

Public Television stations may move forward with installing the necessary equipment and NTIA may begin processing funding for these equipment needs. APTS encourages the Commission to resolve quickly this portion of this proceeding, and allow the distribution of these much-needed funds, without getting unnecessarily involved in the intricacies of an alert and warning system that is, pursuant to Executive Order,⁴ the purview of DHS.

The Commission seeks comment on whether the system described in Section 602(c) of the WARN Act is the “datacasting” system that APTS and the Federal Emergency Management Agency (FEMA) are deploying as the backbone of the Digital Emergency Alert System (DEAS).⁵ The WARN Act is referring to the DEAS, and the Commission’s role here is to adopt protocols for mobile service providers to opt in to the DEAS. Accordingly, APTS is confused by the Commission’s query about whether it would be “consistent with the WARN Act simply to implement the DEAS in a manner that complies with section 602(c) of the WARN Act.”⁶

Under the supervision of DHS, the construction of the DEAS is already well underway. All of the 167 participating Public Television licensees (in all 50 states, Puerto Rico and the Virgin Islands) have DEAS relay equipment, and FEMA is beginning functional and Information Assurance testing of the system. It is APTS’ understanding that the provision on the requirement of geo-targeting equipment for Public Television stations is included in the WARN Act, and involves the Commission, only because the equipment provides the link between the

⁴ See *Public Alert and Warning System*, Exec. Order No. 13,407 (June 26, 2006) (stating that it is a function of the Secretary of Homeland Security to “establish or adopt, as appropriate, common alerting and warning protocols, standards, terminology, and operating procedures for the public alert and warning system” and to “ensure the capability to adapt the distribution and content of communications on the basis of geographic location . . .”) A copy of this Executive Order is attached hereto as Exhibit A.

⁵ *Notice*, ¶ 39.

⁶ *Id.*

Commercial Mobile Alert System (CMAS) and the DEAS. It is the role of DHS, not the Commission, to “implement the DEAS.”⁷

The Commission goes on to ask several questions that apparently seek information on the architecture of the DEAS: “How will this DTV-based system interface with the CMAS? How will this requirement regarding the geo-targeting of CMAMs [fit] into centrally administered CMAS as envisioned by the CMSAAC. How would the DTV-based system implement the message formats defined by the “C” interface?”⁸ APTS defers to DHS and FEMA, which govern the architecture of the nation’s alert and warning system pursuant to Executive Order No. 13,407⁹, to provide the Commission this information to the extent it is not classified. Overall, as APTS has informed the FCC, the national Public Television DEAS has been built based on the requirements of DHS and with funding from DHS.

Finally, the Commission seeks comment on whether the equipment requirements in Section 602(c) of the WARN Act apply to public radio stations in addition to Public Television stations.¹⁰ To any extent that the statutory language is ambiguous as to whether it applies exclusively to Public Television stations, APTS asserts that ambiguity must be the result of a drafting error. DEAS, a component of the Integrated Public Alert and Warning System (IPAWS) created in response to Executive Order No. 13,407, has been built over the past four years through a collaboration between FEMA and Public Television and utilizes the unique capabilities

⁷ *Id.*

⁸ *Id.* at ¶ 40.

⁹ *See supra* note 4.

¹⁰ *Notice*, ¶ 40.

of digital television.¹¹ One need only examine the history of DEAS to recognize that Section 602(c) is intended to allow for the installation of equipment at Public Television stations to build on the system that has been constructed over the past several years using these stations.

APTS appreciates the Commission's desire to be thorough in its consideration of this important rulemaking. Nevertheless, we emphasize that the President has made clear that the authority over the architecture of the DEAS, as part of the nation's alert and warning capabilities, belongs to DHS. Thus, we urge the Commission to complete as soon as possible any action it deems necessary under the WARN Act with respect to the Public Television stations' equipment under Section 602(c) so that NTIA may distribute the funds it has long held for geo-targeting and dynamic allocation equipment that DHS, which governs the DEAS, has deemed necessary.

Respectfully submitted,

/s/

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¹¹ See FEMA Fact Sheet, Integrated Public Alert and Warning System, attached hereto as Exhibit B.