Blind or are not aware of reporting

¹ CG Docket No. 10-210, Released November 3, 2010, Consumer and Governmental Affairs Bureau seeks comment on implementation of requirement to define programs for distribution of specialized customer premises equipment used by individuals who are deaf-blind.

² The Accessibility Act, which was signed into law by President Obama on October 8, 2010, requires the FCC to take measures to ensure that people with disabilities have access to emerging communications technologies in the 21st Century. Section 105 of this law directs the FCC to establish rules that define as eligible for relay service support those programs approved by the FCC for the distribution of specialized customer premises equipment designed to make telecommunications service, Internet access service, and advanced communications, including interexchange services and advanced telecommunications and information services, accessible by low income individuals who are deaf-blind.

³ <http://www.fldeafblind.org/>

⁴ Authorized by an Act of Congress in 1967, the Helen Keller National Center for Deaf-Blind Youths and Adults, located in Sands Point, New York, is a national rehabilitation program serving youth and adults who are deaf-blind.

their names to the HKNC registry. According to the Florida Coordinating Council for the Deaf and Hard of Hearing, nearly three million deaf, hard-of-hearing, deaf-blind, and speech-impaired citizens live in Florida.⁵ Florida is the fourth largest state in the U.S. and has the second highest percentage of population who are deaf, hard of hearing, or deaf-blind.⁶

Eligibility

In order to receive specialized telecommunications devices, Florida Statutes require a certification of persons as deaf or hard of hearing, speech impaired, or dual sensory impaired which includes a statement attesting to such impairment by a licensed physician, audiologist, speech-language pathologist, hearing aid specialist, or deaf service center director; by a state-certified teacher of the hearing impaired; by a state-certified teacher of the visually impaired; or by an appropriate state or federal agency. The licensed physician, audiologist, speech-language pathologist, hearing aid specialist, state-certified teacher of the deaf or hard of hearing, or state-certified teacher of the visually impaired providing statements which attest to such impairments shall work within their individual scopes of practice according to their education and training.⁷

Florida Telecommunications Relay, Inc. (FTRI), a non-profit corporation formed by Florida statute,⁸ serves as the administrator for the distribution of the specialized telecommunications devices in Florida . FTRI works with the Florida Division of Blind Services to qualify a deaf-blind applicant as eligible to receive equipment. Applicants must have both a hearing and vision loss and be able to read Braille efficiently to qualify. FTRI employs a qualified trainer that communicates with each applicant to determine Braille efficiency and the

⁵ 2009 Florida Coordinating Council for the Deaf and Hard of Hearing Report to the Governor and Legislature of the State of Florida.

⁶ 2007 Florida Coordinating Council for the Deaf and Hard of Hearing Report to the Governor and Legislature of the State of Florida.

⁷ Section 427.705(5)(a), Florida Statutes.

⁸ Section 427.704(2), Florida Statutes.

type of equipment that best fits the needs of the person. Florida's program does not have an income test for eligibility. Equipment is provided to any citizen without regard to level of income.

For purposes of implementing the National Deaf-Blind Equipment Distribution Program (NDBEDP) for low-income consumers, the FPSC believes that using the definition of "qualifying low-income customer" as used in the Federal Universal Service Low-Income Program would provide the most efficient means to determine eligibility under the Accessibility Act. In Order 04-87,⁹ the FCC agreed with the Federal Universal Service Joint Board that states that operate their own Lifeline/Link-Up programs should maintain the flexibility to develop their own certification procedures including acceptable documentation to certify consumer eligibility under an income-based criterion. The FPSC agrees with the FCC statement that this flexibility will permit states to develop certification procedures that best accommodate their own Lifeline participants based on the available resources of state commissions, each state's eligibility criteria, and local conditions. This same state certification flexibility should apply to the NDBEDP. Applicants for equipment provided under the NDBEDP should be allowed to qualify by participation in a Lifeline-qualifying program as defined by each states' relay oversight authority, or provide evidence of income as required by 47 CFR § 54.410.¹⁰ Since each state has its own Lifeline-eligible program criteria and income criteria already in place, implementation of the NDBEDP should provide little difficulty.

⁹ In the Matter of Lifeline and Link-Up, WC Docket No. 03-109, Report and Order and Further Notice of Proposed rulemaking, FCC 04-87, ¶29, Released April 29, 2004.

¹⁰ Acceptable documentation of income eligibility includes the prior year's state, federal, or tribal tax return, current income statement from an employer or paycheck stub, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, an Unemployment/Workmen's Compensation statement of benefits, federal or tribal notice letter of participation in General Assistance, a divorce decree, child support, or other official document.

Covered Equipment

Florida currently distributes the Deaf-Blind Communicator (DBC) manufactured by Humanware. FTRI purchases the DBC directly from Humanware which offers repair and maintenance services along with extended warranties. Cost of the equipment with the extended warranty ranges from \$7,000 to \$8,500 each. The NDBEDP should include provisions for software upgrades and on-going maintenance costs of the equipment.

The specialized telecommunications devices distributed by FTRI remain the property of FTRI but are available to individuals as long as they remain qualified to participate in the program. FTRI does not generally exchange equipment when there is a modification or upgrade but does exchange equipment when needed because of maintenance. Exchanges are generally on a like-model for like-model basis so long as the equipment is available.

State Program Option

To date, over 430,000 individuals have received some type of equipment that allows them to access the telecommunications system as authorized by Florida law. Providing reliable and effective equipment to the deaf-blind community has been challenging up until the recent development of the DBC. FTRI has distributed 14 DBCs since August 2009.

The FPSC believes that state Equipment Distribution Programs should become the primary means of distributing equipment under the NDBEDP. In Florida, FTRI has a proven and sound infrastructure with nearly 20 years of experience and desires to remain the distributor of specialized telecommunications equipment. FTRI has an excellent reputation for providing timely and quality services throughout the state. In addition to its central office located in Tallahassee, Florida, FTRI has twenty three regional distribution centers across Florida to handle

the distribution of equipment and training of users of the equipment. State programs, as approved by NDBEDP, should be allowed to submit actual cost of equipment, extended warranty, training (to include related travel and support Service Provider for trainers who are deaf-blind), on-going maintenance, technological software upgrades, hardware equipment upgrades, and administrative costs on a monthly basis for reimbursements. Copies of the deaf-blind application, actual CPE manufacturer and training invoices plus the administrative fee should be sufficient documentation.

Logistics and Criteria for Funding Support

State programs that are currently mandated under state statutes to distribute specialized telecommunications equipment should be approved upon submission of a letter of interest along with a copy of the respective state statute or similar document. Programs approved by the NDBEDP to distribute equipment should be allowed to work within their existing state qualification requirements or criteria. Generally, state programs, through experience and networking with each other, are best situated to make decisions on appropriate equipment for their targeted population. It is in the best interest of state program administrators and deaf-blind consumers to select equipment that best meets their needs.

Florida has existing procedures to effectively qualify individuals for their program and therefore additional screening or assessment is unnecessary. FTRI employs a deaf-blind individual that assesses and trains qualified applicants for the DBC. The trainer reports to FTRI the outcome of the training and whether additional training is necessary. Subsequent training is scheduled and will continue to be available as long as the individual needs it.

Florida limits the number of basic pieces of equipment an individual may receive but if there are multiple members in a household who are eligible for a piece of equipment, they each

individually are eligible to qualify. FTRI does provide maintenance on equipment which it distributes, generally through a warranty. Equipment will remain with the program for the life of the equipment. If equipment is under warranty, it may be refurbished and reissued to another client. The more expensive equipment may be repaired beyond the life of the warranty depending upon a number of considerations.

As to funding for existing programs, equipment funded under the NDBEDP should be funded 100% of the actual cost to approved state programs. Capping the amount of funding per state would defeat the purpose of ensuring that deaf-blind consumers get served under this Act. As previously mentioned, Florida is the fourth largest state in the U.S. and has the second highest percentage of population who are deaf, hard of hearing, or deaf-blind. Capping the amount of funding per state may hinder services to the Florida deaf-blind population which needs the services to communicate with families, friends, and the workplace.

Oversight and Reporting

Records regarding distribution of equipment and certification of equipment users should be kept for the preceding three years in addition to maintaining the documentation for as long as the consumer uses the equipment. This policy would coincide with the record retention requirements governing the Lifeline/Link-Up programs found in 47 CFR § 54.417.

FTRI has a database that captures client information and can provide reports reasonably necessary. Active client information remains in the database as long as the client is a participant of the program. Inactive client information is archived. By statute, FTRI produces an audited annual report which is submitted to the FPSC. FTRI would be able to provide this along with a separate special report on the number of CPE distributed and funded by the NDBEDP.

Conclusion

In conclusion, the FPSC urges the FCC to consider the following points:

1. Applying the definition of “qualifying low-income customer” as used in the Federal Universal Service Low-Income Program would provide the most efficient means to determine eligibility for the NDBEDP;
2. States that operate their own Lifeline/Link-Up programs should be allowed to maintain the flexibility to develop their own certification procedures including acceptable documentation to certify consumer eligibility under an income-based criterion for the NDBEDP;
3. Applicants for equipment provided under the NDBEDP should be allowed to qualify by participation in a Lifeline-qualifying program as defined by the states, or provide evidence of income as required by 47 CFR § 54.410;
4. The Deaf-Blind Communicator should be included in the list of covered equipment under the NDBEDP;
5. State Equipment Distribution Programs should become the primary means of distributing equipment under the NDBEDP;
6. The amount of funding per state should not be capped under the NDBEDP;
7. State programs approved by the NDBEDP to distribute equipment should be allowed to work within their existing state qualification requirements or criteria; and,
8. Records regarding distribution of equipment and certification of equipment users under the NDBEDP should be kept for the preceding three years in addition to maintaining the documentation for as long as the consumer uses the equipment.

The FPSC appreciates the opportunity to provide comments in this Public Notice.

Respectfully submitted,

/ s /

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Office of the General Counsel

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