

**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, *en banc*

REPLY COMMENTS OF AAPC

THE AMERICAN ASSOCIATION OF PAGING CARRIERS (AAPC), by its Task Force on Emergency Communications, respectfully submits its reply to the comments filed in the captioned proceeding on February 6, 2007 by AT&T, Inc. (AT&T) and Maritime Communications/Land Mobile, LLC (MC/LM), in response to the Public Notice, FCC 07-4, released January 23, 2007.¹ As its reply comments, AAPC respectfully states:

Background

In this proceeding the Commission has requested comments on the appropriate interpretation of the terms “Remote Communities,” “Commercial Mobile Service” and “Effectively Unserved,” as used in Section 605(a) of the WARN Act.² The WARN Act establishes a grant program for the installation of technologies in remote communities to enable residents of those communities to receive emergency alerts.

¹ THE COMMISSION SEEKS COMMENTS 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, released January 23, 2007.

² Warning, Alert, and Response Network (WARN) Act, Pub. L. No. 109-347, §§601-613, 120 Stat. 1936-1943 (2006).

In relevant part, Section 605(a) directs the Under Secretary of Commerce for Oceans and Atmosphere to “establish a program under which grants may be made to provide for outdoor alerting technologies in *remote communities effectively unserved by commercial mobile service* . . . for the purpose of enabling residents of those communities to receive emergency alerts.” (Emphasis added). The Commission inquires whether its definition of “rural area” in other proceedings also would be appropriate to use for “remote communities” under the WARN Act, and whether the definition would be equally beneficial for purposes of administering the grant program envisioned by Section 605(a). The Commission also inquires whether “commercial mobile service” should be interpreted to have the same meaning as the term “commercial mobile radio service” in Section 332(d)(1) of the Communications Act³ and Section 20.3 of the Commission’s rules.⁴ Finally, the Commission poses several questions about how the term “effectively unserved” should be interpreted and applied.

AAPC is the national trade association representing the interests of paging carriers throughout the United States. Paging carriers are classified as Commercial Mobile Radio Service providers pursuant to Section 20.9 of the Commission’s rules.⁵ AAPC’s members include all of the nationwide paging operators licensed under Parts 22, 24 and 90 of the Commission’s rules, as well as the overwhelming majority of units served by regional and local paging systems licensed under Parts 22 and 90 of the rules; and they encompass in excess of 90 percent of the units served by the paging carrier industry. A representative of AAPC also serves on the Commercial Mobile Service Alert Advisory Committee established pursuant to Section 603(d)(3) of the WARN Act.

³ 47 U.S.C. §332(d)(1).

⁴ 47 C.F.R. §20.3.

⁵ See 47 C.F.R. §20.9(1), (6), (11).

Comments in response to the Public Notice were filed by AT&T, Inc. on behalf of its affiliate AT&T Mobility LLC (f/k/a Cingular Wireless LLC) and by MC/LM. While AAPC largely agrees with the positions taken by both parties in their comments, AAPC does differ in certain respects, as discussed below.

Reply Comments

Commercial Mobile Service. AT&T supports using the same definition as for “Commercial Mobile Radio Service” in Section 20.9 of the Commission’s rules, but states that service by mobile satellite carriers should not be considered when determining whether or not a community is “effectively unserved”. MC/LM objects that the definition in the regulations is broader than Section 332(d)(1) of the Communications Act itself, but does not explain what licensee category set forth in Section 20.9 should be excluded for purposes of the WARN Act, or why it should be excluded.

AAPC agrees that the definition of “Commercial Mobile Radio Service” in Section 20.9 of the rules should be the starting point of the interpretation of “commercial mobile service” for purposes of the WARN Act, and AAPC also agrees with AT&T that mobile satellite carriers should be excluded from the definition. As AT&T correctly notes, considering mobile satellite carriers as commercial mobile service for purposes of the WARN Act would effectively mean that there are no “effectively unserved” communities at all, a result that hardly seems congruous with the Congressional intent in establishing the grant program.

Regardless of the reason for MC/LM’s objection, AAPC also agrees that other classes besides mobile satellite carriers likewise should be excluded from the definition. For example, it is not immediately evident that the Air-Ground Radiotelephone Service (Subpart G of Part 22) is relevant to this process, or that the Offshore Radiotelephone Service (Subpart I of Part 22) is

relevant either. Accordingly, AAPC agrees with AT&T that mobile satellite carriers should be categorically excluded from the definition of commercial mobile service for purposes of the WARN Act. However, AAPC further suggests that carriers licensed under Subparts G and I of Part 22 perhaps also should be excluded as well.

Remote Communities. Both AT&T and MC/LM support the Commission's proposed use of its definition of "rural area" in other proceedings (*i.e.*, counties with a population density of 100 persons per square mile or less) as the definition of "remote communities" for purposes of the WARN Act. While AAPC also believes that the definition of "rural area" is the proper starting point, AAPC does not believe it adequately addresses the WARN Act provisions.

The purpose of Section 605(a) is to establish a grant program for community alerting systems. While it may be that the counties themselves will be applicants for these grants in some circumstances, AAPC believes it is more likely that the actual applicants will be the political subdivisions of the counties, such as incorporated villages, towns or cities, or perhaps townships. Accordingly, AAPC suggests that the definition of "remote communities" for purposes of the WARN Act should not be the "rural area" itself, but rather should be the political subdivisions of "rural areas" such as incorporated villages, towns or cities, or townships or their equivalent. Doing so at the subdivision level, rather than at the county level, also would facilitate application of the term "effectively unserved" as discussed in the next section.

Effectively Unserved. AT&T proposes that the coverage maps on the web sites of traditional terrestrial CMRS providers, including paging providers, be used to determine whether or not service is available to a particular remote community. MC/LM proposes that a remote community should be deemed to be unserved if (a) fewer than two competing CMRS providers offer service, or if (b) 100 subscriber units or less are actually receiving service.

AAPC agrees with AT&T that in implementing this provision, the Commission should be particularly sensitive to the potential burden that could be placed on the CMRS industries. For that reason, AAPC requests that the Commission reject MC/LM proposed standard as impractical and unduly burdensome. Instead, AAPC supports AT&T's suggestion of using the web site information of traditional CMRS providers as *prima facie* evidence that a particular remote community is unserved for purposes of grant eligibility under Section 605(a). AAPC would add two provisos, however.

First, a CMRS provider should have the option, if it chooses to do so, of generating coverage maps that are not on a web site for purposes of this showing. While AAPC believes that most local and regional paging carriers do have their coverage maps posted on their web sites, as do the national carriers cited in AT&T's comments, some of the smaller carriers may not. Therefore, a smaller carrier should have the option of demonstrating that it serves a particular remote community with traditional coverage maps in addition to web-based maps.

In this regard, for grant administration purposes, AAPC also requests that lists of communities seeking grants under Section 605(a) of the WARN Act should be posted in a timely and readily accessible fashion so that carriers in the area have notice of the application and the opportunity to show that they do in fact serve the community.

Additionally, the Commission should adopt the qualification that the remote community be served by a CMRS provider that does in fact distribute emergency alerts on its network. It is certainly conceivable, and entirely likely, that a remote community could be served only by a single CMRS provider that does not distribute emergency alerts,⁶ in which case it would be tantamount to not being served at all for purposes of Section 605(a) of the WARN Act. Under such

⁶ While the issue has not yet been resolved, distribution of emergency alerts by CMRS providers at this point remains voluntary rather than mandatory.

circumstances, the purpose of the grant program obviously would be frustrated to not consider whether or not the CMRS provider actually distributes emergency alerts when determining whether a particular remote community should be eligible for a Section 605(a) grant.

Respectfully submitted,

s/Vic Jensen

Vic Jensen, Chairman

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February 22, 2007