

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Implementation of a Grant Program for) PS Docket No. 07-8
Remote Community Alert Systems Pursuant to)
Section 605(a) of the Warning, Alert, and)
Response Network (WARN) Act)
)

To: The Commission

COMMENTS OF AT&T INC.

AT&T Inc., on behalf of its affiliate, AT&T Mobility LLC (f/k/a Cingular Wireless LLC) (“AT&T”), hereby submits comments concerning Section 605(a) of the Warning, Alert, and Response Network (“WARN”) Act.¹ Section 605(a) provides for the implementation of a grant program to provide for outdoor emergency alerting technologies in “remote communities effectively unserved by commercial mobile service.”² AT&T supports the Commission’s proposed definitions of “remote communities” and “commercial mobile service” as used in Section 605(a), and explains below how the phrase “effectively unserved” should best be interpreted.

¹ Pub. L. No. 109-347, § 605, 120 Stat. 1936, 1940-41 (2006); *see Public Notice*, “The Commission Seeks Comment on Implementation of a Grant Program for Remote Community Alert Systems Pursuant to Section 605(a) of the Warning, Alert, and Response Network (WARN) Act,” FCC 07-4, PS Docket No. 07-8 (rel. Jan. 23, 2007) (“*Public Notice*”).

² WARN Act, 120 Stat. 1940.

DISCUSSION

Remote Communities. Neither the WARN Act nor its legislative history defines “remote communities.” The Commission has, however, previously conducted a proceeding to facilitate the deployment of wireless service in “rural areas,” which it has defined as “those counties (or equivalent) with a population density of 100 persons per square mile or less, based upon the most recently available Census data.”³ AT&T supports utilizing this definition of “rural areas” to define “remote communities” for WARN Act purposes.⁴

Commercial Mobile Service. Section 602(b)(1)(A) of the WARN Act states that “commercial mobile service” is to be interpreted “as defined in section 332(d)(1) of the Communications Act of 1934.”⁵ Section 332(d)(1) provides that “commercial mobile service means any mobile service . . . that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission.”⁶ The Commission, in turn, has codified this definition in Section 20.3 of its regulations under the heading “commercial mobile radio service,” or “CMRS.”⁷ In other words, the Commission has

³ See *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services*, 19 FCC Rcd 19078, 19087 ¶ 11 (2004).

⁴ See *Public Notice* at 1-2.

⁵ WARN Act, 120 Stat. at 1936.

⁶ 47 U.S.C. § 332(d)(1).

⁷ See 47 C.F.R. § 20.3 (“Commercial mobile radio service. A mobile service that is: (a)(1) provided for profit, i.e., with the intent of receiving compensation or monetary gain; (2) [a]n interconnected service; and (3) [a]vailable to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public; or (b) the functional equivalent of such a mobile service described in paragraph (a) of this section.”).

long defined “commercial mobile service” for purposes of Section 332 as CMRS.⁸ AT&T therefore supports the Commission’s proposal to interpret “commercial mobile service” to have the same meaning as CMRS, consistent with the clear language of Section 605(a) of the WARN Act.⁹

Effectively Unserved. Neither the WARN Act nor its legislative history explicitly defines the phrase “effectively unserved.” This phrase must be defined in the context of the statute, however, which requires a determination of remote areas “effectively unserved by commercial mobile service.”¹⁰ Thus, the purpose of the statute is to identify those remote communities that would not be able to receive emergency warning alerts via commercial mobile service, or CMRS. Because CMRS encompasses both terrestrial and satellite services, including mobile satellite service (“MSS”) meeting the statutory definition of CMRS,¹¹ there are few, if any, “remote communities” within the United States and its territories that are “effectively unserved.”¹² Assuming *arguendo* the Commission were able to justify a more narrow reading of

⁸ See *Regulatory Treatment of Mobile Services, Second Report and Order*, 9 FCC Rcd 1411, 1425-48 ¶¶ 39-70 (1994) (“*CMRS Second Report and Order*”); see also *Petition of the State Independent Alliance and the Independent Telecommunications Group for a Declaratory Ruling*, 17 FCC Rcd 14802, 14803 n.9 (2002) (“In place of the statutory term ‘commercial mobile service,’ the Commission uses the term CMRS.”); *Provision of Regulatory Flexibility in the 218-219 MHz Service*, 15 FCC Rcd 1497, 1510 n.68 (1999) (“The *CMRS Second Report and Order*, in interpreting Section 332 of the Act, established CMRS to include the same three elements as the Act’s commercial mobile service.”).

⁹ See *Public Notice* at 2.

¹⁰ WARN Act, 120 Stat. 1940.

¹¹ 47 C.F.R. § 20.9(a)(10); see, e.g., *Flexibility for Delivery of Communications by Mobile Satellite Service Providers*, 18 FCC Rcd 1962, 2073 ¶ 232 (2003) (“With respect to the Big LEO [MSS] band, there are two operating systems, Iridium and Globalstar. In each case, we have regulated handsets actually providing service to the general public as CMRS.”) (subsequent history omitted).

¹² According to its web site, Iridium offers “complete coverage of the earth,” delivering “communications services to and from remote areas where no other form of communication is
(continued on next page)

CMRS to include only more mature, terrestrial based CMRS, *e.g.*, cellular, paging, Personal Communications Service (“PCS”) and Specialized Mobile Radio (“SMR”) service, the Commission should determine the unavailability of such CMRS service via the maps available on carrier web sites utilized to market service.¹³ These maps generally allow the user to enter a zip code and determine, by carrier, whether coverage is being marketed in that area.¹⁴ There is no reason to impose additional burdens on carriers, such as the submission of new data, solely for purposes of the WARN Act grant program. Marketing maps are readily available, practical to access and easy to use.

available.” See <http://www.iridium.com/corp/iri_corp-understand.asp>, visited Feb. 1, 2007. Globalstar’s North American coverage includes the continental United States and Alaska, and well as Puerto Rico and the U.S. Virgin Islands. See <<http://www.globalstarusa.com/en/images/pricing/map2.gif>>, visited Feb. 1, 2007.

¹³ These maps are used for marketing purposes and are not intended to represent, and should not be used to determine, buildout for purposes of the Commission’s construction rules.

¹⁴ See, *e.g.*, <<http://www.shopalltel.com/product/browse.htm?pgId=101>> (Alltel); <http://www.americanmessaging.net/paging/coveragemaps_default.asp?Service=2way> (American Messaging); <<https://www.cingular.com/support/maps.do>> (AT&T Mobility); <<https://www.dobsoncellular.com/ECellPortal/ECell.portal?nfpb=true&pageLabel=zipCodeEntry>> (Dobson); <<http://www.metropcs.com/enterzipcode.php?page=Start>> (MetroPCS); <http://www.skytel.com/coverage/check_coverage.htm> (SkyTel); <http://www1.sprintpcs.com/explore/coverage/CoverageInfo.jsp?ATR_ExtraOne=UHP_Personal_Coverage> (Sprint Nextel); <<https://onlinestore.southernlinc.com/storefront/zipcode.asp?ref=https%3A%2F%2Fonlinestore%2Esouthernlinc%2Ecom%2Fstorefront%2Fservice%5Fplans%2Easp>> (SouthernLinc); <<http://www.t-mobile.com/coverage/>> (T-Mobile); <http://www.usamobility.com/check_coverage/index.html> (USA Mobility); <http://www.uscc.com/uscellular/SilverStream/Pages/r_zip.html?call=2> (U.S. Cellular); <<http://www.verizonwireless.com/b2c/CoverageLocatorController?requesttype=NEWREQUEST>> (Verizon Wireless).

CONCLUSION

For the foregoing reasons, the Commission should adopt the rules and policies expressed herein.

Respectfully submitted,

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