

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Improving Wireless Emergency Alerts and)	PS Docket No. 15-91
Community-Initiated Alerting)	
)	

**PETITION OF
COMPETITIVE CARRIERS ASSOCIATION
FOR WAIVER**

Competitive Carriers Association (“CCA”)¹, pursuant to Section 1.3 of the Federal Communications Commission’s (“FCC” or “Commission”) rules,² hereby submits the following petition requesting a waiver of 47 CFR § 10.260, as adopted in the Commission’s Wireless Emergency Alerts (“WEA”) Third Report and Order, and amended by Erratum.³

I. INTRODUCTION AND SUMMARY.

CCA and its members are committed to public safety initiatives, and support the Commission’s goal to improve access to information in times of emergency.⁴ To that end, CCA

¹ CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents associate members consisting of small businesses, vendors, and suppliers that serve carriers of all sizes.

² 47 C.F.R. § 1.3.

³ *The Commercial Mobile Alert System*, PS Docket 07-287, Third Report and Order, 23 FCC Rcd 12561 (2008) revised by Erratum ¶ 5 (dated Sept. 5, 2008) (“Third Report and Order”). *See also*, *Improving Wireless Emergency Alerts and Community-Initiated Alerting*, Report and Order and Further Notice of Proposed Rulemaking, PS Docket No. 15-91, et al., 31 FCC Rcd. 11112 (2016) (“WEA Report and Order” or “FNPRM”).

⁴ *See* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, PS Docket Nos. 13-239, 11-60 (filed May 31, 2016) (supporting the “Wireless Network Resiliency Cooperative Framework” and committing to many of the same principles). *See also* Preliminary Report of Competitive Carriers Association, GN Docket No.

members that participate in the FCC’s voluntary WEA program believe it is a critical component to achieving the Commission’s emergency preparedness agenda, and to deploying the most up-to-date services and critical information for consumers. For this reason, CCA, on behalf of its members, is uniquely positioned to seek a waiver of 47 CFR § 10.260, which will ultimately provide carriers the necessary flexibility to continue working toward enhanced WEA solutions.

CCA’s members work diligently to deploy new and innovative technologies supporting enhanced emergency alerting capabilities; however, CCA’s recent Petition for Waiver (“WEA Petition”) highlights certain obstacles that make it unreasonably burdensome and costly for many CCA members to meet the upcoming November 1, 2017 deadline.⁵ Accordingly, CCA’s WEA Petition respectfully requested, on behalf of its members who may need it, that the Commission waive or extend this compliance deadline to align with other requirements adopted in the WEA Report & Order to May 1, 2019.⁶

While the Commission considers the WEA Petition, CCA further requests relief from Section 10.260, which in accordance with Sections 10.240 and 10.250, requires a provider to offer “clear and conspicuous notice” to new subscribers and existing customers of its non-

15-178 (filed Aug. 11, 2016); Report of Competitive Carriers Association, GN Docket No. 15-178 (filed Apr. 20, 2016); Report of Competitive Carriers Association, GN Docket No. 15-178 (filed Oct. 20, 2016); Report of Competitive Carriers Association, GN Docket No. 15-178 (filed Apr. 20, 2017).

⁵ See Petition of Competitive Carriers Association for Waiver, or in the Alternative, Extension of Time, PS Docket No. 15-91 (filed Aug. 16, 2017) (“CCA WEA Petition”).

⁶ In the alternative, CCA’s WEA Petition encouraged the FCC to extend these deadlines by a 12-month period, to November 1, 2018. As a third alternative, the FCC could extend compliance timelines for embedded references and enhanced geo-location capabilities to within 12-months of when ATIS standards are developed and publicly available to all stakeholders. See CCA WEA Petition at 2, note 6.

election or partial election to offer alert messages.⁷ As applied here, the November 1, 2017 date is used to calculate the 60-day timeframe by which providers left with no choice but to opt-out of the WEA program must notify their consumers, resulting in a September 1, 2017 deadline for consumer notifications. CCA's members do not wish to opt-out of the WEA program, and certainly do not want to do so on the brink of hurricane season. To avoid this unfortunate result, the Public Safety and Homeland Security Bureau ("Bureau") should waive Section 10.260 and provide carriers an additional 30 days⁸ to determine how to best satisfy the FCC's requirements and further support the WEA program.

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

Grant of a waiver is justified in this specific instance, and will further the public interest. The FCC may waive specific requirements of its rules where granting a waiver would be in the public interest and the underlying purpose of the rule would not be served or would be frustrated by application to the instant case.⁹ In addition, a rule may be waived in view of unique or unusual factual circumstances, if application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or if the applicant has no reasonable alternative.¹⁰

As detailed in CCA's WEA Petition, many of CCA's members, especially those serving rural and remote areas, are still transitioning from 2G and 3G networks to newer technologies. Diverting resources to add features and functionality to support WEA deployment on outdated technology will exhaust competitive carriers' constrained budgets focused on bringing next-

⁷ 47 CFR §§ 10.240-10.260.

⁸ Thirty days from September 1, 2017 is October 1, 2017, which falls on a Sunday. Per 47 CFR § 1.4, the effective date would then be Monday, October 2, 2017.

⁹ See 47 CFR § 1.925(b)(3)(i); *see also* 47 CFR § 1.3 (rule may be waived for good cause shown).

¹⁰ *Id.* § 1.925(b)(ii).

generation services to rural America and beyond. Moreover, the applicable standards for new WEA requirements are still under development through ATIS's Wireless Technologies and Systems Committee ("WTSC"), including WTSC Issue 0076 regarding a feasibility study on WEA device-assisted geo-targeting, and the record demonstrates that compliance with certain requirements cannot be achieved until these standards are defined and publicly available to all stakeholders.¹¹ Further, AT&T's and Verizon's market power allows them to necessarily drive the development of next-generation network technology to support enhanced WEA alerts, and to likewise command equipment design and manufacture.¹² As a result of these combined factors, and as detailed in CCA's WEA Petition, access to the necessary resources to support embedded references and geo-targeting capabilities is infeasible, and costs to deploy network elements capable of supporting these requirements are unreasonable for many CCA members at this time.¹³

¹¹ CCA understands that ATIS's Wireless Technologies and Systems Committee ("WTSC") is currently developing WEA standards, including: WTSC Issue 0073, FCC Mandated URLs in WEA Messages; WTSC Issue 0074, FCC Mandated WEA Message Length Increase; WTSC Issue 0075, Additional FCC Mandated WEA Enhancements; WTSC Issue 0076, Feasibility Study on WEA Device-Assisted Geo-targeting; WTSC Issue 0077, Feasibility Study for WEA via a Well-Managed Application; WTSC Issue 0063, WEA End-to-End Security Best Practices; WTSC Issue 0072, New WEA Event Codes. A timeframe by which these standards are to be developed is not publicly available. *See* CCA WEA Petition at 3. *See also*, CTIA Petition for Reconsideration, PS Docket No. 15-91 at 3 (filed Dec. 1, 2016) ("CTIA Petition").

¹² In addition, AT&T and Verizon have wireline infrastructure, capabilities, and other resources that many of CCA's members do not have. *See* Comments of Competitive Carriers Association, WT Docket No. 17-69 (filed May 8, 2017); Reply Comments of Competitive Carriers Association, WT Docket No. 17-69 (filed June 7, 2017).

¹³ As noted in CCA's WEA Petition, the Commission has, in other contexts, granted additional time for compliance to smaller carriers, noting that Tier II and Tier III carriers in many cases do not have the ability to drive technology development and deployment, as well as an inability to obtain equipment on the same timeframe as the nationwide carriers. *See Petition for Waiver of Rules Requiring Support of TTY Technology*, Order, DA 16-435 (Apr. 20, 2016) ("CCA Waiver Order"); *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Order to Stay, 17 FCC Rcd. 14,841, ¶ 10 (2002); *Section 68.4(a) of*

The Commission should therefore thoughtfully review CCA's WEA Petition, and grant its request in furtherance of its emergency preparedness agenda. In the meantime, it is imperative that the Bureau waive 47 CFR § 10.260. Doing so will provide the FCC an appropriate period of time to review CCA's WEA Petition, and will likewise provide carriers additional time to determine whether it is necessary to opt-out of the WEA program in accordance with the FCC's rules.

III. A WAIVER OF SECTION 10.260 WILL BENEFIT THE FCC, INDUSTRY, AND CONSUMERS.

As noted extensively in CCA's WEA Petition, CCA and its members support the Commission's goal to ensure all consumers and communities have access to the latest information during times of disaster and emergency.¹⁴ At the same time, in lieu of existing technology and network architecture, embedded references are technically infeasible on certain legacy networks, and geo-location capabilities are still being developed.¹⁵ Without a waiver,¹⁶ many of CCA's members will be forced to divert scarce resources away from their ongoing efforts to deploy new network technologies. Therefore, as the Commission reviews CCA's

the Commission's Rules Governing Hearing Aid-Compatible Telephones, Memorandum Opinion and Order, 23 FCC Rcd. 3352, ¶ 5 (2008); *Wireless E911 Location Accuracy Requirements*, Fourth Report and Order, 30 FCC Rcd. 1259, ¶ 104 (2015); *Promoting Interoperability in the 700 MHz Commercial Spectrum*, 28 FCC Rcd. 15122, ¶¶ 55-59 (2013) (granting an extension of time to meet construction benchmarks for 700 MHz E Block licensees); *Improvements to Benchmarks and Related Requirements Governing Hearing Aid-Compatible Mobile Handsets*, Fourth Report and Order and Notice of Proposed Rulemaking, 30 FCC Rcd. 13845, ¶¶ 68-71 (2015) (tentatively concluding that an additional eighteen-month compliance period is necessary for non-Tier I carriers "to account for limits on handset availability and inventory turn-over rates").

¹⁴ See, e.g., CCA WEA Petition; WEA Report & Order ¶ 2.

¹⁵ See CCA WEA Petition p. 4-8.

¹⁶ The FCC acknowledges in its WEA Report & Order that participating providers may request a waiver of certain requirements if unable to comply within the allotted deadline. See WEA Report and Order ¶ 80.

WEA Petition, it is imperative that the Bureau waive Section 10.260 of its rules to allow carriers an additional 30 days to determine whether it is feasible to support enhanced WEA capabilities and avoid opting-out of the program.

Importantly, many CCA members voluntarily participate in the WEA program, and view this as an important service provided to consumers. Without a waiver of Section 10.260, many of these carriers may be left with no choice but to opt-out of the program until the requisite network upgrades can be reasonably made. And, as detailed in CCA's WEA Petition, this would result in competitive disadvantages for those carriers and potentially hinder consumers' access to information during times when it is most critical. As a result, the Bureau should first grant CCA's request to waive Section 10.260, and the Commission should thoughtfully review, and promptly grant, CCA's pending WEA Petition to ensure carriers are provided enough flexibility to implement enhanced WEA capabilities within a reasonable timeframe.

What's more, CCA's members are especially focused on remaining in the FCC's WEA program in light of critical current events, such as the severe flooding in southeast Texas as a result of Hurricane Harvey. And, as the FCC has recognized in its emergency preparedness efforts, hurricane season is just beginning for consumers in the United States and will be followed by inclement weather such as blizzards and tornadoes across certain portions of the country for the remainder of the year. Denying CCA's request to waive the consumer notification deadline will force carriers to opt-out of the WEA program if they are unable to comply with the November 1, 2017 embedded references and geo-targeting compliance date, to the detriment of the industry, and most especially, their consumers. The FCC must allow competitive carriers the flexibility to pursue innovative upgrades for their consumers on a more feasible timeframe, and waiving the Section 10.260 in this instance will achieve this mutual goal.

IV. CONCLUSION.

CCA and its members look forward to continued work with the Commission to achieve enhanced emergency alerting for the benefit of consumers and industry alike. To facilitate this mutual goal, CCA respectfully requests that the Bureau waive Section 10.260 of its rules while the Commission thoughtfully reviews CCA's WEA Petition, to afford competitive carriers flexibility to deploy innovative emergency alerting solutions.

Respectfully submitted,

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