

MEMORANDUM

Date : January 25, 2008

**To : The Commission
(Meeting of January 31, 2008)**

**From : Helen Mickiewicz
Assistant General Counsel**

**Subject : Filing of Comments in Response to Federal Communications
Commission Notice of Proposed Rulemaking on Establishing a
Commercial Mobile Alert System, PS Docket No. 07-287; FCC 07-214**

RECOMMENDATION: The California Public Utilities Commission (CPUC) should file comments in response to the Federal Communications Commission's (FCC) Notice of Proposed Rulemaking (NPRM) on establishing a Commercial Mobile Alert System (CMAS). The staff's specific recommended comments are articulated below.

BACKGROUND: Section 603(c) of the Warning Alert and Response Network (WARN) Act required the FCC to establish the Commercial Mobile Service Alert Advisory Committee (CMSAAC) to develop and recommend technical standards and protocols for the voluntary transmission of emergency alerts by commercial mobile service providers (CMSPs).¹ The CMSAAC produced its final report and recommendations on October 12, 2007. The FCC has issued this NPRM to invite comment on establishing a CMAS network.

Specifically, the FCC seeks comment on 1) the CMSAAC recommendations, 2) the system critical protocols and technical requirements for CMAS, 3) a mechanism under which CMSPs may elect to participate in the CMAS and to disclose to their subscribers whether they will participate in the voluntary program, and 4) technical testing requirements for CMSPs that elect to transmit emergency alerts and for the devices and equipment used by such providers to transmit such alerts.

DISCUSSION: In the NPRM, the FCC seeks comment on the role of the federal government in managing the CMAS. Staff recommends that the CPUC support the

¹ Public Law 109-347, Title VI.

recommendation from the FCC's advisory committee, CMSAAC, that the federal government serve as an "alert aggregator", with the entity so charged also serving to acquire, manage, operate, and administer the CMAS. Because the alert aggregator must be responsible for the authentication and validation of any alert messages that would be transmitted over the CMAS, both the CMSAAC and CPUC staff agree that a governmental entity is best situated to perform those functions. The purpose of the CMAS is to warn the public of imminent danger, such as flooding or other weather events, to announce evacuations of particular geographic areas, or simply to alert the public of some other type of event requiring immediate action. For this reason, CPUC staff recommends that the CPUC endorse the CMSAAC recommendation to employ a centralized system operated by a national aggregation entity as the best way to accomplish the goals of CMAS as the system was envisioned by the WARN Act.

The NPRM also seeks comment on whether the CMAS should use a Common Alerting Protocol (CAP) as the means of transmitting alerts. CPUC staff recommends that the CPUC support use of CAP, which is a digitally-based system that enables government officials not only to transmit emergency messages in text, but also to transmit voice messages, pictures, and other data. CAP can be accessed by myriad of devices or systems, and facilitates interoperability between devices, an essential characteristic of a fully-functioning CMAS which will have to serve multiple platforms. In addition, the FCC asks whether emergency alerts should be classified. The CMSAAC recommended three classifications: 1) Presidential-level, 2) imminent threat to life and/or property, and 3) child abduction emergency (Amber Alert). CPUC staff recommend that the CPUC support these classifications, as staff is persuaded that these three categories will cover the types of situations that typically have arisen in California.

The FCC also seeks comment on the content of CMAS alert messages, including the elements of such messages, as well as a recommended set of standardized alert messages. The FCC proposes geographic targeting of messages and asks for comment on the level of precision that should be required for geographically-targeting Commercial Mobile Alerts. CPUC staff recommends that the CPUC support the recommendations of CMSAAC, with a few additions exceptions. Specifically, staff recommends adding an element for a URL and telephone numbers, even if the number is just 211 or 311. This addition would provide even more information to the public and availability of information in an emergency is vital. And, staff recommends that the CPUC urge the FCC to accommodate geo-targeted and regional alerts, because of the sheer size of this state.

The FCC also seeks comment on technical accessibility to alert messages by elderly and disabled populations, and CPUC staff proposes to highlight the state's commitment to these populations through our universal service programs. The FCC seeks input on multi-lingual requirements, and CPUC staff proposes to comment about the diverse needs

of the California population, and the availability of commercial alert systems in at least six different languages.

Finally, the WARN Act does not require CMSPs to transmit emergency alerts. However, if a CMSP elects not to transmit emergency alerts to its customers, the WARN Act requires the CMSPs to provide clear and conspicuous notice of this polity to existing customers, and to new customers at the point of sale. The WARN Act also allows existing customers of any CMSP that withdraws its election to transmit emergency alerts to terminate service without financial repercussions. The FCC seeks comment on how such notice should be provided to new and existing customers, and how the existing customer should be informed of his/her right to terminate service without financial penalty.

CPUC proposes to recommend requiring that a carrier inform both new and existing customers, in writing and separate from any contract or billing statement, that it has elected not to transmit alerts, or has withdrawn its election to transmit such alerts, as the case may be. If the carrier is withdrawing its election to transmit alerts, the statement should inform the customer of his/her right to terminate service without financial penalty.

Assigned staff: Legal Division – Helen Mickiewicz (HMM, 3-1319); Communications Division – Eric Van Wambeke (EVW, 3-2896).