Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Review of the Emergency Alert System;	)	
	)	
Independent Spanish Broadcasters Association, the Office of Communications of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief	)	EB Docket No. 04-296

COMMENTS OF ECHOSTAR SATELLITE L.L.C.

EchoStar Satellite L.L.C. ("EchoStar") supports the Commission's efforts to ensure that all Americans are alerted in case of an emergency. EchoStar takes its responsibility seriously and has met the Commission's deadline for Emergency Alert System ("EAS") system compliance on a national level. The *Notice* raises valid concerns with respect to potential barriers that prevent delivery of emergency alerts to those who may not be fluent in English.[1]

To address this gap in the current EAS structure, EchoStar has the capability to deliver two separate audio streams (English and Spanish) with national alerts. This dual-audio capability will allow EchoStar to offer national, bilingual EAS messages – as long as the EAS message is provided by a government agency in a dual-audio format. Importantly, any modifications to the EAS rules should require the originator of the EAS message to deliver the message to distribution networks in a bilingual or multilingual format. Any additional efforts to provide more localized and

[1] *Review of the Emergency Alert System & Independent Spanish Broadcasters Association, the Office of Communications of the United Church of Christ, Inc, and the Minority Media and Telecommunications Council, Petition for Immediate Relief,* Second Report and Order and Further Notice of Proposed Rulemaking, FCC 07-109, ¶ 49 (May 31, 2007) ("Second Report and Order" or "FNPRM").

multilingual alerts beyond Spanish are not technically feasible at this time. Regardless, such alerts would be more appropriately implemented at the local level.

I. ECHOSTAR IS COMMITTED TO THE CURRENT EAS SYSTEM AND TECHINCALLY FEASIBLE ENHANCEMENTS.

EchoStar has shown its commitment to EAS and welcomes future improvements that are technically feasible. As a national satellite service, EchoStar recognizes the tremendous public interest served by a wide-reaching public alert and warning system. EchoStar met the May 2007 deadline for DBS compliance with national EAS requirements.[2] Since that time EchoStar has complied with the system testing requirement, kept the log receipt of weekly tests, and passed through all local alerts on local channels.

The FNPRM now raises concerns with the provision of EAS messages in additional languages.[3] EchoStar has the technological capacity to provide national, bilingual EAS messages in English and Spanish. Specifically, EchoStar has the capability to transmit two streams of audio content in such a way that the viewer can control which language is heard. Thus, if dual language EAS messages are provided to EchoStar by the message originator, EchoStar will be able to pass both streams of audio through to the customer. This prevents the need to "scroll" the message in multiple languages – an undesirable option.[4]

---

[2] *See Review of the Emergency Alert System*, First Report and Order and Further Notice of Proposed Rulemaking, FCC 05-191, ¶ 53-57 (Nov. 10, 2005) ("First Report and Order").

[3] Second Report and Order at ¶ 72; *see also* Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Interim Relief, EB Docket No. 04-296 (Sept 20, 2005).

[4] "Scrolling" of EAS messages in multiple languages should be rejected outright. "Scrolling" entails the message being repeated in a loop in different languages. For example, the message would be played in English, then Spanish, and then other languages – one right after the other – until all target languages had been presented. "Scrolling" of foreign languages is contrary to the time sensitive nature of emergency situations. In an emergency situation, time is of the essence and the potential time lag created by waiting for the message to begin in an understandable language could be detrimental.

Such a bilingual solution would expand the reach of the current EAS structure in a manner consistent with the *Notice's* objective. Spanish-speaking Americans are the largest percentage of non-English speakers in the United States. Indeed, Spanish-speaking Americans account for roughly 11% of the total population and half of this group self-identifies as having difficulty understanding English. These roughly 14 million Spanish-speaking Americans would benefit from EAS messages in the language that they will understand.

Unfortunately, EchoStar does not have the technical capability to carry more than two language streams at this time. Further, the diversity of languages spoken in the United States creates a practical barrier to delivering national, multilingual EAS messages – beyond a bilingual message. EchoStar recognizes that roughly 18% of the United States population does not speak English or speaks English as a second language.[5] Close to half of this group, 8% of the current population, self identifies as having difficulty with speaking and understanding English. *Id.* It is this 8% of the population that would benefit from multilingual EAS messages. Yet, examining the composition of this group suggests a ubiquitous national solution would be a poor fit: 380 different languages are spoken across this segment of the population. *Id.* at 1-2. It is an impossibility to address the needs of 380 different languages at a national level for a national alert.

The diversity becomes even more apparent when Spanish-speakers are removed from the group. Focusing on all other non-English speakers highlights the difficulty in fashioning a national-level solution – beyond the bilingual proposal described herein. The next three largest non-English speaking groups (Chinese, French, German) are each less than 1% of the US population. *Id.* at 4. Each of these groups represents between 0.53% to 0.77% of the US population and only 22% to 58% of these populations have difficulty speaking English. *Id.* Excluding Spanish-speakers, it

[5] US Census Bureau, LANGUAGE USE AND ENGLISH-SPEAKING ABILITY: 2000, at 5 (2003), *http://www.census.gov/prod/2003pubs/c2kbr-29.pdf* ("Census Report").

would be arbitrary to select one of these non-English speaking populations to receive the benefits of national, multilingual EAS messages.

II. MULTILINGUAL ALERTS SHOULD BE ADDRESSED ON THE LOCAL LEVEL.

To the extent the Commission seeks to provide additional language within the EAS structure, it would be most appropriately incorporated at a local level to the extent technically and operationally feasible. A local EAS remedy is the only efficient and effective solution to the vast diversity of languages spoken in the United States because of the uneven distribution of non-English speaking populations across the nation. Non-English speaking population groups are unevenly spread across the Nation's regions,[6] states,[7] and counties.[8] This uneven distribution of non-English speaking populations favors a remedy that relies on local solutions.

To that end, local broadcasters are most likely to be aware of large non-English population segments within their community, and may have stations dedicated to serving those communities. As a practical matter, non-English speaking customers are most likely to be watching local broadcasts in their native language. Further, local broadcasters are more likely than a DBS provider, who may not even have facilities in the state, to provide accurate, timely information.

Regardless, the Commission has previously found that "DBS cannot accommodate state-level alerts at present and might not be able to do so even after the full implementation of Next Generation EAS." Second Report and Order at ¶ 61. Indeed, the Commission found geo-targeting

---

[6] Census Report at 3 ("People who sp[eak] languages other than English at home are not distributed equally across or within regions.").

[7] Id. at 6 ("California ha[s] the largest percentage of non-English speakers (39 percent), followed by New Mexico (37 percent), Texas (31 percent), New York (28 percent), Hawaii (27 percent), Arizona, and New Jersey (each about 26 percent).").

[8] Id. at 7 ("[I]n about 1 percent of the 3,141 counties in the United States, more than 60 percent of the population sp[eaks] a language other than English at home. In seven counties, more than 80 percent of the population sp[eaks] a non-English language at home.").

of messages technically infeasible for national distribution platforms and that "[r]equiring these carriers to establish monitoring capability in every state where they do business could prove to be unduly burdensome." *Id.*. As has already been submitted in the record, DBS faces substantial technical barriers to providing localized geo-targeted EAS messages.[9] The Commission should maintain its policy and avoid imposing state-level, or below, obligations on DBS.

It is important to note that any expansion in the number or types of alerts should be balanced with the need to protect the integrity of the EAS system. Narrow criteria should be adopted for approval of any expansions to the EAS system to prevent "alert fatigue." Indeed, testing procedures have been changed to minimize the actual frequency with which consumers see the test – so that when they do see an emergency alert message they will take it seriously.[10] Further, a single governmental entity should be in charge of dissemination of emergency alert information. Each State's Governor should be given the responsibility over all state-level or local-level EAS messages as well as any applicable language zones.

III. MEDIA DISTRIBUTION PLATFORMS SHOULD NOT BE REQUIRED TO CREATE EMERGENCY ALERT CONTENT.

The originator of EAS messages should create all necessary message content. Under no circumstances should a distribution platform be required to create any EAS message content. For example, if the Commission requires EAS messages to be broadcast in Spanish-language audio and/or text, both the Spanish audio and text should be provided by the message originator. Also, if data is to be included to provide better access to alert messages by the disabled, the data should be included in the original message by the originator. As a threshold matter, the Commission does not

[9] *See* Comments of EchoStar, EB Docket No. 04-296, at 4-5 (Jan. 24, 2006); Comments of DIRECTV, EB Docket No. 04-296, at 2 (Jan. 24, 2006).

[10] Federal Communications Commission, FACT SHEET: THE EMERGENCY ALERT SYSTEM (EAS), http:/www.fcc.gov/eb/easfact.html ("EAS tests are shorter and less obtrusive to viewers and listeners. Therefore, when people do hear or see the EAS message, they will take them more seriously.").

have the authority to require media distribution platforms to create EAS message content. The Executive Order authorizes the Commission to adopt rules "to ensure that communications systems have the capacity to transmit alerts and warnings. . ." Executive Order, § 3(iii). The President recognized that video distribution platforms are inherently a "dumb pipe" and not in the best position to create content. DBS providers do not create content for distribution. Rather, EchoStar distributes pre-packaged programming from a variety of sources to transmit to consumers. EAS alerts, like programming networks, should simply be passed through the DBS platform. From a public safety perspective, requiring video distribution platforms to create or manipulate alerts could result in life threatening inaccuracies and unnecessary lag time in distribution of the message. This potential risk would be heightened if multiple languages and translations were required.

IV. CONCLUSION

The Commission should continue to improve the national EAS alert structure, and should consider a national, bilingual alert structure to expand the reach of the program. If additional local and multilingual modifications are warranted, they should be implemented on a local level.

Respectfully submitted,

/s/ Linda Kinney
Linda Kinney
Bradley K. Gillen
EchoStar Satellite L.L.C.
1233 20th Street N.W.
Washington, D.C. 20036-2396

December 3, 2007