

State of California

Public Utilities Commission
San Francisco

M E M O R A N D U M

Date : October 11, 2007

**To : The Commission
(Meeting of October 18, 2007)**

From : Laura Gasser, Public Utilities Counsel IV

**Subject : Comments Before FCC on Review of Emergency Alert System,
Second Report and Order and Further Notice of Proposed
Rulemaking (NPRM), EB Docket No. 04-296 (adopted May 31, 2007
and released July 12, 2007)**

RECOMMENDATION:

The CPUC should file comments before the Federal Communications Commission (FCC) recommending that, as part of the public alert and warning system (Emergency Alert System (EAS)), the FCC should:

- Take necessary measures to ensure that emergency notifications are accessible to persons with disabilities and non-English speakers at the same time that such information is available to others;
- Require EAS participants to receive and transmit alerts initiated by entities other than the state governor; and
- Implement a program to audit and review all required EAS tests, to ensure that testing is being completed and the system is working properly.¹

BACKGROUND:

The EAS is a system for national, state, or local emergency warnings that provides a means of distributing emergency information quickly to the public through radio stations, television stations, and cable entities. The FCC is currently reviewing its EAS rules as part of its continuing effort to provide the public with a state-of-the-art, next-generation national EAS ("Next Generation EAS").

All national broadcasters and cable operators are required to participate in the national-level EAS. All participating national broadcasters and cable operators must transmit

¹ The FCC has not yet set comment and reply comment due dates.

weekly and monthly tests. In the case of an emergency, a national alert flows to the national primary stations (stations designated as the primary entry point for national alerts), which then send the alert on to local area stations.

Distribution of state and local warnings is provided in accordance with local area and state EAS plans. In California, the EAS is used for warnings of events requiring immediate action, such as earthquakes, tsunamis, or severe thunderstorms or tornadoes. Participation in the state and/or local area EAS is voluntary for all broadcasters and cable operators. However, stations generally choose to participate because of public response. Although some broadcasters may elect not to carry national EAS alerts, they may participate in the state and/or local area EAS without any prior FCC approval.

In its Second Report and Order in this docket, the FCC (1) required all EAS participants to accept messages using the Common Alerting Protocol (CAP), adopt Next Generation EAS delivery systems, and transmit state and local EAS alerts issued by governors or their designees; and (2) enhanced the effectiveness, scope, and redundancy of the current EAS network by enabling EAS delivery system upgrades and by including wireline common carriers providing video programming in EAS.² The FCC now seeks further input on the following issues: (1) how EAS can best serve non-English speakers and persons with disabilities; (2) whether EAS participants should be required to transmit alerts initiated by government entities other than the state governor; and (3) whether current testing, certification, and performance assessment is comprehensive and ensures that EAS operates as designed in an emergency.

DISCUSSION:

A reliable, redundant, and interoperable communications network is critical for California citizens, state commerce, and public safety agencies to communicate during and after an emergency. This NPRM is an opportunity for California to advise the FCC regarding its rules and procedures for transmitting emergency information over the national-level EAS.

The Governor's Office of Emergency Services (OES) is the lead state agency for emergency management in California. According to the OES Emergency Plan, utility-related emergencies in California are addressed through the activation of its "Utilities Branch." The CPUC is one of the agencies and utility industries that may be called to staff the OES Utilities Branch.³

² Second Report and Order and Further Notice of Proposed Rulemaking, *Review of Emergency Alert System*, EB Docket No. 04-296, adopted May 31, 2007, released July 12, 2007.

³ Utility industries covered under the OES Utilities Branch are gas, electric, telecommunications (including wireless), water, waste-water, and petroleum pipeline utilities. The Governor's Office of Emergency Services, "State of California Emergency Plan, at 21 (September 2005).

Cooperating with OES emergency planning efforts is consistent with the CPUC mission of ensuring provision of safe, reliable utility services and infrastructure. The development of these recommendations to the FCC, therefore, is a joint effort between the CPUC and OES. Due to the CPUC's ongoing and consistent communication with the FCC, the CPUC will be the lead agency in filing joint comments on behalf of OES and the CPUC.

CPUC and OES staff recommend that California make the following recommendations to the FCC:

- Accessibility of emergency information to persons with disabilities and non-English speaking persons. According to the Census Bureau's 2006 American Community Survey, 4.3 million Californians -- or roughly 13 percent of the state's population -- have one or more type(s) of disabilities, while 6.8 million -- more than 20 percent -- are categorized as having limited English proficiency. In consideration of these statistics, the fact that persons with disabilities use a wide variety of means to satisfy their communications needs, and the CPUC's ongoing commitment to universal service, it is critical to ensure that emergency information is accessible in as many formats, over as many types of communication devices, as possible.
- Mandatory alert transmissions. Currently, the FCC enables state governors or their designees to initiate state level alerts for mandatory transmission by EAS participants. However, the transmission of alerts by entities other than state governors is voluntary. In the interest of public safety, the transmission of alerts by entities other than the state governor should be mandatory. States' EAS operations plans should identify each entity granted authority to activate EAS.
- Audit program. Current EAS testing requirements are sufficient and occur often enough to assure testing is done on a consistent and ongoing basis. At present each local area must run a monthly test, and broadcasters and cable operators must transmit a weekly test. However, an audit program or system should be implemented so that testing results are evaluated on a consistent basis to confirm the EAS's performance.

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