

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
) EB Docket No. 04-296
Review of the Emergency Alert System)
)
)

To: Office of the Secretary

MOTION TO ACCEPT LATE-FILED JOINT REPLY COMMENTS

Alabama Broadcasters Association, Alaska Broadcasters Association, Arizona Broadcasters Association, Arkansas Broadcasters Association, California Broadcasters Association, Colorado Broadcasters Association, Connecticut Broadcasters Association, Florida Association of Broadcasters, Hawaii Broadcasters Association, Idaho Broadcasters Association, Illinois Broadcasters Association, Indiana Broadcasters Association, Iowa Broadcasters Association, Kansas Association of Broadcasters, Kentucky Broadcasters Association, Louisiana Association of Broadcasters, Maine Association of Broadcasters, MD/DC/DE Broadcasters Association, Massachusetts Broadcasters Association, Michigan Association of Broadcasters, Minnesota Broadcasters Association, Mississippi Association of Broadcasters, Missouri Broadcasters Association, Montana Broadcasters Association, Nebraska Broadcasters Association, Nevada Broadcasters Association, New Hampshire Association of Broadcasters, New Jersey Broadcasters Association, New Mexico Broadcasters Association, The New York State Broadcasters Association, Inc., North Dakota Broadcasters Association, Oklahoma Association of Broadcasters, Oregon Association of Broadcasters, Pennsylvania Association of

Broadcasters, Rhode Island Broadcasters Association, South Carolina Broadcasters Association, South Dakota Broadcasters Association, Tennessee Association of Broadcasters, Texas Association of Broadcasters, Utah Broadcasters Association, Vermont Association of Broadcasters, Virginia Association of Broadcasters, Washington State Association of Broadcasters, Wisconsin Broadcasters Association, and Wyoming Association of Broadcasters (collectively, the "State Associations"), by their attorneys, hereby respectfully request, to the extent necessary, that the Federal Communications Commission accept the attached Joint Reply Comments of the State Associations ("Joint Reply Comments"). The Joint Reply Comments are being filed in response to the *Notice of Proposed Rule Making ("NPRM")*, FCC 04-189, in the above-referenced docket, released November 10, 2005, pertaining to the Commission's Emergency Alert System ("EAS").

Good cause exists for the acceptance of the Joint Reply Comments. The delay in filing the Joint Reply Comments has allowed the State Associations to update the record in this important proceeding by providing the Commission with information gathered at the Second Annual Summit on the Emergency Alert System and Emergency Communications. The Summit occurred on Saturday, February 25, 2006, after the deadline for filing Reply Comments in this proceeding. As shown in the Joint Reply Comments, more than 150 critical emergency communications professionals, including State Broadcasters Association leaders, governor-appointed emergency management officials, State Emergency Communications Committee Chairs and members, and various federal officials attended the Summit, including employees of the FCC. The Joint Reply Comments include, *inter alia*, a detailed discussion of the information gathered at the Summit and provide valuable information that will assist the Commission in its resolution of the many issues raised in this proceeding.

Acceptance and consideration of the Joint Reply Comments will not be prejudicial either to the pace of this proceeding or its outcome. The Commission has been free to begin its review of the opening comments and reply comments filed in this proceeding. No party is prejudiced by this filing since parties are free to address, at any time, the merits of the various positions in this permit-but-disclose proceeding.

For the foregoing reasons, the State Associations respectfully request that the Commission grant this motion to accept and fully consider the State Associations' Joint Reply Comments.

Respectfully submitted,
NAMED STATE BROADCASTERS
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Dated: April 21, 2006

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SUMMARY

The National Alliance of State Broadcasters Associations (“NASBA”), of which the State Associations are members, hosted the Second Annual Summit on the Emergency Alert System (“EAS”) and Emergency Communications (the “Summit”) in Arlington, Virginia, on Saturday, February 25, 2006 after the deadline for filing Reply Comments in this proceeding. The goal was to bring government authorities and broadcasters together to develop appropriate plans at the state and local levels to utilize broadcasters’ unique ability to communicate with the public during a crisis.

More than 150 critical emergency communications professionals, including State Broadcasters Association leaders, governor-appointed emergency management officials, State Emergency Communications Committee Chairs and members, and various federal officials attended the Summit. The theme of this year’s Summit focused on the role of broadcasters as “First Responders” during emergencies. The stated goals of the Summit were to:

- Make certain that the effective alert and warning system that the American public relies upon will actually work and provide the life saving information they need in disasters, emergencies.
- Help educate local, state, and federal officials regarding the tremendous capabilities that broadcasters make available with EAS activation to allow authorities in crisis situations to almost instantaneously reach the largest possible public audience.
- Continue to improve dissemination plans for EAS and other emergency communications by building coalitions with state emergency management agencies and all agencies wanting to work with broadcasters to take advantage of the newest alerting technologies.
- Ensure that broadcasters continue to be the lifeline to the public that Americans expect in emergencies.

The information provided in these Joint Reply Comments details the Summit participant's discussions regarding the common problems experienced with EAS as well as practical and technological solutions to those problems.

Also provided herein is a discussion of the opening comments, and in a limited way the reply comments, of the parties in relation to the information that came out of the 2006 EAS Summit. For example, there is broad consensus that the Commission should provide for EAS improvements through voluntary measures, not through governmental mandates. Those commenters that addressed the EAS message distribution issue agree with the State Associations that the Commission should seek a means to reduce reliance upon the daisy chain distribution process, which often results in delay and failed message delivery, without imposing costly mandates on broadcasters. The State Associations and other commenters also urged the Commission to adopt a Common Alerting Protocol ("CAP") to provide for the simultaneous distribution of emergency alerts over multiple platforms, including television, radio, cable and satellite.

The State Associations and many other commenters also stated that because there is no record of a problem regarding broadcaster participation in state and local EAS, continued voluntary, and not mandatory, participation in state and local EAS alerts is the best way to ensure that the public interest is served. Finally, the State Associations and others applauded the Commission's ongoing efforts to ensure that all Americans, including those with hearing and visual disabilities, as well as non-English speakers, have reasonable access to emergency information. However, the State Associations and others believe that the Commission should not impose onerous audio transcription or multilingual requirements at this time because such proposals have not been shown to be workable and

would likely impede the distribution of emergency alerts. As discussed more fully below, the State Associations respectfully request that the Commission address the issues raised in this proceeding by working diligently with the State Associations, the NAB, broadcasters, and others with the goal of improving EAS and emergency communications to all residents of the Nation on a cooperative, *voluntary* basis, rather than on one that is grounded upon unnecessary, unrealistic and unfunded government mandates.

TABLE OF CONTENTS

	<u>PAGE</u>
SUMMARY	i
TABLE OF CONTENTS.....	iv
I. INTRODUCTION	2
II. DISCUSSION	5
A. Discussion of the Second Annual Summit on EAS and Emergency Communications	5
1. Keynote Address: Nevada Governor Kenny Quinn.....	5
2. EAS Overview: David Ostmo, Sinclair Broadcast Group	5
3. Three Furies: Lessons From Weather, Biohazards, and Natural Disasters: Moderator, Suzanne Goucher, President of the Maine Association of Broadcasters	8
4. Getting State and Local to Buy-In to EAS and Strengthening Emergency Communication to the Public: Moderator, Tom Fitzpatrick, Member, Federal Communications Commission Media Reliability and Security Council	11
5. Follow the Money - Funding Sources for Building the Infrastructure for EAS: Moderator, Dale Gehman, Vice President, Engineering, Pennsylvania Association of Broadcasters.....	14
6. Local Broadcasters As First Responders: Keynote, Dr. David Rehr, President, National Association of Broadcasters	16
7. After the Storm – Broadcasters Tested By Natural Disasters and Weather: Moderator, Ann Arnold, Texas Association of Broadcasters	17
8. Updates on Alerting: Moderator, Pat Roberts, President, Florida Association of Broadcasters	22

9.	Legislative Landscape: Moderator, Mark Allen, President, Washington State Association of Broadcasters.....	26
10.	Pandemic Preparedness and Communications: Moderator: Bob Fisher, President, Nevada Broadcasters Association.....	27
11.	Regional Breakout Reports: Moderator, Whit Adamson, President, Tennessee Association of Broadcasters.....	29
B.	Impact of the 2006 EAS Summit on the Issues Raised in the FCC's EAS Proceeding.....	32
1.	EAS Message Distribution and Common Protocol	33
2.	State and Local EAS	36
3.	EAS Accessibility for Individuals with Disabilities	38
4.	Emergency Alerts for Non-English Speakers	39
	CONCLUSION.....	42

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Broadcasters Association, Oklahoma Association of Broadcasters, Oregon Association of Broadcasters, Pennsylvania Association of Broadcasters, Rhode Island Broadcasters Association, South Carolina Broadcasters Association, South Dakota Broadcasters Association, Tennessee Association of Broadcasters, Texas Association of Broadcasters, Utah Broadcasters Association, Vermont Association of Broadcasters, Virginia Association of Broadcasters, Washington State Association of Broadcasters, Wisconsin Broadcasters Association, and Wyoming Association of Broadcasters (collectively, the “State Associations”), by their attorneys in this matter, and pursuant to Sections 1.415 and 1.419 of the Commission’s Rules, 47 C.F.R. §§ 1.415, 1.419, hereby submit this Supplement to their Joint Comments filed on January 24, 2006, in response to *Notice of Proposed Rule Making (“NPRM”)*, FCC 04-189, in the above-referenced docket, released November 10, 2005, pertaining to the Commission’s Emergency Alert System (“EAS”).

I. INTRODUCTION

This pleading has three purposes. The first is to update the record in this important proceeding by providing the Commission with details about and information gathered at the Second Annual Summit on the Emergency Alert System and Emergency Communications (the “2006 EAS Summit, “EAS Summit” or “Summit”) which was sponsored by the National Alliance of State Broadcasters Associations (“NASBA”), with important financial support from the National Association of Broadcasters (the “NAB”). The Summit took place on Saturday, February 25, 2006, after the deadline for filing Reply Comments in this proceeding. The second purpose is to relate some of the information produced at the 2006 EAS Summit to some of the key issues in this proceeding. That exercise will, of necessity, require the State Associations to comment

upon the positions of certain parties which filed comments and/or reply comments in this proceeding. The third purpose is to set the record straight with respect to the erroneous and unconstructive claim made in this proceeding by the Independent Spanish Broadcasters Association, Office of Communication, United Church of Christ, Inc. and the Minority Media and Telecommunications Council, who made the absurd claim that the State Associations believe non-English speakers do not deserve reliable and intelligent information in an emergency. While likely not required in this permit-but-disclose proceeding, in an abundance of caution, the State Associations are seeking leave to file this pleading for good cause shown.

As was true for its first EAS Summit which occurred in 2005, the goal of the 2006 Summit was to bring government authorities and broadcasters together to educate one another regarding the important roles each party plays in warning about impending disasters and in helping after a disaster has struck, including the unique ability of broadcasters as “First Responders” to communicate life saving information quickly and effectively across large areas and to large numbers of people. Another goal of the Summit was to develop appropriate plans for state and local governments to take full advantage of the ubiquitous, free, local, over-the-air technology of broadcasting to save lives and property.

More than 150 essential emergency communications professionals, including State Broadcasters Association leaders, governor-appointed emergency management officials, State Emergency Communications Committee Chairs and members, and various federal officials attended the Summit. The State Associations have summarized the information gathered at the Summit and outlined the comments of the speakers below.

It is clear from the 2006 EAS Summit that the best way to ensure fully adequate Federal, state and local emergency preparedness is not more government regulations, but rather strong, institutional leadership and commitments from all levels of government (i) to identify, improve and harness the full capabilities of all "First Responders," including broadcasters and other information dissemination technologies for the protection of lives and property, (ii) to provide adequate resources in terms of personnel, training and equipment, and (iii) to provide an ongoing educational, training and organizational framework for assessing and improving emergency preparedness. The broadcast industry has served the nation well for decades in times of national, state, and local emergencies, and will continue to do so. Given the focus that has been achieved on this issue, and the substantial progress to date in terms of emergency preparedness, the Commission should continue to use this proceeding, and the good works of MSRC, as a bully pulpit, to inspire and educate, and not to issue unnecessary and counterproductive regulations.

The State Associations applaud the Commission's ongoing efforts to ensure that all Americans, including those with hearing and visual disabilities, as well as non-English speakers, have reasonable access to emergency information. The Nevada Broadcasters Association has scheduled its third Western States EAS Summit for April 25, 2006, during NAB2006. The Summit will examine this specific issue, including how best to insure that residents receive emergency information in a language they understand. NASBA's 2007 EAS Summit will continue to address the issue as well. The State Associations fully expect that the issue will be a focus during meetings with emergency management personnel throughout the country. In the interim, the State Associations and others believe that the Commission should not impose audio transcription or multilingual mandates at this time

because such proposals are largely unworkable and would likely impede the distribution of emergency alerts. Rather, the Commission should continue to look to all parties to continue their diligent, cooperative work to find solutions that are realistic and best serve the public. As discussed more fully below, the State Associations respectfully request that the Commission address the issues raised in this proceeding by working with broadcasters and other responsible parties and by allowing all of them to continue to improve EAS on a *voluntary* basis.

II. DISCUSSION

A. Discussion of the Second Annual Summit on EAS and Emergency Communications

1. Keynote Address: Nevada Governor Kenny Quinn

The Summit's keynote address was delivered by Nevada Governor Kenny Quinn. Governor Guinn has been a strong supporter of broadcaster involvement in the Emergency Alert System for many years. The Governor thanked NASBA and the State Associations for organizing the EAS Summit and emphasized that broadcasters are "First Responders" that are integral to the successful implementation of the mission of emergency preparedness and operation. According to Governor Guinn, "We can't leave anyone out of the call to first responders ... government emergency response needs broadcasters to be equal partners in disaster response because broadcasters play a vital role in connecting government to the public." The Governor also lauded broadcasters for "getting involved" because federal, state, and local governments cannot do it alone.

2. EAS Overview: David Ostmo, Sinclair Broadcast Group

David Ostmo of Sinclair Broadcast Group presented an historical overview of EAS. Mr. Ostmo's presentation provided information demonstrating that EAS is a

wireless network connecting radio, television, and cable systems in a partnership with emergency managers, the National Weather Service and law enforcement agencies, both locally and nationally. According to Mr. Ostmo, approximately 80% of EAS activations have been for local weather-related emergencies and warnings, with many of the remaining activations being AMBER Alerts.

Mr. Ostmo's explained that the national warning system using broadcast media began in the 1950s as "CONELRAD," a system designed to provide a path for Presidential advisories while denying enemy aircraft or missiles the ability to "hone-in" on radio signals. In 1963, the Emergency Broadcast System ("EBS") replaced CONELRAD and included television for the first time. EBS also incorporated the ability of local emergency officials to call a designated station and request that the station activate the EBS for a local emergency. The distribution method was dubbed a "daisy-chain," because it resulted in stations monitoring an originating station, and then rebroadcast the emergency announcement to other stations who were listening "down the line."

Theoretically, EAS was intended to eliminate the need for local emergency management officials to contact a specially designated station to activate the system and, instead, envisioned simultaneous distribution of emergency messages to all stations directly from the emergency managers. However Mr. Ostmo demonstrated that, as a practical matter, only a few state or local management entities have taken advantage of the opportunity to communicate directly with the radio and TV stations in their areas. Consequently, the daisy-chain distribution system remains the primary means of EAS distribution in most states today.

Mr. Ostmo also pointed out that there are many shortcomings associated with EAS. For example, the visual crawl generated automatically by the station's EAS encoder/decoder ("endec"), is based on the message's generic digital header code and may vary significantly from the voice message that is broadcast with the EAS activation. There is some concern that this aspect of EAS is not compliant with the FCC's rules regarding visual presentation of emergency information (non-EAS), which might lead unattended TV stations, or those without news staff, to withdraw from participation in EAS because they fear they could be fined for not broadcasting visually the same information contained the voice message (often containing far more detail than the generic crawl generated by the endec).

Moreover, Mr. Ostmo concluded that the antiquated daisy chain distribution method is unreliable and causes significant delays in getting critical emergency information to the public. Some states have developed "point to multi-point" ("PTMP") distribution systems, such as satellite EM Net or other locally created systems that deliver the emergency message directly from emergency management officials to stations and cable systems and eliminate the daisy-chain distribution system entirely. Digital television multi-casting offers stations the opportunity to direct viewers to one of their multi-cast channels that can be dedicated to emergency messaging (or on which emergency messaging can replace existing programming). "Directed Channel Change" will allow viewers to enter their Zip Code into their set-top box and the set will automatically change to the channel that will carry messages relating to that geographic area. It is a form of "reverse-911" for television that targets viewers in specific areas affected by smaller-scale emergencies, without interrupting programming for those

viewers who are not in the affected area. Mr. Ostmo said the technology is available—it doesn't have to be invented, only “developed” through consumer education and station implementation going forward.

3. Three Furies: Lessons From Weather, Biohazards, and Natural Disasters: Moderator, Suzanne Goucher, President of the Maine Association of Broadcasters

Suzanne Goucher, President of the Maine Association of Broadcasters, and then-President of NASBA, moderated a panel which included Kenneth Moran, Homeland Security Director, Federal Communications Commission; Mark Allen, President, Washington State Association of Broadcasters; Joe Pollet, Chief Engineer, WWL-AM (Entercom), New Orleans; Dale Vincent, Station Manager/News Director, WLOX-TV, Biloxi, Mississippi; and, Laura Segal, Director of Public Affairs, Trust for America's Health, Washington, DC. The panel provided an overview of lessons learned by broadcasters and government officials through experience with disasters as varied as hurricanes, earthquakes, volcanoes, and avian flu. The “Three Furies” were a reference to the three major hurricanes which struck the Gulf Coast in 2005.

Ms. Goucher first asked for comments on the worst and best moments encountered after the hurricanes on the Gulf Coast. The panel agreed that the worst moments occurred immediately after the storms because there was a very limited ability to communicate throughout the region. Stations had to use satellite phones to reach corporate headquarters and were out of touch with employees and other critical operational aspects. The best moment was the realization that everything that had been covered in advance preparedness and that scenario training worked exactly as planned. The panelists noted that state EAS was not activated for evacuation procedures. The National Weather Service, through NOAA weather radio, however, activated EAS for

hurricane, tornado, and storm surge warnings. The panelists also gave the FCC impressive reviews for its proactive approach in assisting licensees with staying on-the-air and serving their communities.

Mr. Allen, President of the Washington State Broadcasters Association, discussed the vulnerability of Washington State to volcanoes, tsunamis, and earthquakes. He detailed a large-scale exercise conducted in Washington by emergency management officials and broadcasters simulating a large subduction zone earthquake striking Seattle.

Ms. Segal, Director of Public Affairs, Trust for America's Health, introduced the pandemic emergency into the discussion. She described the significant differences that exist between a natural disaster such as a hurricane, tornado, or earthquake and a significant influenza or other pandemic outbreak. Ms. Segal informed broadcasters that they should anticipate that quarantines will likely be in effect in the case of a pandemic and that employees may not be able to make it to stations for work. In addition, employees who are not ill, may not be able to travel into areas where news is occurring because of quarantines. Ms. Segal stressed the importance of stations preparing contingency plans to address pandemic situations such as flu, anthrax, or bioterrorism.

The Homeland Security Director of the FCC, Kenneth Moran, said that the Commission is pursuing efforts to ensure that broadcasters are considered key with other technologies and are viewed as "First Responders" in the event of emergencies. Mr. Dale Vincent, Station Manager/News Director for WLOX-TV, Biloxi, Mississippi, raised the question of whether broadcasters really are considered "First Responders" and stated that he does not believe they are treated as such by the FCC but is optimistic based on the fact

that a discussion regarding the role of broadcasters as “First Responders” is currently taking place.

Mr. Pollet, the Chief Engineer of WWL(AM) in New Orleans, recounted problems and concerns regarding identification passes which were necessary to travel through various departmental jurisdictions during the time immediately following Hurricane Katrina. According to Mr. Pollet, more study and discussion at the local level is required regarding the identification of critical employees of broadcast stations, not just news reporters, but others, such as engineers, who are critical to keeping stations on-the-air in order to ensure that the public remains informed. Mr. Pollet concluded that there is a great need for a consistent, streamlined method of identification for all broadcasters who need access to involved areas during a time of crises.

Each of the panelists also offered “lessons learned” advice to both broadcasters and emergency management officials in attendance at the Summit. For example, they agreed that stations should ensure that there is a readable list of “simple” instructions within studios and master control rooms for use in times of disaster, which must include an up-to-date list of critical emergency contacts for city, county, and state emergency coordinators. Stations located in areas prone to natural disasters should prepare portable studios, and stock the station with food (MREs), water, and sleeping gear. In addition, the panelists agreed that state and local government emergency management coordinators need to make sure that local broadcasters are included in building scenarios for training. The role of broadcasters should be built into all plans of action using radio and television for current updates to assist emergency responders in saving lives.

4. Getting State and Local to Buy-In to EAS and Strengthening Emergency Communication to the Public: Moderator, Tom Fitzpatrick, Member, Federal Communications Commission Media Reliability and Security Council

Tom Fitzpatrick, a Member of the FCC's Media Reliability and Security Council, moderated a panel which included Chuck Wolf, Chairman of the Houston Area Local Emergency Communications Committee; Dave Liebersbach, Director of the Alaska Division of Homeland Security & Emergency Management (also Immediate Past President of the National Emergency Managers Association); Eugene Berardi, Emergency Public Communication Manager, Office of the Mayor, City of New York; Eric Coleman, Commissioner, Oakland County, Michigan (Vice Chair, National Association of Counties, Homeland Security Task Force); and, Bill Kalin, Disaster Management e-Governance Initiative, Department of Homeland Security. The panel presented ideas on bringing emergency management officials into proactive participation in EAS.

Mr. Fitzpatrick offered important strategies for involving all of the parties that need to cooperate in order to provide effective emergency information to the public. He stated that stations should build relationships with the individuals responsible for emergency management at the state and local levels. He recommended that broadcasters invite emergency management officials to their stations to demonstrate how EAS and station emergency plans function. Mr. Fitzpatrick also suggested that once emergency managers understand the pivotal role played by broadcasters during an emergency, many of the communications problems discussed during the Summit will be resolved.

Department of Homeland Security representative Bill Kalin outlined goals of broadcaster/emergency manager interaction. According to Mr. Kalin, "We all want to be

a nation better prepared for all emergencies.” To that end, he outlined several useful tools that broadcasters can utilize, including the DMIS toolset as a standard based format for information that can be essential in emergency information systems. In addition, CAP is an agreed-upon universal alerting protocol that should be used because it can be accepted by the EAS messaging systems automatically and can be sent in any medium. However, Mr. Kalin stated the CAP currently does not comply with the FCC’s EAS rules because the rules have no provision for data transmission, so EAS must still use the current headers, which presents problems referred to above for television stations (i.e., the automatic visual crawl is too generic to be of use and never matches the detailed information in the audio message).

The Director of the Alaska Division of Homeland Security & Emergency Management, Dave Liebersbach, urged broadcasters to integrate themselves within local emergency managers’ plans and to become involved with their planning processes. According to Mr. Liebersbach, a paradigm shift in attitude needs to start at the local level and engaging state and local emergency management officials is critical to the success of any broadcaster’s plan to be proactive in addressing its public interest obligation to serve the community during a disaster. Turnover in emergency management is high, as it is in broadcasting, so there are often opportunities to get the attention of a new emergency management department head as openings occur. Mr. Liebersbach also said that outreach to the public is vital because the public often does not understand the importance of broadcasters providing emergency information. Education regarding the importance of the EAS is necessary so that viewers and listeners will understand why their programming is being interrupted. Mr. Liebersbach also urged NASBA to become

involved with the National Emergency Managers Association (“NEMA”), which is an international association of emergency managers, including local emergency managers, that can be a strong ally in engaging broadcasters and emergency managers.

Mr. Coleman Commissioner, Oakland County, Michigan, argued that there is a need to determine a method to establish a robust EAS system that is compatible with the functions of new and emerging technologies such as podcasting and video phones.

Insight regarding why EAS has proven to be successful in Houston was provided by Chuck Wolf, the Chairman of the Houston Area Local Emergency Communications Committee. According to Mr. Wolf, the success in Houston is based on a number of factors including the fact that the Local Emergency Communications Committee (“LECC”) Chairman in Houston is independent; the executive committee is very active; there are dedicated working members on all of the subcommittees; and the long history of disasters in the Houston area has illustrated the need for detailed planning. Mr. Wolf also said that the Houston LECC makes use of as many technologies as possible to increase the robustness of emergency alerts and the LECC has a joint information center in which the Public Information Officers for all of the jurisdictions work together during a disaster response. In addition, the LECC makes use of Reverse-911 and a system called “First Call Interactive Network.” The Houston LECC also uses an e-mail system of information distribution and has established a regional network of Public Information Officers that includes local, state, federal and private sector entities.

Mr. Berardi, Emergency Public Communication Manager, Office of the Mayor of New York City, discussed how New York approached the development of EAS following the 911 attacks and the city’s successful development of its’ LECC plan. The

LECC was established with the goal of creating an EAS that could survive major disasters. According to Mr. Berardi, this idea was very important because it helped define the roles of broadcasters, emergency responders, and others involved in the emergency alert process. The LECC also integrated a large and geographically diverse number of activation points and transmission nodes (ETVRS or Emergency Television and Radio Sites) with redundancy to increase the likelihood that the system would not be destroyed. The LECC recognized that although EAS is the primary emergency choice for quick delivery of short, critical messages, other tools are available. To that end, the LECC formed a four station LP-1 partnership and looked beyond EAS, including permanent maintenance action items to keep the system functioning. According to Mr. Berardi, the LECC also explored web site options and created several studios around the city to permit generation and transmission of emergency information. He cautioned emergency managers in the audience that EAS should not be considered a pipeline to the newsroom, but rather, as part of the community service obligation of broadcast stations. He also reminded broadcasters that emergency managers may be too busy working an incident to develop and approve information distribution and that broadcasters should try to eliminate information bottlenecks before they occur. Finally, Mr. Berardi stressed the importance of broadcasters getting to know local emergency managers in order to develop information distribution systems prior to an emergency.

5. Follow the Money - Funding Sources for Building the Infrastructure for EAS: Moderator, Dale Gehman, Vice President, Engineering, Pennsylvania Association of Broadcasters

Dale Gehman, Vice President, Engineering, Pennsylvania Association of Broadcasters, moderated a panel which included Hank Black, Assistant Director,

Communications, Maryland Emergency Management Agency; Ben Green, Assistant Chief, Telecommunications, California Office of Emergency Services; Don Hicks, President, Missouri Broadcasters Association; and Harold Joyner, Government Analyst, Department of Community Affairs, Division of Emergency Management, Florida. The panel was a continuation of a similar panel that participated in the 2005 EAS Summit. The goal of the panel was to provide information for attendees in order to assist them in securing funding for EAS system enhancements. Mr. Gehman challenged the attendees to consider what progress they have made to enhance EAS in their respective states during the year that passed since the first EAS Summit.

Mr. Hicks of the Missouri Broadcasters Association indicated that it did not take a considerable amount of money to achieve success making minor EAS enhancements. According to Mr. Hicks, Missouri wanted to eliminate the daisy-chain distribution platform and obtained funding from Southwestern Bell to purchase equipment that would allow the state police to communicate directly with broadcast stations. The program has been successful and Mr. Hicks recommended that both broadcasters and emergency officials use their best efforts to locate similar means of funding.

Maryland Emergency Management Agency member Hank Black noted that rules for homeland security grant programs have been tightened because of the manner in which budgets are currently being allocated. However, Mr. Black outlined several grant programs and funding availabilities, including the Citizen Corps Program; emergency management performance grants; law enforcement terrorism prevention program; state homeland security programs; and, the Urban Areas Security Initiative. Mr. Black also said that additional funds could be obtained for interoperability projects.

Mr. Black also offered additional suggestions to broadcasters for optimizing the opportunity to obtain grant funding: Work with the state administrative agency that will be using or receiving the funding; locate the state grants office and determine whom to contact; build relationships; find grant programs with awards that project a mission similar to the station's; monitor the websites of grant organizations for news and workshops that give insight to funding priorities; make use of online grant research resources; employ a grant writing service, if broadcasters do not have grant writing experience or expertise; partner with state and local governments and private entities. Lastly, Mr. Black provided web site links to assist organizations in obtaining grant information.

6. Local Broadcasters As First Responders: Keynote, Dr. David Rehr, President, National Association of Broadcasters

Dr. David Rehr, President of the National Association of Broadcasters was the lunch keynote speaker. Mr. Rehr described the prominent role that broadcasters and the State Associations are playing to implement local EAS plans and he pledged that NAB will continue to assist with those efforts going forward. Dr. Rehr pointed out that it is essential to communicate in the same language, with the right message, at the right time. Programming during disasters dwarfs the information provided during the short duration of EAS messages and is the critical link to saving lives in a disaster. Broadcasters must continue to work with government agencies to explore how new technologies can enhance EAS. When the FCC adopts a digital EAS protocol, broadcasters will work to bring wireless technology into the fold in order to get emergency information out to as many people as possible.

Dr. Rehr also noted the need for emergency information distribution to non-English speakers and the hearing impaired. However, he urged the FCC not to implement burdensome new regulations that will slow down distribution of critical emergency messages. He reiterated broadcasters' desire to have the federal government maintain strong federal oversight of state and local *voluntary* EAS plans. According to Dr. Rehr, the Federal government must ensure that state and local emergency personnel have the funding, training, and equipment to get the job done, including interoperability of communication systems.

Finally, Dr. Rehr pointedly criticized the practice of "cable override," saying that there is no reason that cable viewers should be blocked from getting the critical point by point emergency information they need because cable switches away from detailed emergency coverage by local broadcasters. Mr. Rehr stated that Congress and the FCC should require selective override and that the longer the FCC refuses to do so the more lives that are endangered. Dr. Rehr concluded by acknowledging the report of MSRC that underscores radio broadcasters' unique ability to reach members of the community during a disaster.

7. After the Storm – Broadcasters Tested By Natural Disasters and Weather: Moderator, Ann Arnold, Texas Association of Broadcasters

Ann Arnold of the Texas Association of Broadcasters moderated a panel which included Pat Roberts, President of the Florida Association of Broadcasters; Lou Munson, President of the Louisiana Association of Broadcasters; Jackie Lett, President of the Mississippi Association of Broadcasters; Steve Davis, Senior VP, Engineering, Clear Channel Radio; Linda Compton, President of the Indiana Broadcasters Association; and Sharon Tinsley, President of the Alabama Broadcasters Association. The panel focused

on the cooperation, dedication, and bravery exhibited by broadcasters during the series of hurricanes that struck the Gulf Coast.

The President of the Mississippi Association of Broadcasters, Jackie Lett, praised local broadcasters for “living up to what they’re supposed to do” before, during, and after Hurricane Katrina. Ms. Lett noted the National Weather Service activated the EAS, but the public did not understand the warnings or the seriousness of the situation and recommended that broadcasters and others provide additional educational efforts targeted to the public. Ms. Lett also stressed the need for authorities to view broadcasters as First Responders and to recognize that broadcasters must have the ability to stay on the air if emergency information from the government is to continue to reach the public in a time of crisis. According to Ms. Lett, broadcasters are overlooked and taken for granted until an emergency occurs and suddenly broadcasters are heavily relied upon to get the word out, but without prior planning and inclusion of broadcasters as First Responders, the effectiveness of any effort is critically impaired. She said the greatest challenge in the aftermath of Katrina was getting fuel to broadcast stations for their generators. Indeed, she noted that a shipment of fuel was confiscated by police officers that did not consider a broadcast station to be a critically important first responder. Ms. Lett indicated that broadcast stations need to be included as part of the lists of critical infrastructure that will be prioritized for resources such as fuel to ensure that safety information reaches the public.

Mr. Munson, President of the Louisiana Broadcasters Association, reminded the Summit participants that if it were not for broadcasters, the Louisiana death toll would likely have been much higher. According to Mr. Munson, it is only a matter of when, not

if, another disaster will strike and broadcasters and state and local emergency management officials must ensure that they are prepared to handle such emergencies. Mr. Munson also noted that a number of stations broadcast their signal over the Internet in the aftermath of Hurricane Katrina so that displaced residents could keep up to date with what was occurring back home.

The President of the Alabama Broadcasters Association, Sharon Tinsley, explained that Alabama learned many lessons in 2004 from Hurricane Ivan and put them to good use during Hurricane Katrina. The Alabama EAS was activated 36 hours before landfall of Hurricane Katrina by the Alabama State Department of Transportation to announce implementation of the lane reversal system for evacuation. According to Ms. Tinsley, the greatest lesson to be learned from the hurricanes is that stations need emergency generators in order to stay on the air. The Alabama Broadcasters Association received information about stations with which they were out of contact directly from power companies' employees who were on the scene. Ms. Tinsley noted that this sort of creativity in making contact is essential during a disaster because normal avenues of communication are not always available. In addition, Ms. Tinsley, like other panelists during the Summit, noted that e-mail proved to be an invaluable tool and was a reliable way to make contact with stations during the disasters.

Mr. Roberts, President of the Florida Association of Broadcasters, noted that Presidentially declared disasters can result in federal funds being available to broadcasters. He also stated that broadcasters must get to know the local emergency management staff in order to be able to serve their communities in times of disaster. "If you're a part of the emergency management group you are in good position," said

Roberts. He explained that one reason EAS works so well in Florida is that broadcasters in the state participate as an integral part of the Emergency Operations Center (“EOC”) during activations. Mr. Roberts said this was standard operating procedure in Florida before Hurricane Andrew in 1992 and has evolved since then. Currently, state EOC managers provide ID “First Responder” badges for media, placards for news units, high priority for fuel distribution (immediately behind hospitals, law enforcement, agencies, and prisons). In return, Florida broadcasters accept responsibility beyond EAS to distribute information to the public before, during, and after emergencies. Mr. Roberts said Florida normally does not activate EAS for hurricanes, but flexibility is built into their plan.

Ms. Compton, President of the Indiana Broadcasters Association, noted that her home state of Indiana is located in “Tornado Alley” and recalled a tornado that struck Evansville in November of 2005. The tornado occurred at night and she believed that EAS probably was not helpful because most residents were asleep at the time and did not have radio or television sets turned on. Realizing the shortcomings associated with the outdated EAS system, the Indiana Broadcasters Association established a working partnership with the Indiana State Police, the State Department of Homeland Security, and worked to establish a satellite EMNet. Despite these efforts, Ms. Compton noted that in cases where emergency management, either state or local, is not supportive of the EAS, the heavy lifting has to be done by broadcasters. Ms. Compton discussed her review of a homeland security grant document, but raised concerns that while it includes a great deal of information regarding communications in general, it deals primarily with communications between government agencies and not communications to the public.

According to Ms. Compton, broadcasters need to fight vigorously for their rightful place as “First Responders” in emergency plans.

Senior Vice President of Engineering of Clear Channel, Steve Davis, discussed Clear Channel’s response to Hurricane Katrina. According to Mr. Davis, Clear Channel had stockpiled resources well in advance of Hurricane Katrina with the goal of providing continuing service to the communities through Clear Channel’s radio stations in the event of an emergency. Mr. Davis emphasized that station employees need to be taken care of if they are going to be effective and be able to continue to deliver service to their communities for the duration of a crisis. Mr. Davis said that Clear Channel found that e-mail was an excellent way to communicate within the company to determine needs and allocate resources.

Mr. Davis also discussed the issue of EAS readiness given that EAS equipment is the core element of first response to disasters. If the equipment is not installed, tested, and working, there is a breakdown of the system at the very inception. In addition, Mr. Davis said it is imperative for local authorities to be well-trained in order to be effective. As an example, Mr. Davis cited a scenario often used inaccurately as a criticism of broadcasters and consolidation in the industry: the Minot, North Dakota train derailment. According to Mr. Davis, the accurate story was that local law enforcement was unable to activate EAS because it had not properly installed the necessary equipment. Indeed, local authorities made an effort to use outdated EBS contact information that had been obsolete for many years and were unaware of the existence of their own EAS equipment. Mr. Davis stated that the FCC must ensure that EAS equipment of local activators is properly installed and operational, and that staff is properly trained. EAS can be effective, but

there must be 100% cooperation and a healthy dialogue between broadcasters and local emergency management agencies to ensure that it works 100% of the time.

Moderator Ann Arnold of the Texas Association of Broadcasters reported similar failures of Texas state and local authorities to utilize EAS, which is needlessly jeopardizing lives. Ms. Arnold stated that two elderly women had recently perished in their homes during a wild range fire in Cross Plains, Texas. According to Ms. Arnold, local authorities sent police officers to the impacted areas and they used bullhorns to warn people to evacuate but the women lived too far from the highway to hear the warnings. The local fire marshal determined that the women were watching television and would likely have seen or heard EAS warnings if local authorities had alerted broadcasters.

**8. Updates on Alerting: Moderator, Pat Roberts,
President, Florida Association of Broadcasters**

Mr. Roberts of the Florida Association of Broadcasters moderated a panel which included Panelists Bob Ross, CBS, MSRC; Jim Keeney, NOAA/NWS; Kevin Briggs, FEMA, Office of National Security Coordination; Watt Hairston, Chairman, Primary Entry Point Advisory Committee; and Jim Gabbert, SECC Chairman, California.

Mr. Ross agreed that the Summit's theme "Local Broadcasters Are First Responders" is really true, but also stressed that, as such, broadcasters must be prepared to be on the air at all times in order to ensure that the public is made aware of emergencies as they occur. According to Mr. Roberts, only a small number of first responders actually know their news directors at local stations. Mr. Ross asked attendees the following question: What is your plan if all of the facilities and resources you use are no longer available? In an effort to assist broadcasters in responding to this question in

the future, Mr. Ross discussed the mission of the MSRC toolkit group. Specifically, MSRC is striving to develop model documents and other resources for local use based on best practices recommendations. Mr. Ross noted that station Chief Engineers should review the toolkit carefully and ensure that their station is ready in case of an emergency. Mr. Ross also provided helpful web site links for the MSRC Model Vulnerability Checklists for Radio & TV: www.fcc.gov/msrc and www.mediasecurity.org.

Jim Keeney of NOAA and NWS discussed a series of NOAA projects, including “Storm Ready/“Tsunami Ready,” and “Haz Collect.” Storm Ready/Tsunami Ready is a project that is intended to certify that counties have built infrastructure and systems that will help save lives and protect property when disaster strikes. In order to qualify for certification, counties must have a 24 hour warning point, often the county emergency operations center. Counties must also be able to receive and provide critical warning information from NOAA Weather Radio; NOAA Weather Wire; EM Weather information network; news media; internet/pager/cell phone. They must be able to monitor evolving weather situations and events and must be able to disseminate the warnings to the public through EAS; cable override; NOAA Weather radio in public buildings; community sirens; and other warning mechanisms that may be unique to the community. Counties are required to work to increase community preparedness with spotter and dispatcher severe weather training and public weather safety presentations. Finally, they must enhance their internal operational procedures by reviewing their hazardous weather action plan to ensure that plans are current. Mr. Keeney reported that the system has been effective when it has been put in place carefully and enthusiastically, and offered several examples of storm ready communities that have helped save lives,

specifically during the F-4 tornado that struck Van Wert, Ohio, in November of 2002.

Mr. Keeney reminded the attendees that material on Storm Ready resources were in the Summit notebook that was provided to all attendees.

The SECC Chairman of California, Jim Gabbert stated that there is an inconsistency between the EAS mission of the federal government and the other uses of EAS. Specifically, he noted that the mission of the FCC and FEMA is to ensure that the President is on the air in case of a *national* emergency. Yet according to Mr. Gabbert, the vast majority of emergencies are *local* but the federal government does not seem to get that message. “A great system is only as good as the person who pushes the button,” Gabbert said and stated that most glitches in the system come from lack of training, not from the technology used. Moreover, personnel turnover is a problem for emergency managers and broadcasters that must be addressed with continual training, and funding assistance from the federal government to ensure that all employees receive the necessary EAS training.

Mr. Hairston presented a brief background discussion of the Primary Entry Point (“PEP”) Advisory Committee and discussed the details of the PEP system. PEP is the successor to the Federal Broadcast Station Protection Program that provided funding for “hardening” of critical broadcast infrastructure. PEP stations are located in strategic areas throughout the United States with the mission of connecting the President to the public in time of disaster. PEP provides a robust system in the event of a catastrophic disaster, which is usually at the top of most state EAS plans. However, the PEP system of stations does not cover the continental United States during the day. The PEP administrative council (“PEPAC”) is made up of engineers from each PEP station. After

the 2005 Summit, PEPAC changed its agreement with National Public Radio (“NPR”) and provided a direct link for NPR to monitor national emergency messages from FEMA headquarters. In order to complete the circuit from FEMA to local stations to the public, each NPR station needs to connect their NPR cue box to the input of their EAS box, so that all parties monitoring can receive activations of the PEP system.

In addition, subsequent to the 2005 EAS Summit, plans were developed to expand the number of PEP stations to ensure the widest possible coverage of the system.

Specifically, PEPAC developed a search for stations with the widest signal coverage and has approved new PEP stations in Alabama, Nebraska, Mississippi, Michigan, Iowa, Wisconsin, Indiana, Oklahoma, Connecticut and Washington, DC. In addition, PEPAC instituted a station testing initiative, which has resulted in the testing more than 50% of the PEP stations, and the tests have uncovered very few system failures. The 2005 hurricane season showed the value of stations having 30 days worth of generator fuel on hand in order to continue to operate during emergencies when power is lost. PEPAC is developing plans for a portable radio station/studio for deployment by June 1, 2006.

FEMA representative Kevin Briggs discussed FEMA’s Integrated Public Alert and Warning System (“IPAWS”). IPAWS is a Department of Homeland Security program initiated in 2004 to improve public alert and warning in partnership with NOAA and other public and private stakeholders. It is a “system of systems” that includes EAS and digital EAS, the National Warning System (“NAWAS”), the Department of Homeland Security Website and Web-Based Alerting Framework and other initiatives. The goal of IPAWS is to improve all aspects of public alert and warning to save lives and property and, to ensure effective alerts to all people, over all media, in all scenarios.

IPAWS has plans to upgrade current emergency warning capabilities to provide for audio, video, text and data messages; to meet the needs of those with disabilities; to deliver messages directly to broadcasters with local addressing capabilities; to provide national level alerts via radio, television, e-mail, internet, cell phones and other wireline and wireless devices; to expand geo-targeting of messages; and, to extend the interoperability and integration of emergency messaging. IPAWS also plans to develop more extensive collaboration capabilities between federal, state, and local agencies and emergency message delivery media; to provide assured message dissemination through a protected and secure system; and, to use international standards and non-proprietary systems where it is possible to do so.

**9. Legislative Landscape: Moderator, Mark Allen,
President, Washington State Association of
Broadcasters**

Mark Allen, President of the Washington State Association of Broadcasters, moderated a panel discussion which included the following panelists: Dana Lichtenberg, senior Legislative Assistant for Telecommunications, Office of Representative Bart Gordon (TN, D-6th Dist.); Michael Bopp, Majority Staff Director, Senate Homeland Security and Governmental Affairs Committee; Linda K. Moore, Analyst, Telecommunications Policy, Congressional Research Service, Library of Congress. The panel discussed the ways in which Congressional legislation will address the communications and emergency response issues raised during the Summit, particularly with respect to the Gulf Coast hurricanes.

CRS analyst Linda Moore referred to EAS as not having been mentioned in what has been previewed so far in recent Gulf disaster discussions on Capitol Hill. According to Ms. Moore, a Senate bill was pending which may appropriate funding for NOAA but it

likely will not include sufficient funds for emergency alert networks. Ms. Moore also mentioned a pending House bill which addresses the issue of accessibility of emergency alerts for disabled persons.

Ms. Lichtenberg of Congressman Gordon's Office indicated that committee jurisdictional issues will slow down movement on the aforementioned bills because most, if not all appropriate federal agencies are governed by different House committees. She felt that it was important to work on all the various pieces of an emergency alerting system separately and ultimately bring them together in a single legislative package.

According to Mr. Bopp of the Senate Homeland Security and Governmental Affairs Committee, there are several reports in the works regarding federal responsiveness to the Gulf Coast hurricanes. Mr. Bopp said that the Senate report will be released sometime in March, following the House and White House reports. He predicted that there likely will be a Senate Bill introduced by the end of 2006. The White House Report made a number of points and recommendations, including a lack of inoperability and communications on the ground during recent disasters. For example, the report indicated that advance teams had no way of communicating with headquarters in Baton Rouge, Louisiana after Hurricane Katrina. According to Mr. Allen, first responders at the local levels should be the first to get what is necessary in the way of funding and spectrum needs. As a result, Mr. Allen believes that the current FCC rulemaking proceeding regarding EAS will be of great value to Congress.

**10. Pandemic Preparedness and Communications:
Moderator: Bob Fisher, President, Nevada
Broadcasters Association**

Bob Fisher, President of the Nevada Broadcasters Association moderated a panel which included Marc Wolfson and Ira Dreyfuss, Public Affairs Specialists for the

Department of Health and Human Services. Mr. Wolfson began the discussion describing the significant differences that exist between a disaster such as an earthquake, tornado, hurricane, or tsunami and a pandemic disease. Mr. Wolfson asked the attendees to consider the different issues that would arise during a pandemic. Specifically, he asked: “What are we going to do? How are we going to handle it? How do we manage it?” In responding to these questions, Mr. Fisher warned the audience that techniques such as surveillance, quarantine, and isolation will be just a few of the ways authorities will likely seek to remedy the situation. According to Mr. Fisher it is possible that there will be non-governmental actions, as well, such as societal interventions (i.e., social distancing, closing schools) and public health protocols to address the pandemic itself (i.e. vaccines; anti-virals). Mr. Fisher also reminded the audience that one of the particularly difficult tasks in connection with defusing a pandemic is that viruses are immune to state or political boundaries and, unlike natural disasters, can be transmitted quickly and effortlessly from one place to another, particularly because of our very mobile society.

Mr. Dreyfuss stated her belief that there is no adequate system to inform the public in case of a pandemic. He suggested a pre-disaster educational effort by broadcasters distributed as public service announcements, aired voluntarily. Mr. Dreyfuss also suggested that during a disaster emergency managers might consider e-mailing MP3 sound files to state broadcasters associations that could then, in turn, e-mail them to stations that are able remain on-the-air. Content should be extremely localized because stations would not want to alarm or desensitize viewers and listeners who are not in an area not affected by the emergency. The material must be timely and could be

changed as the need for different information changes. According to Mr. Dreyfuss, a working group on pandemic preparedness currently exists which includes state broadcaster association executives, station executives, and Department of Health and Human Services staff. Mr. Dreyfuss also provided the following a web site address for further information regarding a potential pandemic: www.pandemicflu.gov. Mr. Dreyfuss ended his discussion by reminding broadcasters that they should prepare to keep their stations operating during a pandemic when upwards of 30% of their workforces might be unable to show up to work based upon illness or quarantine.

11. Regional Breakout Reports: Moderator, Whit Adamson, President, Tennessee Association of Broadcasters

To conclude the Summit, all attendees were divided into groups based upon geographic FEMA region and were assigned a National Weather Service Warning Meteorologist to guide their discussion of the response to a hypothetical disaster. Each of the breakout sessions considered its own local Emergency Communications Case Study Regional scenarios. A region by region summary is provided below:

Region 1 - New England: The New England group concluded that cross-border communication is vital because of the small size of each state located in New England. The group also concluded that their cross-border communication was adequate, yet determined that it could be improved, which would be critical during a regional EAS scenario. The parties also concluded that the New England states should develop a regional memorandum of understanding and develop educational materials for the public.

Region 2 - Mid-Atlantic: Several issues were raised, including possible cross-border coordination that should exist between New York and New Jersey. The Group

also discussed airing live coverage of breaking news events when EAS activation is completed to deliver additional information to the public.

Region 3 - Central Atlantic: Each state in the Region is currently using satellite delivery, but the systems are not integrated. Consequently, the Group decided that the primary issue to consider is how to coordinate emergency messaging between the states. In addition, the Group determined that because the nature of incidents differs between the coastal and interior states in the Region, the disparities will require additional planning going forward.

Region 4 - Southeast: The Region decided that early preparedness is the key to EAS success. Additional training for station personnel is essential, and stations should test continuously and ensure that their EAS encoder/decoder units have been programmed with all of the updated codes.

Region 5 - Upper Midwest: This group identified common issues to work on going forward, such as, continuing education for emergency management/first responders and broadcasters; the need to get broadcasters into the written local emergency management plans; and the need for coordination beyond state boundaries to include states throughout the Region.

Region 6- Southwest: The participants concluded that strong local coordination exists between emergency management and broadcasters in the Region, although there is a need to develop an even closer working relationship between all parties. The Region also concluded that it is important to implement as efficient an EAS system as possible and to have a low tech backup plan in case the high tech system fails. In addition, the

Region identified the need to develop a stronger public education program, possibly including an emergency management information resources web site.

Region 7 - Midwest: The participants decided that satellite radio providers should have a dedicated emergency channel. All parties must be able to communicate during an emergency with all possible communication tools available, including two-way radio/phone capabilities and talk groups; use of a satellites as a repeater; RACES; and amateur radio.

Region 8 - Rocky Mountains/Upper Plains: The Region determined that EAS has been much improved since the addition of AMBER Alerts, which provided much higher EAS visibility to the public, local law enforcement, and emergency management officials. Each state must continue to work toward building a robust, redundant system and one that can work with other states in the Region. The group also recognized that each state EAS plan has its own unique needs, problems and characteristics, but that there should be more interaction with local emergency management officials including broadcasters in emergency response planning and training exercises. The Region felt that it was not enough to simply test EAS, but that it should be graded and improved based on feedback from testing.

Region 9 – West: There are a number of different disaster scenarios for each state in the Region and each state has a different emergency plan. The participants identified a need for regional EAS meetings and suggested installation of EAS encoder/decoders in National Weather Service offices in Arizona and Nevada. The Region also suggested that California's Emergency Digital Information System could be deployed throughout

the region. The Region also made the decision to meet in April to explore development of a regional EAS plan that applies to all of the states in the Region.

Region 10 – Northwest: The participants worked through a disaster scenario based on a tsunami triggered by a major earthquake on the Alaska coast. The discussion focused on the timeline of the tsunami and the activation of EAS along its path. The Region also shared ways in which state and local emergency operation center activities, operations, and protocols operate differently in the different states, and recommended the inclusion of evacuation maps in telephone books.

B. Impact of the 2006 EAS Summit on the Issues Raised in the FCC’s EAS Proceeding

As mentioned above, the 2006 EAS Summit is the second annual summit sponsored by NASBA. This year the NAB provided important financial support without which the Summit would not have been such a huge success. No one should doubt the good faith, and strong commitment of the State Broadcasters and the broadcast industry as a whole to the goal of protecting all residents of the United States of America in times of national, regional, statewide, and local emergencies. The State Associations will continue to work closely with the FCC, DHS, all state and local governments, and others, to improve emergency communications to all persons, as well as to persuade emergency managers nationwide to fully accept broadcasters and their personnel as integral “First Responders” in times of threatened and actual disasters.

In addition, the information provided at the EAS Summit and in comments in this proceeding have conclusively demonstrated that the existing, mutual commitment of state and local emergency management authorities and broadcasters to work together in this important mission is the best way to ensure that the public is well served. The State

Associations applaud the Commission's ongoing efforts to ensure that all Americans, including those with hearing and visual disabilities, as well as non-English speakers, have sufficient access to emergency information. As discussed more fully below, the State Associations respectfully request that the Commission resolve the issues raised in this proceeding by working with broadcasters and allowing them to continue to improve EAS on a *voluntary* basis absent further regulation.

1. EAS Message Distribution and Common Protocol

Those in attendance at the recent EAS Summit, as well as many commenters in this proceeding, addressed the EAS message distribution issue and agree with the position of the State Associations that the Commission should reduce its reliance upon the daisy chain distribution process which often results in delay and failed message delivery, and, as a result, should encourage the deployment of redundant point-to-multipoint systems without imposing costly mandates on broadcasters. Participants at the EAS Summit, with the State Associations and other commenters in this proceeding in agreement, have also indicated that the Commission should adopt common alerting protocol to provide for the simultaneous distribution of emergency alerts over multiple platforms, including television, radio, cable and satellite.

The *FNPRM* questioned whether EAS messages should be distributed directly to media outlets, rather than through the hierarchal daisy-chain system, where messages are relayed through a series of designated entry points depending on a broadcast station's or cable system's function within EAS.¹ As the State Associations discussed in their Joint Comments, there are inevitable lapses in the chain which result in message delays or in a

¹ See *FNPRM* at ¶ 66.

message not reaching the public.² Several commenters found similar fault with the daisy chain system, including the Society of Broadcast Engineers (“SBE”) which call for implementation of new point-to-multipoint distribution systems to link various state and local government sources with the EAS entry points that provide and distribute this information to the public, including delivery through satellite networks, as a superior method than the daisy chain approach.³ The NAB persuasively argued in its comments that a point-to-multipoint architecture will result in redundancy, which will increase the reliability of EAS.⁴ The State Associations fully agree with this position as well as with the NAB’s position that while broadcasters remain the most reliable source for EAS distribution, other media outlets, as well as wireless providers, are free to monitor local broadcasters to obtain EAS data for delivery to their subscribers.⁵

While the State Associations are in favor of reducing the historical heavy reliance on the daisy chain and supporting implementation of point-to-multipoint delivery systems in order to remove one of the most significant weaknesses in the current system, the State Associations respectfully decline to endorse any specific EAS enhancement. For example, as discussed above in connection with the EAS Summit, the EMNet satellite system used by broadcast stations in a number of Mid-Atlantic states, and beyond, allows messages to reach many receivers simultaneously in a matter of seconds, without the need for any intermediaries.⁶ Thus, the system is in many ways superior to the current daisy chain system. However, the satellite-based EAS systems are expensive to maintain.

² See Joint Comments at 10.

³ See Comments of SBE at 5.

⁴ See Comments of NAB at 4.

⁵ *Id.* at 5.

⁶ See Joint Comments at 10.

Therefore, the State Associations request that the Commission refrain from imposing any costly new mandate on broadcasters, which already have borne many of the costs associated with EAS implementation. If the Commission were to nevertheless require expensive EAS upgrades, the federal government, and not broadcasters, should absorb the costs associated with the upgrades necessary to increase the reliability of EAS.

The *FNPRM* also sought comment on whether CAP should be adopted for any future digitally-based alert system with regard to facilitating the simultaneous distribution of emergency messages over multiple platforms.⁷ The EAS is currently based upon different systems which prevent emergency alerts from being dispersed over multiple platforms including television, radio, satellite, and cable. Participants at the Summit and the majority of commenters in this proceeding that addressed the common protocol issue, including the State Associations, support the use of CAP because of its ability to increase accessibility and ensure that everyone receives the same emergency messages.⁸ The State Associations support the adoption and implementation of CAP in order to allow for simultaneous EAS distribution to radio, broadcast, cable and wireless media, with broadcasters operating as a conduit for such messages. The Association for Maximum Service Television, Inc. (“MSTV”) also demonstrated that CAP would be beneficial because, as a flexible standard, it is adaptable to change allowing it to accommodate technical improvements as they occur going forward.⁹ NAB agrees but conditions its support of CAP on the Commission ensuring that CAP is fully compatible with existing

⁷ See *FNPRM* at ¶ 67.

⁸ See, e.g., Joint Comments at 11; Comments of NAB at 6; Comments of MSTV at 5; Comments of Cox at 4; Comment of the National Cable & Telecommunications Association at 5, Comments of SBE at 4.

⁹ See Comments of MSTV at 6.

EAS encoders/decoders and does not make obsolete already installed equipment.¹⁰ The State Associations agree. As pointed out by the State Associations, NAB, Cox Broadcasting, Inc. (“Cox”), MSTV, and others, once a uniform protocol is adopted, it would increase the effectiveness of EAS by eliminating the need for multiple interfaces.

2. State and Local EAS

The *FNPRM* raised the question of whether the Commission should adopt rules to require broadcasters to retransmit EAS messages issued by the governors of the states in which they provide service.¹¹ No one supported the concept at the EAS Summit. Indeed, in their Joint Comments, the State Associations strongly urged the Commission not to adopt such a requirement.¹² Those that specifically commented on the issue in this proceeding are also opposed. For example, the NAB, as did the State Associations, makes the compelling argument that there is simply no reason to mandate state and local EAS in light of the broadcast industry’s proven track record of working with state and local officials, including the many governors, to provide timely and accurate information to the public in times of emergency.¹³ Similarly, Cox agrees that given broadcasters’ impressive record of service, performance standards and reporting requirements are unnecessary.¹⁴ NAB and MSTV both persuasively argue that the FCC lacks authority to mandate state and local EAS participation because Section 706 of the Communications Act limits Commission authority in this area to the regulation of national emergency

¹⁰ See Comments of NAB at 7.

¹¹ See *FNPRM* at ¶ 73.

¹² See Joint Comments at 13.

¹³ See Joint Comments at 13; Comments of NAB at 3.

¹⁴ See Comments of Cox at 5, 7.

broadcasting.¹⁵ In short, as highlighted in the Joint Comments of the State Associations, and as supported by the Summit itself, numerous examples exist which demonstrate the responsiveness of broadcasters to calls from all levels of government for disaster warnings and post-disaster help.

The State Associations and others also raised a number of practical problems that would be very difficult to resolve satisfactorily, such as determining which state authorities have the ability to demand access, how long the state authorities should be able to control access, and what system would be used to ensure that state authorities do not abuse the process.¹⁶ Moreover, as noted above, a number of parties at the EAS Summit questioned how licensees would respond if presented with conflicting demands from multiple local officials with inconsistent or conflicting information during a region-wide emergency.¹⁷ Parties also questioned mandatory participation based on the rationale that if every local emergency manager is suddenly given direct control over a station's airwaves, it can be expected that use of the system will skyrocket, causing the public to become inured to alert messages and to begin to "tune out," thus rendering the system ineffective for times when it is truly needed. Parties also opposed mandatory participation in state and local EAS based on the potential for a limitless number of activations and the risk that overexposure could dilute the impact during major emergencies. The State Associations agree and reiterate their contention that mandatory broadcaster participation in state and local EAS alerts is unnecessary, counterproductive, and likely impermissible.

¹⁵ See Comments of MSTV at 9-10; Comments of NAB at 9.

¹⁶ See Joint Comments at 14.

¹⁷ See Comments of MSTV at 8-9.

3. EAS Accessibility for Individuals with Disabilities

In the *FNPRM*, the Commission inquired as to “whether entities that are subject to the Commission’s EAS rules be required to make an audio EAS message accessible to those with hearing disabilities by using a transcription of the audio message through the use of closed captioning or other methods of visual presentation.”¹⁸ In its Joint Comments, the State Associations supported the Commission’s goal of assisting both the vision and hearing impaired because of the State Associations’ belief that these groups, which are the most disadvantaged during an emergency, deserve adequate access to emergency information.¹⁹ However, as demonstrated by the State Associations, NAB, MSTV, and others, while the Commission’s goals in this area are commendable, a real-time audio EAS transcription requirement is simply not workable at this time, and would more likely than not impede the timely dissemination of emergency information.

Numerous comments in this proceeding and the FCC’s closed captioning proceeding have demonstrated that there are extremely few real-time stenocaptioners that are available in non-emergency conditions, and expectedly even fewer would be available on short notice in the event of an emergency.²⁰ If real-time captioning were even possible, requiring this type of captioning would result in a severe economic burden on

¹⁸ See *FNPRM* at ¶¶ 74-80.

¹⁹ See Joint Comments at 15-16.

²⁰ See Comments of NAB at fn. 13, citing *In the Matter of Closed Captioning of Video Programming*, Reply Comments of NAB, CG Docket No. 05-231, Dec. 16, 2005 at 11-16 (citing Comments of Cosmos Broadcasting Corporation, *et al.* (estimating the number of stenocaptioners at 500); Comments of NCTA at 14 (citing S. Rep. No. 109-93, 109th Cong. 1st Sess. (June 25, 2005)) (estimating there are currently 300 English language and 6 Spanish language trained real-time captioners); Comments of Media Captioning Services at 6 (estimating there are 625-650 real-time captioners, with 450 captioners working for top 4 firms); Comments of Caption Colorado at 19 (stating that approximately 400 real-time captioners currently provide all real-time captioning in the United States (filed Nov. 10, 2005)) (Attached as Appendix B). See also *The Captioning Crisis: A Case for Swift and Decisive Action*, National Court Reporters Association, at 1 (rel. Aug. 22, 2005), found at http://www.ncraonline.org/infonews/press/media_homepage.html).

broadcasters as current equipment is, unfortunately, not designed to provide audio descriptions in visual display form.²¹ Additionally, as the SBE noted in its Comments, “to provide a visual message identical to the audio feed, providers would have to transcribe the feed accurately and in real time into a character generator ... for which very few television stations ... have the resources.”²² Because real-time captioning would be cost-prohibitive for many broadcasters and impossible to caption for many others, there is no valid basis for the Commission to mandate transcription requirements for audio EAS messages, at least at this time. Instead, the Commission should properly focus on the development of voluntary methods of allowing broadcasters to enhance delivery emergency messages to *all* members of the public, including hearing and visually impaired persons.²³

4. Emergency Alerts for Non-English Speakers

In addition to the proposed transcription requirement, the Commission also solicited comment on the issues raised by the Independent Spanish Broadcasters Association, *et al.*'s (“Petitioners”) *Petition for Immediate Interim Relief*.²⁴ The Petitioners propose that the Commission require national and state and local emergency messages to be distributed in multiple languages. Specifically, the Petitioners request that state and local EAS plans designate a Local Primary Spanish station (LP-S) to transmit alerts in Spanish where a substantial proportion of the population is primarily fluent in Spanish and a Local Primary Multilingual (LP-M) to transmit alerts in multiple

²¹ See Comments of NAB at 8.

²² *FNPRM*, at ¶ 79.

²³ The Comments of the Telecommunications for the Deaf and Hard of Hearing, Inc., *et al.* (at 8), acknowledge that difficulties exist and many stations do not have the resources to implement real-time visual messages, but state that the Commission should nevertheless should mandate a real-time text feed requirement. The State Associations respectfully disagree for the reasons stated herein.

²⁴ See *FNPRM* at ¶ 81.

languages where a substantial proportion of the population is primarily fluent in a language other than Spanish and English.²⁵

In their opening Joint Comments in this proceeding, the State Associations stated that they “agree with the petitioners that non-English speaking consumers ought to have adequate access to life-saving information.”²⁶ Notwithstanding this clear statement of principle, the Petitioners claim in their Reply Comments that the State Associations believe that “sizeable groups of non-English speakers do not deserve reliable and intelligible information in an emergency.” The Petitioners base their claim on the fact that the State Associations’ discussion in their opening Joint Comments about foreign language issues continued immediately after the discussion of hearing and visually impaired issues (“EAS Accessibility by the Disabled”) without, inadvertently, including a separate caption break such as “EAS Accessibility by non-English Speakers.” While the transition from one issue to another is plain to any reader, the Petitioners argue that the absence of a separate caption for non-English speakers implies that the State Associations feel a “sense of burden, indifference, or callousness to whether all of [these] listeners and viewers understand the emergency information that so often spells the difference between life and death.”²⁷ Whether the Petitioners’ accusations are based on inference or implication, they are unsupported, unsupportable, and just plain wrong. The State Associations stand by the principle stated above, namely that they “agree with the petitioners that non-English speaking consumers ought to have adequate access to life-

²⁵ Petition at 4.

²⁶ Joint Comments at 17.

²⁷ Petitioner’s Reply at 2-3.

saving information.”²⁸ In many areas of the country, Spanish-language radio and television stations, and stations broadcasting in other languages, are helping to complement the efforts of English-language stations to insure non-English language speakers have sufficient access to emergency information. Those initiatives are being pursued without any regulatory mandates, and the State Associations are committed to expanding those initiatives.

Consequently, the State Associations and Petitioners share the same goal, yet disagree regarding the means of achieving the shared goal. The State Associations are not the only parties to this proceeding that have deep concerns about the relief requested by the Petitioners. Indeed, in their comments, NAB and MSTV supported the State Associations’ goal while raising many of the concerns that the State Associations raised. For example, the State Associations, NAB and MSTV demonstrated that the Commission does not have the authority to require that the requested content be included in Presidential messages.²⁹ In addition, NAB pointed out in their comments that FEMA, in coordination with the Department of Homeland Security and the White House, and not the FCC, “is responsible for the implementation of the national activation of EAS, test, and exercises.”³⁰ NAB thus argued that the FCC is not the one to mandate that Presidential level messages be delivered on a bilingual basis.

Even if the Commission had such authority, the State Associations agree with MSTV’s position that “mandates in this area would be premature at best and would likely detract from local stations’ ability to provide comprehensive emergency coverage to their

²⁸ Joint Comments at 17.

²⁹ See Comments of NAB at 12.

³⁰ *Id.* at 14.

local communities.”³¹ In the view of MSTV, the implementation of the state and local multilingual proposal they suggest cannot be “accomplished with relative ease.”³² Tellingly, the Petitioners did not use their Reply Comments to respond to any of specific problems identified by NAB, MSTV and the State Associations relating to their proposal. For example, how will a station know whether the LP-S or LP-M has lost transmission unless it is the monitoring station? What technologies are available to stations that transmit in English to translate alerts into various languages? What are the costs involved? As noted, the State Associations agree with the Petitioners, that non-English speaking consumers ought to have adequate access to life-saving information. For that reason, the State Associations fully support constructive dialogue between broadcasters, other First Responders, and the public they serve, including importantly those who are hearing or visually impaired and those who are non-English speakers.

CONCLUSION

As illustrated above, by hosting the Second Annual EAS Summit, NASBA and its member State Associations are continuing their proactive efforts to make EAS throughout the country as reliable and effective a communications technology as possible. As the voluminous record in this proceeding demonstrates, the Summit is just the latest tangible evidence of the dedication and commitment that the State Associations and broadcasters have shown toward establishing a reliable EAS for all residents of this Nation. As the recent Gulf Coast Hurricanes demonstrated, local broadcasters are indeed First Responders prior to and during an emergency. Through broadcasters’ Herculean efforts, the public was kept informed in the days leading up to the storms and for the days

³¹ See Comments of MSTV at 12.

³² See Petition at 7.

