



January 22, 2018

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

[Submitted via FCC Electronic Comments Filing System]

Re: NOTICE OF EX PARTE PS Docket 15-91 Improving Wireless Emergency Alerts and Community-Initiated Alerting

Dear Secretary Dortch:

On January 18, 2018, representatives of the New York City Emergency Management Department (“NYCEM”) and the New York City Mayor’s Office (“Mayor’s Office”), collectively “the City,” participated in an *Ex Parte* discussion via teleconference with a representative of Commissioner Clyburn’s Office (“FCC” or “the Commission”) regarding the Second Report and Order and Second Order on Reconsideration (“Draft Order”) in reference to the above captioned item.¹

We applaud the efforts of the Chairman, Commissioners, and Commission staff to update the Wireless Emergency Alerts (“WEA”) system, and believe with the changes we propose below the WEA system can evolve to become an even more effective life-safety tool.

1. Despite a Robust Record, the Rules Do Not Adopt a Device-Based Approach and May Allow Carriers to Maintain the Status Quo

While the Draft Order goes a long way toward attempting to address WEA’s geo-targeting limitations, the proposed rules in Appendix A fall short of the Commission’s commitment in the WEA Report and Order (“WEA R&O”) to adopt “handset-based, geo-targeting requirements.”² This approach is based on the feedback of emergency managers and public safety officials during both the Notice of Proposed Rulemaking (“NPRM”) and Further Notice of Proposed Making (“FNPRM”) processes. The proposed language in the Draft Order does **not** fulfill this commitment.

Although the language in the Discussion Section of the Draft Order requires CMSPs to “deliver Alert Messages to an area that matches the target area specified by the alert originator...” and defines

¹ **NYCEM Participants** – Benjamin J. Krakauer, Assistant Commissioner for Strategy and Program Development; Rachel Sulaymanov, Director of Intergovernmental Affairs; Robert DeVoogd, Agency Counsel. **Mayor’s Office Participants** – Rebecca Kagan, Deputy Director and General Counsel for the Office of Federal Affairs; Priya Shrinivasan, Director of Standards, Policy, and Legal Affairs for the Office of the Chief Technology Officer; Zachary Gold, Telecommunications Policy Coordinator. **FCC Participants** – Louis Peraertz, Senior Legal Advisor

² See *WEA R&O* 31 FCC Rcd 11147, paragraph 52





“matching the target area as delivering an Alert Message to 100 percent of the target area with no more than 0.1 of a mile overshoot” in line with NYCEM’s request, the Draft Order does not mandate a device-based approach to ensure this geo-targeting.³ In fact, although NYCEM’s comments are cited as support for “geo-fencing,” a review of our filed comments in response to the FNPRM does **not** exhibit support for such an approach.⁴ Instead, we consistently have supported a handset-based geo-targeting capability.

CMSPs, represented by CTIA, openly acknowledge that the current “network-based cell-sector technology...may result in over-alerting.”⁵ New York City experienced this “over-alerting” directly when we issued two geo-targeted messages to the Chelsea neighborhood of Manhattan following the September 2016 terrorist bombing that were received well outside of the target area. In order to mitigate this over-alerting, CTIA – in discussion with emergency management and public safety agencies – proposed a framework to “enhance the geo-targeting capabilities of WEA through device-based technologies that harness the location capabilities of the mobile device...”⁶ In fact, the only point of contention between CTIA and the emergency management and public safety community was on the implementation timeline for device-based geo-targeting.⁷ Despite broad concurrence on the appropriate technological approach and clear evidence from the CMSP community that the current network-based approach is insufficient, it is disappointing that the Commission remained silent on requiring device-based geo-targeting.

The most concerning element of the Draft Order, however, is the following language excerpted from the proposed amendment to §10.450 Geo-targeting rule: “If **some or all** of a Participating CMS Provider’s network infrastructure is **technically incapable** of matching the specified target area, then that Participating CMS Provider’s must deliver the Alert Message to an area that **best approximates** the specified target area on and only on those aspects of its network infrastructure that are incapable of matching the target area.”⁸ (emphasis added). This language has the potential to eviscerate the preceding sentences in the proposed amendment to §10.450 and maintains the status quo of “best approximate.” If adopted, CMSPs will not be required to incorporate device-based geo-targeting and will simply continue making the same argument that they have been making for years: their networks are technically incapable of matching the specified target area. Such a loophole is unacceptable and the City urges in the strongest terms that the Commission modify the proposed rule to require device-based geo-targeting and limit the “best approximate” standard to situations where devices are incapable of being geo-located (e.g., older handsets) or in a location that does not allow for the device to be geo-targeted (e.g., basements).

³ See *Draft Order*, paragraph 6

⁴ See *Draft Order*, footnote 36 when compared to *Comments of the NYC Emergency Management Department*, paragraph 26, dated December 8, 2016.

⁵ See CTIA’s *Ex Parte Presentation*, page 2, dated December 21, 2017.

⁶ See CTIA’s *Ex Parte Presentation*, page 2, dated December 21, 2017.

⁷ See *Ex Parte Notices filed by NYCEM* at page 2, dated December 19, 2017; APCO International at page 2, dated December 19, 2017; and Harris County (Texas) Office of Homeland Security and Emergency Management at page 2, dated December 19, 2017.

⁸ See *Draft Order*, page 28.



2. Despite a Robust Record, The Draft Order Fails to Adopt Rules Supporting Multimedia Alerting

NYCEM and its emergency management and public safety colleagues across the country have consistently expressed the need for the ability to embed multimedia content (e.g., thumbnail images, maps, infographics, etc.) into WEA messages to improve communication to the public, including individuals with access and functional needs.^{9,10,11,12,13,14,15} New York City experienced difficulties without multimedia alerting during the 2016 Chelsea Bombing where public safety officials had to “depend on the proactive initiative of those receiving the [WEA] message and hope they would take additional steps to search the internet on their own” because an image of the suspect could not be sent with the alert “due to outmoded restrictions to the WEA system.”¹⁶ This enhancement is essential to accurately communicate emergency information to the public; is a gap that has been well-documented in the record for the past several years; and its absence from the Draft Order is unacceptable and unfortunately will limit the ability for the public to take action based on a WEA message.¹⁷

3. Despite a Robust Record, the Draft Order Fails to Adopt Rules Supporting “Many-to-One” Feedback

NYCEM continues to urge the Commission to adopt rules that support enhancing the WEA system to support bi-directional, de-identified communication from consumers.¹⁸ The need to quickly receive impact information from the general public following an emergency has been clearly demonstrated in the record and would allow emergency management and public safety officials to more efficiently deploy scarce resources to the most impacted areas following an emergency or disaster.^{19,20,21,22,23}

4. Despite a Robust Record, the Draft Order Fails to Adopt Rules Supporting “Multilingual Messaging” Beyond Spanish

⁹ See NYCEM’s *Ex Parte Presentation*, page 4, dated May 22, 2017.

¹⁰ See County of Sonoma’s *Comment Filing*, page 1, dated December, 5, 2017.

¹¹ See County of San Diego Board of Supervisor’s *Comment Filing*, page 2, dated January, 2, 2018.

¹² See NOAA/NWS’s *Ex Parte Presentation*, page 4, dated July, 18, 2017.

¹³ See National Center for Missing and Exploited Children’s *Ex Parte Presentation*, page 2, dated July 6, 2017.

¹⁴ See Telecommunications for the Deaf and Hard of Hearing, Inc. *Comments Filing*, page 5, dated January 9, 2017.

¹⁵ See California Governor’s Office of Emergency Services *Comment Filing*, page 3, dated December 15, 2016.

¹⁶ See NYPD’s *Comment Filing*, page 1, dated January, 16, 2018.

¹⁷ See BCEM, NENA, NEMA, IAEM, United States Conference of Mayor’s *Comment Filing*, page 2, dated January, 5, 2018.

¹⁸ See NYCEM’s *Ex Parte Presentation*, page 4, dated May 22, 2017.

¹⁹ See NYPD’s *Comment Filing*, page 2, dated January, 16, 2018.

²⁰ See City and County of San Francisco Department of Emergency Management *Comment Filing*, page 2, dated January 5, 2018.

²¹ See BCEM, NENA, NEMA, IAEM, United States Conference of Mayor’s *Comment Filing*, page 2, dated January, 5, 2018.

²² See NOAA/NWS’s *Ex Parte Presentation*, page 5, dated July, 18, 2017.

²³ See Calhoun County Emergency Management Agency’s *Comment Filing*, page 2, dated December 9, 2016.



NYCEM continues to urge the Commission to adopt rules that allow alert originators to distribute messages in languages other than English and Spanish.^{24,25,26} The record clearly demonstrates that emergency management and public safety officials across the country need a mechanism to issue alerts in languages known by their constituents.^{27,28,29,30} In areas like New York City that attract tens of millions of visitors each year, this need is even more critical.

5. NYCEM Supports and Appreciates the other Proposed Rules in the Draft Order and Second Order on Reconsideration

NYCEM fully supports the proposed rules requiring Alert Preservation and defining “in whole” and “in part” participants in the WEA system and thanks the Commission for these improvements. With respect to Spanish language alerting, NYCEM encourages the CMSPs to make this capability available as quickly as possible but understands and appreciates the Commission’s rationale for granting the extension to the compliance timeframe.

6. NYCEM Supports Improved Consumer Education on WEA and Informed Choice at the Point of Sale

NYCEM reinforced its support for informed consumer choice at the point of sale, in order to promote consumer adoption and understanding of WEA-capable devices and networks.³¹

As stated above, the City appreciates the Chairman, Commissioners, and Commission Staff’s efforts in the development of the Draft Order that will upgrade the WEA system. We believe that with these proposed changes, the WEA system will become the life-safety tool it can be. We look forward working with the Chairman and the Commissioners on the proposed changes to this Draft Order.

Respectfully submitted,

/s/

Benjamin J. Krakauer, MPA
Assistant Commissioner, Strategy & Program Development

²⁴ See NYCEM’s *Comment Filing*, page 10, dated December 8, 2016.

²⁵ See NYCEM’s *Ex Parte Presentation*, page 4, dated May 22, 2017.

²⁶ See NYPD’s *Comment Filing*, page 2, dated January 16, 2018.

²⁷ See City and County of San Francisco Department of Emergency Management *Comment Filing*, page 2, dated January 5, 2018.

²⁸ See BCEM, NENA, NEMA, IAEM, United States Conference of Mayor’s *Comment Filing*, page 2, dated January 5, 2018.

²⁹ See California Governor’s Office of Emergency Services *Comment Filing*, page 3, dated December 15, 2016.

³⁰ See Nassau County Office of Emergency Management *Comment Filing*, page 1, dated September 22, 2016.

³¹ See NYCEM’s *Comment Filing*, paragraph 31 dated December 8, 2016.