city of plano

EX PARTE OR LATE FILED

June 23, 1998

John Longstreet
Mayor

Jeran Akers
Mayor Pro tem

Cheryl D. Williams
Deputy Mayor Pro tem

Pat Evans
Place 2

Rick Neudorff
Place 3

Steve Bonnette
Place 4

David M. Smith
Place 7

Dick Bode
Place 8

Thomas H. Muehlenbeck
City Manager

Chairman William Kennard
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, DC 20554

Re: Ex Parte Filing in Cases FO 91-171; FO 91-301

Dear Chairman Kennard:

Please reject the proposed change in your Emergency Alert System (EAS) rules. It would prevent people watching local TV stations on a cable system from receiving emergency announcements from their local public safety authorities.

There is no basis for such preemption of state and local public safety authorities, particularly against their will. All viewers of cable channels should get emergency announcements from their local public safety authority. Otherwise the public safety is harmed. So please reject the proposed change, including any proposal to preempt franchise provisions on local emergency alerts.

Municipalities are charged with protecting the public safety. They have trained public safety authorities on duty 24 hours a day with an obligation and duty to notify the public of emergencies. Where they have felt it necessary (such as TV station announcements being inadequate or needing supplementing) municipalities require all channel local alert systems in their cable franchises. It is a violation of Federalism, common sense and your statutory duty to turn this vital public safety function over to a private party who has no obligations, training or authority on public safety matters.

Broadcasters supporting the proposed rule claim that their emergency alerts are superior to those of state and local public safety authorities. This is a decision for each municipal safety authority to

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determine on a case by case basis, as reflected in their cable franchise. This decision cannot be turned over by a private party with no public safety obligation.

Alert systems deal with emergencies where public safety authorities have determined that the public needs to be informed immediately. The fact that emergency alerts from the public safety authorities may occasionally overlap those of private parties (such as broadcasters) is a minor problem, if it is a problem at all. The NAB's proposed rule is unacceptable because it guarantees a substantial reduction in the number of people receiving emergency announcements from their local public safety authority.

Emergency information on TV stations can be helpful but typically apply mainly to weather. Local emergency alerts are also used for other types of emergencies, such as hazardous material spills, gas leaks, prison escapes, street and bridge closings and local snow emergencies. TV stations typically don't cover these. In part, this is because TV stations serve hundreds of communities. They don't cover local emergencies which affect only one community. Cable systems are often the best or only means for municipalities to alert their residents to local emergencies which reflect local conditions.

The Cable Act allows communities in renewals to require cable systems to meet community needs. Local emergency alert systems are a part of meeting such needs. Because they are protected by these provisions of the Cable Act, you cannot preempt them. In addition, any attempt at preemption would violate principles of Federalism and the U.S. Constitution due to public safety matters being of vital local concern.

Very truly yours,

Thomas H. Muehlenbeck
City Manager

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C: Commissioner Harold Furchtgott-Roth
Federal Communications Commission
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Commissioner Michael Power
Federal Communications Commission
1919 M Street, Room 844
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Commissioner Gloria Tristani
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Commissioner Susan Ness
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Mr. John Logan
Acting Chief
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Ms. Magalie Roman Salas (two copies)
Secretary
Federal Communications Commission
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