Federal Communications Commission
Washington, D.C. 20554

August 13, 2007

Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Progress Report to the Commission Concerning the Delivery of Emergency Alert System Messages to Non-English Speakers, EB Docket No. 04-296.

Madam Secretary:

The Commission's recently-adopted *Further Notice of Proposed Rulemaking* in the above-referenced Emergency Alert Services ("EAS") proceeding requires the Public Safety and Homeland Security Bureau ("the Bureau") to convene stakeholder meetings to discuss the provision of emergency alert information to non-English speaking Americans, and to report back to the Commission about such meetings within 30 days of the *Order*'s release.[1] On June 14, 2007, Bureau leadership and staff discussed this and related issues with Mr. Rolo Duartes representing Univision, Ms. Cheryl Leanza representing the United Church of Christ, Ms. Jane Mago and Mr. Kelly Williams representing the National Association of Broadcasters (NAB), and Mr. Francisco Montero representing the Independent Spanish Broadcasters Association. Via teleconference bridge, the meeting also included Mr. David Honig and Mr. Jonathan Stein representing the Minority Media and Telecommunications Council, and Mr. Pat Roberts and Mr. Matt Leibowitz representing the Florida Association of Broadcasters.

Topics Discussed

The Bureau began by framing the reasons for the meeting, in particular, the Commission's ongoing commitment to ensuring that all Americans receive accurate and timely emergency alerts. The group then heard from Commissioner Jonathan Adelstein who expressed his conviction that it is critical that "all significant groups" have access to alerts in languages they understand and that means some form of multilingual EAS. He went on to state that achieving consensus about how to accomplish this goal is the best way to proceed. Commissioner Adelstein concluded his remarks by applauding the actions of those broadcasters who have taken the lead in helping to solve the multilingual alert problem.

The Bureau began the general discussion by drawing attention to the so-called "designated hitter" approach which ensures that area broadcasters cooperate to ensure that broadcasters disabled during an emergency can rely on other EAS Participants to disseminate emergency information, including information in languages other than English. Florida's Pat Roberts spoke about his state's designated hitter-based emergency operations plan. Florida's plan ensures that Spanish language alerts are initiated

[1] In re Review of the Emergency Alert System; Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief, *Second Report and Order and Further Notice of Proposed Rulemaking*, EB Docket No. 04-296, FCC 07-109, 2007 WL 2010799 (rel. July 12, 2007).

by Florida's Emergency Operations Center (EOC) during emergencies. Florida's plan maintains Spanish-language interpreters for such purposes, and also includes the capability for providing alerts in Haitian-Creole on an as-needed basis. The Florida plan was achieved with funding provided by the state legislature and the Federal Emergency Management Agency (FEMA) and participation is voluntary.

The ensuing discussion focused on the following issues: the current state of EAS-related multilingual alert delivery; how Next Generation EAS technology and service configurations would affect multilingual delivery; the scope of participation in multilingual alert delivery, including related costs; the scope of necessary FCC action to ensure that non-English speakers receive adequate alert and post-alert emergency information; as well as a small amount of discussion about the EAS roles played by the Federal Emergency Management Agency (FEMA) and the National Oceanographic and Atmospheric Administration (NOAA)/National Weather Service (NWS).

Multilingual Delivery in the Current EAS

All meeting participants applauded Florida's efforts to ensure delivery of emergency message alerts to the Spanish-speaking community during emergencies. NAB representatives noted NAB's support for Florida's efforts which, they reminded attendees, were basically voluntary in nature. They argued against any FCC mandate that all states adopt the same program because NAB thinks it important that state plans take into account the particular facts and circumstances in each state, as well as the capabilities of currently-available technology.

Other participants applauded Florida's initiative but questioned whether voluntary programs would effectively ensure multilingual distribution. Ms. Leanza and Messers Montero, Honig and Stein represented petitioners (Independent Spanish Broadcasters Association, *et al.*) who had filed the 2005 petition asking the FCC to mandate multilingual emergency alerts.[2] Mr. Montero stated that the petition had stemmed from the Hurricane Katrina emergency in late 2005 during which one of his member radio stations had voluntarily remained on the air throughout the emergency, providing Spanish language emergency information. He noted that many of his organization's members are also members of NAB and the National Association of Spanish Broadcasters (NASB) and that they want to cooperate with the FCC and state authorities to develop a viable plan to ensure that non-English speaking communities are provided with emergency information. He pointed out that Puerto Rico also has a Florida-style system in place, but that progress is lagging in other areas of the country. Mr. Duartes agreed, and stated that the big question was how to get non-English emergency alerts delivered in markets not served by major Spanish-language outlets like Univision and Telemondo. Ms. Leanza and Messers Honig and Stein strongly disputed that voluntary programs were sufficient to ensure adequately comprehensive multilingual EAS alerts and urged the Commission to take a more aggressive approach immediately, by mandating such alerts over the EAS.

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[2] "Petition for Immediate Interim Relief," filed Sept. 20, 2005 by the Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council. The Petition requests that the Commission change its EAS rules as follows: 1) modify section 11.14 to require the airing of Presidential level messages in both English and Spanish; 2) modify section 11.18(b) to include a "Local Primary Spanish (LP-S) designation to serve as the entry point for state and local authorities to distribute emergency information in Spanish in accordance with local area EAS plans in each radio market with a Latino population of either 50,000 or 5% of the total market population; 3) modify section 11.18(b) to include a "Local Primary Multilingual (LP-M)" designation in each radio market having a minority language population other than Spanish of either 50,000 or 5% of the total market population; 4) modify section 11.52(d) to provide that at least one broadcast station in every market would monitor and rebroadcast emergency information carried by local LP-S and LP-M stations; and 5) modify section 11.52(d) to specify that if during an emergency an LP-S or LP-M station loses its transmission capability, stations remaining on air should, in at least part of their broadcasts, broadcast emergency information in the affected languages until the affected LP-S or LP-M station is restored to the air. On October 14, 2005, NAB filed comments in response to the petition that, *inter alia*, question the Commission's authority to order non-licensees, e.g. FEMA and state and local government entities, to issue non-English alerts.

Next Generation EAS

Participants generally recognized that digital technology, including the use of common alert protocols in the context of developing Next Generation EAS, could promote the ability to provide multilingual EAS alerts. NAB participants agreed that such developments could help overcome serious technical obstacles in the way of achieving the transmission of simultaneous multilingual alerts and could also serve to drive down related and potentially significant costs. NAB also argued that, in any event, the Commission should continue to encourage voluntary programs rather than to mandate universal standards and requirements.

Other participants sharply expressed their concerns that waiting for Next Generation EAS to solve the multilingual alert issue would only further delay the availability of multilingual alerts.

Scope of Multilingual EAS Alert Notifications and Related Costs

Ms. Leanza stated that there seemed to be a consensus among meeting participants that non-English speakers should be able to receive effective alerts during emergencies, but that much work remained to be done including Commission action requiring multilingual alerts. Mr. Honig and Ms. Leanza also strongly argued that state EAS plans should provide that alerts are provided to non-English speakers, and Ms. Leanza suggested that the specific requirement be determined by a percentage-of-the-general population calculus with the FCC setting the appropriate threshold. Mr. Honig concurred generally and noted that, beyond "best practices" guidelines there must be mandatory minimal practices imposed on all states so citizens do not feel that their safety depends on which state they live in.

Mr. Roberts said that the FCC had acted commendably during Katrina to provide operational flexibility to broadcasters and other communications providers. He urged everyone to remember, however, that there are, in effect, two separate but related aspects of the emergency communications problem: (1) the initial alerts preceding and during emergencies and (2) provision of essential emergency-related information during the emergency and afterwards. He suggested that PSHSB should take the lead in revising comprehensive planning to include natural disaster planning as well as planning for terrorist attacks. Such planning requires cooperation with FEMA and the National Weather Service (NWS) and should also include participation from disability groups who also have specialized needs for information during emergencies.

Mr. Roberts also stated that funding is a major issue; that money flows in during and immediately after disasters, but at other times is not all that available. According to Mr. Roberts, Florida has developed a satellite-based alert distribution system that is relatively cheap, but funding remains a critical concern, specifically, how available federal and state monies flow to cities and counties. Mr. Williams agreed that funding is a key concern, including funding for adequate training. He added that "having a state plan is not enough." NAB participants agreed that who paid for significant additional EAS costs was an important questions, as well as who would be required to furnish the multilingual messages to EAS Participants and who had liability if messages were not adequately translated.

Need for FCC Action and Its Extent

The Bureau asked what the FCC could do to promote cooperation among broadcasters and other alert providers short of issuing mandates. Mr. Honig responded that the FCC should not shy away from issuing mandates if necessary, and that the agency possessed ample jurisdiction to order broadcasters to provide multilingual alerts right now as part of their public service obligation. He stated that the FCC should keep its eye on "the Big Picture" regarding the need to promote – and if necessary to mandate – multilingual alert transmission. Moreover, the FCC can take other actions to promote cooperation among

broadcasters during emergencies, including waiver of night-time power limitations.

Mr. Roberts again urged that people remember the problem is larger than the EAS initial alert situation and includes necessary post-emergency information. Mr. Montero agreed and stated that the FCC must include consultations with other emergency organizations and interests, including state governors, EOCs, state National Guard commanders, NAB and the NASB.

Mr. Honig agreed that the problem was larger than EAS and that the FCC must address the problem at all levels, leveraging its "public interest" jurisdiction over broadcasters to require solutions like "designated hitter." He stated that the issue of emergency alerts is not primarily technical, or related to questions about jurisdiction; it is a moral question. The FCC should "right now" insist that the President and state governors provide all warnings in languages other than English. Messers Duartes, Montero and Roberts stated that, for voluntary systems to work well it is vital that television and radio station General Managers participate in the development process.

Ms. Mago argued that awareness of the problem needs to be ratcheted up on a number of fronts, particularly at the state governor level. Effective action should involve all stakeholders and this should include FEMA as well as EAS Participants and the public interest community. The specific question is: how can broadcasters and others most effectively advocate making multilingual alerts a policy priority for FEMA and state governors?

Ms Leanza replied that conversations and advocacy are important, but there can be no additional delays before broadcasters start providing warnings and alerts to all Americans, including non-English speakers. Ms. Leanza stated she is glad that there seems to be a consensus among meeting participants that everyone needs to be able to receive effective alerts during emergencies. Much of the FCC's involvement in ensuring this could be informal, but the FCC must act decisively and quickly to ensure that a certain minimum of information is always provided. She pointed out that two years have elapsed since her organization and the others had filed the 2005 petition seeking FCC action mandating multilingual alerts, and "nothing has been done." She argued that the FCC needs to use its "bully pulpit," but it also has to "light a fire" under EAS Participants to ensure that all Americans receive emergency warnings, especially now that a new hurricane season has begun.

The Bureau asked whether mandatory FCC action wouldn't threaten to undo what had been accomplished in Florida pursuant to its voluntary, cooperative plan. Ms. Leanza answered that FCC does not need to act in any particular way, but it does need to act in an effective way to ensure results.

Role of FEMA and NOAA/NWS

The Bureau drew attention to President Bush's 2006 Executive Order that tasked FEMA with developing a national alert and warning system and that made specific reference to the needs of non-English speakers.[3] The Bureau asked meeting participants whether they had been in contact with FEMA seeking its assistance. Mr. Montero replied that members of his organization had been working with FEMA but not consistently, and that he hoped the FCC could facilitate such conversations. The other meeting participants concurred that it was important that the Commission participate with FEMA, as well as with NOAA/NWS, to facilitate government-wide consistent and effective approaches to EAS, including regular consultation and cooperation with all EAS Participants.

[3] Public Alert and Warning System, Executive Order No. 13407, 71 Fed. Reg. 36975 (June 26, 2006).

General Summary

Meeting participants agreed that it is important to promote the provision of EAS alerts to non-English speaking communities. Participants were divided about whether this could be achieved through Commission encouragement of voluntary state plans like Florida's. Participants also agreed that new technologies could contribute to achieving multilingual EAS alerts, but there was little discussion about the technological capability of the current EAS to provide such alerts, and no discussion about specific technological improvements that are anticipated to be included in Next Generation EAS.

Meeting participants did not specifically identify their understanding of the scope of information that should be provided by multilingual alerts. Similarly, except for participants from NAB and Florida, meeting participants did not address the costs of multilingual alert delivery, either under the current EAS or under Next Generation EAS, and who should bear those costs.

Meeting participants also were split on the subject of the FCC's role in promoting multilingual EAS alerts. Although all applauded Florida's efforts to establish a voluntary program, only NAB and Florida participants thought that voluntary programs would be sufficient to achieve universal or even widespread availability of multilingual EAS alerts. Other meeting participants argued for aggressive FCC involvement, including the development of program mandates, although these participants did not necessarily agree among themselves what mandates are necessary or desirable. Significantly, the discussion by and large concerned provision of Spanish language alerts. There was no real discussion about particular problems faced by communities that include different non-English speaking population groups.

Finally, while meeting participants generally were aware of the roles of FEMA and NOAA/NWS in the EAS, there was some confusion about who played what role and general concern that FEMA, in particular, must do a better job at outreach and consultation with EAS participants and other interested parties. Meeting participants did appear to agree that the Commission should take a more active role encouraging such outreach and consultation. To that end, the Bureau intends to schedule future outreach events that include additional stakeholder groups, including cable TV, wireless cable, satellite, and other service providers.

Sincerely,

Derek K. Poarch
Chief, Public Safety and Homeland Security Bureau

Cc: The Honorable Kevin J. Martin
The Honorable Michael J. Copps
The Honorable Jonathan S. Adelstein
The Honorable Deborah Taylor Tate
The Honorable Robert M. McDowell