

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Wireless Emergency Alerts)	PS Docket No. 15-91
)	
Amendments to Part 11 of the Commission's Rules)	PS Docket No. 15-94
Regarding the Emergency Alert System)	

Attn: Public Safety and Homeland Security Bureau

**PETITION OF PUERTO RICO TELEPHONE COMPANY, INC.
FOR LIMITED WAIVER OF WIRELESS EMERGENCY ALERT RULES**

Puerto Rico Telephone Company, Inc. d/b/a Claro ("PRTC"), pursuant to Section 1.3 of the Federal Communications Commission's ("FCC" or "Commission") rules,¹ hereby submits the following petition requesting a limited waiver for 180 days of Sections 10.430 and 10.480 of the Commission's rules,² as adopted in the Commission's Wireless Emergency Alerts ("WEA") *Report and Order*³ and amended by the *Second Report and Order and Second Reconsideration*.⁴ As described in more detail below, due to late notice of an essential vendor's failure to perform and the importance of maintaining PRTC's current involvement in the WEA network for its customers, there is good cause to grant a limited waiver request for an additional 180 days from the May 1, 2019, implementation deadline.

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. §§ 10.430, 10.480.

³ Wireless Emergency Alerts; Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System, PS Docket Nos. 15-91 and 15-94, *Report and Order and Further Notice of Proposed Rulemaking*, 31 FCC Rcd 11112 (2016) (WEA Report & Order).

⁴ Wireless Emergency Alerts; Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System, PS Docket Nos. 15-91 and 15-94, *Second Report and Order and Second Order on Reconsideration*, 33 FCC Rcd 1320 (2018) (WEA Second Report & Order).

I. INTRODUCTION & SUMMARY

PRTC is committed to public safety initiatives and supports the Commission's goal of improving access to important information during emergencies. PRTC is a Commercial Mobile Service ("CMS") Provider having elected voluntarily to transmit WEA alert messages.⁵ The WEA system allows authorized government authorities to send geographically targeted emergency alerts to commercial wireless subscribers who have WEA-capable mobile devices and whose commercial wireless service providers are Participating CMS Providers.⁶ As the largest telecommunications services company in Puerto Rico, which is in a high-risk hurricane zone, PRTC uniquely understands the importance of emergency alerting networks.

On November 1, 2016, the Commission adopted a *Report and Order* amending Section 10.430 to increase the maximum Alert Message length from 90 to 360 characters for 4G-LTE and future networks and adopting a new Section 10.480 to require Participating CMS Providers to support the transmission of Spanish-language Alert Messages or that contain Spanish-language characters.⁷ The amended Section 10.430 also states that if some or all of a Participating CMS Provider's network infrastructure is "technically incapable of supporting the transmission of a 360-character maximum Alert Message, then that Participating CMS Provider must support transmission of an Alert Message that contains a maximum of 90 characters of alphanumeric text on and only on those elements of its network incapable of supporting a 360 character Alert Message."⁸ In its *Second Order on Reconsideration*, the FCC harmonized the

⁵ See 47 C.F.R. § 10.10(d), (f); Puerto Rico Telephone Company, Inc., Election to Transmit Commercial Mobile Alert System Alerts, PS Docket Nos. 08-146 (filed Dec. 4, 2013); Puerto Rico Telephone Company, Inc., Commercial Mobile Alert System Election – PS Docket Nos. 08-146, *et al.* (filed Feb. 13, 2019).

⁶ Commercial Mobile Alert System, PS Docket No. 07-287, *Third Report and Order*, 23 FCC Rcd 12561, 12575, ¶ 32 (2008).

⁷ *WEA Report & Order*, 31 FCC Rcd 11112 (2016); 47 C.F.R. §§ 10.430, 10.480.

⁸ 47 C.F.R. § 10.430.

deadline for participating providers to support Spanish-language messages with the deadline to extend the length of alert messages from 90 to 360 characters.⁹ The effective date for providers was set for May 1, 2019.¹⁰ The Commission noted that this extension was adopted to provide “lead time for the many authorized WEA alert originators that are not currently able to initiate Alert Messages in Spanish to develop that capability” and reduce the costs and burdens of duplicative testing and technical development.¹¹

For the reasons set forth below, PRTC seeks a limited waiver of Sections 10.430 and 10.480 of the Commission’s rules.

II. GRANT OF A LIMITED WAIVER IS IN THE PUBLIC INTEREST

In the *WEA Report & Order*, the Commission stated that any Participating CMS Provider unable to comply with the WEA rules “may request a waiver of this requirement pursuant to Section 1.3 of our rules.”¹² The Commission may waive its rules for good cause shown.¹³ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹⁴ The Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁵

Good cause exists to grant a limited 180-day extension. As described in the attached declaration, PRTC made its election to transmit commercial mobile alert system alerts on

⁹ *WEA Second Report & Order*, 33 FCC Rcd 1320, ¶¶ 49-50.

¹⁰ *Id.*

¹¹ *Id.* at ¶ 50.

¹² *WEA Report & Order*, 31 FCC Rcd 11112, ¶ 80.

¹³ 47 C.F.R. § 1.3.

¹⁴ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) *aff’d*, 459 F.2d 1203 (1973), cert. denied, 409 U.S. 1027 (1972)).

¹⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

December 4, 2013, which it clarified on February 13, 2019.¹⁶ PRTC selected a vendor (hereinafter, “WEA Provider”) based in Maryland to update obsolete hardware and software which, in turn, would support the transmission of WEA Alert Messages that contain a maximum of 360 characters of alphanumeric text as well as Spanish-language Alert Messages.¹⁷ The WEA Provider was required to migrate PRTC’s existing Alerts In-Network platform over to new hardware/third party software in a manner that would satisfy Commercial Mobile Service Providers gateway requirements and ensure compliance with the Commission’s requirements.¹⁸ The WEA Provider also agreed to offer installation, project management, training, testing, and other related services.¹⁹

On March 19, 2019, the WEA Provider informed PRTC that the price previously quoted was inaccurate and proceeded to submit a revised proposal that was 200 percent more expensive than the initial proposal.²⁰ Shortly thereafter, the WEA Provider also informed PRTC by telephone that it would take the vendor approximately six months to deliver a solution, making it impossible for PRTC to comply with the May 1, 2019 implementation deadline.²¹ On March 25, 2019, the WEA Provider further informed PRTC that it did not have the resources necessary to deploy the required solution and that it was in search of a business partner that could assist PRTC in meeting the FCC compliance requirements for Sections 10.430 and 10.480 of the

¹⁶ See Exhibit A, *Declaration of Rita M. González-González*, ¶ 3 (González Declaration).

¹⁷ *González Declaration*, ¶ 4.

¹⁸ *Id.* ¶ 5.

¹⁹ *Id.*

²⁰ *Id.* at ¶ 6.

²¹ *Id.*

Commission’s rules.²² As of the date of this request, the WEA Provider has failed to provide any options with the respect to the feasibility of finding a business partner that can assist PRTC.²³

Immediately upon learning that the WEA Provider abandoned the project, PRTC reached out to other possible vendors. Currently, PRTC is engaged in advanced discussions with a new vendor. PRTC reasonably anticipates that a new provider will commence work in May 2019. However, given the fact that the WEA Provider abandoned the project so close to the May 1, 2019 deadline, PRTC anticipates it will need an additional 180 days from May 1, 2019, to allow it to engage a new vendor and implement, test and place in operation a solution.²⁴

Grant of a limited 180-day waiver is in the public interest. As noted by Chairman Pai in his statement accompanying the *Second Report and Order*, WEA alerts are of special significance in regions affected by extreme weather events such as fires, flooding, and hurricanes. “WEA was also used extensively in all areas affected by recent hurricanes, including 21 alerts sent in Puerto Rico alone.”²⁵ Hurricane Maria, which struck Puerto Rico in 2017, brought unparalleled damage and destruction to the island—and its impacts are ongoing today.²⁶ The severity and toll of that hurricane, among others, underscores the need for a temporary waiver to allow PRTC to meet the Commission’s WEA alert requirements.

A waiver is necessary because PRTC’s network infrastructure will be technically incapable of supporting the transmission of 360-character maximum Alert Messages on its 4G-

²² *Id.*

²³ *Id.*

²⁴ *Id.* at ¶¶ 7-8.

²⁵ *WEA Second Report & Order*, 33 FCC Rcd 1320, Statement of Chairman Ajit Pai.

²⁶ *See, e.g.*, The New York Times, *Hurricane Maria Updates: In Puerto Rico, the Storm ‘Destroyed Us’* (Sep. 21, 2017) available at: <https://www.nytimes.com/2017/09/21/us/hurricane-maria-puerto-rico.html>.

LTE network or Spanish-language characters on any of its networks by May 1, 2019. PRTC is currently delivering WEA Alert Messages of up to 90 characters of alphanumeric text on its 3G and 4G-LTE networks and it will continue to do so on its 3G network until that network is retired. However, with respect to its 4G-LTE network, it will not be able to support 360 characters by May 1, 2019.²⁷ In addition, PRTC has the capability to transmit WEA Alert Messages in Spanish if alert originators were to issue them in Spanish. However, PRTC's networks are not and will not be able to transmit Spanish-language special characters correctly until it can implement, test and place in operation a solution with a new vendor.²⁸ While PRTC assumes responsibility for the vendors it selects, PRTC could not have reasonably anticipated the problems with the WEA Provider given its representations regarding its expertise and capabilities.

The goal of the enhanced WEA Alert Message rules is to increase the quality of public safety information available to Americans on their mobile devices during emergencies. A limited 180-day waiver would not undermine the underlying purpose of Sections 10.430 and 10.480 and, in fact, it would support them by permitting PRTC the additional time necessary to work with a new vendor to implement a solution that will bring a public safety enhancement.²⁹ Additionally, a waiver will permit PRTC to retain status as a Participating CMS Provider voluntarily transmitting WEA alert messages consistent with the rules.

²⁷ The requirement in amended Section 10.430 applies only to 4G-LTE and future networks. *WEA Report & Order*, 31 FCC Rcd 11112, ¶¶ 11-13.

²⁸ The most common of these special characters are accent marks (for example, the “ó” in the word “acción”) and tildes (for example, the “ñ” in the word “señor”).

²⁹ Furthermore, it appears that FEMA's Integrated Public Alert and Warning System (IPAWS) gateway will be ready to test the enhanced WEA capabilities by May 1, 2019. See CTIA, Wireless Emergency Alerts, PS Docket No. 15-91; Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System, PS Docket No. 15-94, at 2 (filed Apr. 24, 2019).

PRTC acknowledges that the Commission afforded Participating CMS Providers thirty months to comply with Sections 10.430 and 10.480. In most instances, such a period of time would be sufficient. However, PRTC urges the Commission to consider the devastating impact of Hurricane Maria on all aspects of PRTC's operations and priorities. As the Commission is aware, on September 20, 2017, Hurricane Maria made landfall in Puerto Rico with sustained winds of 155 miles per hour, causing catastrophic flooding, destroying homes, and leaving the island with no power and very limited water.³⁰ On September 21, 2017, President Trump declared Puerto Rico a major disaster area.³¹ The hurricane caused unprecedented and catastrophic damage to Puerto Rico's wireline and wireless telecommunications infrastructure, including PRTC's. The nature and scope of the devastation and the critical need to restore communications caused PRTC to focus virtually all of its resources to the restoration of its network throughout the entire island. Due to these extraordinary circumstances, the Commission has issued numerous orders granting waivers and/or extending regulatory deadlines to Commission licensees in Puerto Rico.³²

³⁰ Rodriguez, Erika, *Hurricane Maria Updates: In Puerto Rico, the Storm 'Destroyed Us,'* The New York Times, Sept. 21, 2017, available at <https://www.nytimes.com/2017/09/21/us/hurricane-maria-puerto-rico.html> (last visited Apr. 22, 2019).

³¹ The White House, *President Donald J. Trump Approves Puerto Rico Disaster Declaration*, Sept. 21, 2017, available at <https://www.whitehouse.gov/the-press-office/2017/09/21/president-donald-j-trump-approves-puerto-rico-disaster-declaration> (last visited Apr. 22, 2019).

³² See e.g., *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Order (WCB 2017) (granting request to extend temporary waiver of the Lifeline Program's recertification rules); Public Safety and Homeland Security Bureau Temporarily Waives Location Accuracy Obligations For 911 Calls For Certain Service Providers In Areas Affected By Hurricane Maria, Public Notice, 32 FCC Rcd 7493 (PSHSB 2017) (waiving Phase II location accuracy standards with respect to 911 calls); *In the Matter of American Radio Relay League Emergency Request for a Temporary Waiver of Section 97.307(f) of the Commission's Rules*, Order, 32 FCC Rcd 7428 (WTB 2017) (waiving Section 97.307(f) to facilitate hurricane relief communications); and *In the Matter of Commonwealth of Puerto Rico and U.S. Virgin Islands Waiver of Section 90.20(d)(28) of the Commission's Rules*, Order, 32 FCC Rcd 7327 (PSHSB 2017) (waiving Section 90.20(d)(28) to facilitate use of two nationwide interoperability channels). *In the Matter of Telephone Number Portability Numbering Resource Optimization*, CC Docket No. 95-116, Order, 33 FCC Rcd 6157 (WCB 2018) (granting request for extension of waiver of the numbering rules due to the extensive damage caused by Hurricane Maria).

PRTC is committed to serving its customers with impactful and high-quality emergency alerts in compliance with the Commission's rules. For this reason, immediately upon notification from the WEA Provider that it would not be able to deliver the solution, PRTC reached out to other possible vendors and is currently taking the necessary steps to formalize an agreement with a new vendor.³³ PRTC is optimistic that a 180-day extension from May 1, 2019, will permit it to have a solution implemented, tested, and in operation.

III. CONCLUSION

PRTC looks forward to continuing to work with the Commission to achieve improved and more accessible emergency alerting for the benefit of consumers. To facilitate this mutual goal, PRTC respectfully requests that the Commission waive Sections 10.430 and 10.480 of its rules for 180 days from May 1, 2019 (*i.e.*, until October 28, 2019), to afford PRTC the flexibility necessary to deploy WEA Alert Messages that comply with the requirements in Sections 10.430 and 10.480 of the Commission's rules.

Respectfully submitted,

/s/ Edgar Class
Edgar Class
Michael Diakiwski
Wiley Rein LLP
1776 K Street, NW
Washington, DC 0006
(202) 719-7501

*Counsel for Puerto Rico Telephone
Company, Inc.*

April 26, 2019

³³ *González Declaration*, ¶ 7.

DECLARATION OF RITA M. GONZÁLEZ-GONZÁLEZ


I, Rita Milagros González-González, of legal age, married, and resident of Carolina, Puerto Rico, hereby declare under penalty of perjury that:

1. I am employed by the Puerto Rico Telephone Company, Inc. d/b/a CLARO (PRTC) as Sub-Director of Wireless Planning and Engineering. I have held this position since 2008.
2. I am submitting this declaration in support of PRTC's Request for Waiver in PS Docket No. 15-91 concerning sections 10.430 and 10.480 of the Federal Communications Commission's (Commission) rules.
3. PRTC made its election to transmit commercial mobile alert system alerts on December 4, 2013. *See* Puerto Rico Telephone Company, Inc., Election to Transmit Commercial Mobile Alert System Alerts, PS Docket Nos. 08-146 (Dec. 4, 2013). On February 13, 2019, and pursuant to the clarification of the definitions contained in the Commission's Wireless Emergency Alerts (WEA) Second Report and Order and Second Order on Reconsideration released on January 31, 2018, PRTC clarified its WEA election status by electing to participate "in part" in WEA. *See* Puerto Rico Telephone Company, Inc., Commercial Mobile Alert System Election, PS Docket Nos. 08-146, *et al.* (Feb. 13, 2019).
4. I am responsible for the acquisition, implementation and maintenance of PRTC's equipment used for WEA Alert Messages and ensure that they comply with the Commission's regulatory requirements. I had identified that the current system (hardware and software) needed to be updated and, as part of this effort, I sought proposals from vendors to make the required improvements. With the new system implemented, the equipment would be able to support the transmission of WEA Alert Messages that contain a maximum of 360 characters of alphanumeric text as well as Spanish-language Alert Messages, as required by sections 10.430 and 10.480 of the Commission's rules, respectively. Ultimately, PRTC selected a vendor based in Maryland (hereinafter, the "WEA Provider").
5. The WEA Provider was required to migrate PRTC's existing Alerts In-Network platform over to new hardware/third party software in a manner that would satisfy Commercial Mobile Service Providers (CMSP) gateway requirements and ensure compliance with the Commission's requirements. The WEA Provider also agreed to offer installation, project management, training, testing, and other related services.
6. On March 19, 2019, the WEA Provider informed me that the price previously quoted was inaccurate and proceeded to submit a revised proposal. The cost of the revised proposal was 200 percent more expensive than the initial proposal. Shortly after that date, the WEA Provider also informed me by telephone conversation that it would take them approximately six months to deliver a solution, which would certainly make it impossible for PRTC to comply with the

May 1, 2019 deadline. Finally, on March 25, 2019, the WEA Provider informed me that it did not have the resources necessary to deploy the solution and that it was in search of a business partner that could assist PRTC in meeting the FCC compliance requirements. As of the date of this declaration, the WEA Provider has failed to provide any options.

7. Immediately upon learning that the WEA Provider abandoned the project, PRTC reached out to other possible vendors. Currently, PRTC is engaged in advanced discussions with a new vendor.
8. PRTC reasonably anticipates that a new provider will commence work in May 2019. However, given the fact that the WEA Provider reneged on the project so close to the May 1, 2019 deadline, PRTC anticipates it will need an additional 180 days from May 1, 2019, to allow it to engage a new vendor and implement, test and place in operation a solution.
9. I declare, under penalty of perjury and the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on April 26, 2019.



Rita Milagros González-González
Puerto Rico Telephone Company, Inc.
PO Box 360998
San Juan, PR 00936-0998