

I. THE COMMISSION SHOULD ADOPT THE CMSAAC RECOMMENDATIONS IN FULL TO MAKE THE EMERGENCY ALERT SYSTEM AFFORDABLE FOR SMALL RURAL WIRELESS PROVIDERS.

NTCA joins nearly 20 other commenters in supporting the immediate adoption of the October 12, 2007 recommendations by the CMSAAC for a voluntary emergency alert system. The CMSAAC recommendations will accomplish Congress' goal of creating a process for CMS providers to transmit wireless emergency alerts to their subscribers. Approximately 300 of NTCA's member companies offer some type of wireless service.⁴ Small rural wireless carriers like NTCA's members will not be able to afford to participate in the alert system unless the Commission follows the CMSAAC recommendations. Small rural companies cover much of the geography of the United States, if not the population. Unless the alert system is affordable to small carriers, the worth of the alert system is minimized and Congress will not achieve its goal.

Commenters supporting adoption of the CMSAAC recommendations *in toto* include wireless carriers AT&T, Verizon Wireless, Sprint Nextel, T-Mobile, Alltel, and MetroPCS; equipment manufacturers Ericsson, Motorola, and Nokia; the Rural Cellular Association (the only small rural carrier representative on the CMSAAC);⁵ the standards-creating organization Alliance for Telecommunications Industry Solutions (ATIS); and trade associations CTIA, the Telecommunications Industry Association, and the American Association of Paging Carriers. This uniform support for CMSAAC demonstrates broad industry acceptance of the technical standards, which is a necessary prelude to a high percentage of the wireless industry electing to participate in this voluntary alert program.

⁴ NTCA 2007 Wireless Survey Report (rel. January 2008), available at: http://www.ntca.org/content_documents/2007%20Survey%20Report%20Final.pdf.

⁵ See list of CMSAAC participants contained in the Notice of Appointment.

These recommendations are the result of a year-long industry-wide negotiation process which began at the directive of Congress pursuant to the 2006 Warning Alert and Response Network (WARN) Act.⁶ Adopting the CMSAAC recommendations will provide CMS providers, many of whom are NTCA members, with guidance on technical standards, protocols, procedures and technical requirements so that they can make informed decisions on whether to participate in this voluntary national alert program.⁷ This election must be made by August or September 2008, assuming the Commission issues its order in this matter by April 2008.⁸

The CMSAAC recommendations cover a wide range of procedures, including the preference of point-to-multipoint transport technologies, the role of the Federal government as an Alert Aggregator and an Alert Gateway, the use of common alert protocols, format and language restrictions of alerts, geo-targeting at the county-wide level, accommodations for disabled and elderly persons, allowing discretion on crafting notices to subscribers, permitting some cost recovery, election time line, and testing procedures. Each recommendation comes from careful examination and discussion among the 40 participants in the CMSAAC process. Each recommendation will, if adopted, contribute to an effective, unified system for the delivery of alerts to rural customers.

⁶ Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Pub.L. 109-347, Title VI - Commercial Mobile Service Alerts (WARN Act).

⁷ CMS providers, according to 47 U.S.C. §332(d)(1), are defined as follows: (d) Definitions - For purposes of this section - (1) the term "commercial mobile service" means any mobile service (as defined in section 153 of this title) 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.

⁸ NPRM, ¶ 5.

II. DEVIATIONS FROM THE CMSAAC PATH ARE UNWISE.

Several commenters urge the Commission to veer away from the path laid by the CMSAAC. The California Public Utility Commission, for example, suggests that the alerts should be sent over a zip code-wide area, rather than a county-wide area.⁹ While some CMS providers may have the capability to deliver alerts to a more granular area than a county, the WARN Act's purpose of creating technical standards and protocols is to achieve uniformity and reach a common level of alert service. Geo-targeting below the county level may not be possible for all carriers. Requiring rural CMS providers to send alerts at a sub-county area may be too expensive and may impose too great a financial and administrative burden on the rural customers, thus reducing their incentive to participate in the CMAS. The Commission should decline to follow the CPUC's suggestion and should, instead, adhere to the CMSAAC's recommendation that emergency service alerts be geo-targeted and delivered no lower than the county-wide size area.

Another suggestion is that the emergency alerts should be sent in multiple languages in addition to an English alert.¹⁰ As the CMSAAC recommended, multiple language alerts may cause latency delay issues.¹¹ Also, an initial English-only alert system will persuade the most number of CMS providers to participate in the voluntary emergency alert system since software translation issues will not arise.¹² The CMSAAC recommendations serve as a common denominator that will appeal to the broadest number of service alert providers, and the

⁹ California Public Utilities Commission (CAPUC) Comment, p. 4.

¹⁰ CAPUC Comment, pp. 18-20.

¹¹ NPRM, ¶ 24; CMSAAC Recommendation, § 1.1.8.

¹² Rehabilitation Engineering Research Center for Wireless Technologies (Wireless RERC) Comment, p. 12.

Commission should follow this industry-negotiated approach to maximize the effectiveness of the program. An English-only approach is the best way to start, especially for small rural carriers as they cautiously evaluate the necessary financial commitments they will make in electing to participate in the emergency alert system. Should rural CMS providers wish to send alerts in additional languages, the CMSAAC recommendations would not hinder that approach. Nor should the Commission specify which non-English languages should be employed since flexibility is key to meeting rural customer's needs in rural service territories. For example, Portuguese may be appropriate for alerts in the Greater Boston area but might not be useful in Aneta, North Dakota. Using English as the common language for the emergency alerts, as the CMSAAC suggests, is best at this time.

The same approach supports the CMSAAC recommendations on notices to subscribers. Some commenters insist that prescribed formats for customer notices of alert availability should be mandatory.¹³ The more flexible and more reasonable approach is to allow small rural carriers discretion to tailor their customer notices to meet their customers' needs. As the Rural Cellular Association correctly observed, CMS providers should have discretion to determine how to provide notices at the point of sale and notices to existing subscribers.¹⁴ Small rural carriers are especially sensitive to providing adequate customer notifications. The CMSAAC recommended text to notify whether a CMS provider will elect to participate in the alert system is adequate and meets the requirements of the WARN Act that the notice be "clear and conspicuous" notice.¹⁵ Federal and state remedies are available should a particular carrier's notice not provide adequate

¹³ Wireless RERC Comment, p. 13.

¹⁴ Rural Cellular Association Comment, p. 5.

¹⁵ NPRM ¶ 28; CMSAAC Recommendation § 3.4

information or are somehow deceptive or misleading, unclear or inconspicuous. Additional regulation is unnecessary. Also, allowing CMS provides discretion in customer notification will encourage the highest level of carrier participation. The Commission should strive to maximize the emergency alert system's chances of success by allowing carrier discretion in customer notification.

III. THE COMMISSION SHOULD INCLUDE ADDITIONAL SMALL RURAL CARRIERS ON FUTURE STANDARDS COMMITTEE EFFORTS.

The CMSAAC, the committee charged by Congress to create the national emergency alert system, was woefully lacking in representation of small rural carriers. As noted earlier, RCA was the only one rural participant that even tangentially reflects small rural carrier interests. One small company rural representative is not adequate representation for a system that will involve so many small rural wireless carriers across the nation.¹⁶ Chairman Martin and the Commission should appoint additional representatives of small rural carriers, such as NTCA (in addition to the RCA), to the CMSAAC should the Commission reconvene the CMSAAC to revise the recommendations and consider additional standards and technical requirements for emergency alerts, or to consider transforming the voluntary program into a mandatory program as one commenter wishes.¹⁷ The "Communications Service Providers" group on CMSAAC consisted of Verizon Wireless, Cingular Wireless, Sprint Nextel, T-Mobile, and Alltel. RCA was designated as an "Other Technical Representative."

The expense of compliance expense of more stringent standards as applied to small businesses such as NTCA's members must be considered as part of the Commission's

¹⁶ CTIA was a participant on the CMSAAC and may count some small rural wireless companies among its membership; however, this association's perspective could be swayed on key elements by its largest members, Verizon Wireless, AT&T and Sprint Nextel, who are already committee members.

¹⁷ Wireless RERC Comment, pp. 5-6.

compliance with the Regulatory Flexibility Act of 1980, as amended.¹⁸ While Verizon Wireless and AT&T may be able to absorb or deflect the costs of compliance, NTCA's small rural wireless companies may find compliance to be exorbitant and would impose undue financial burdens on the carriers and their customers. The Commission cannot expect small rural wireless carriers to elect to participate in a national emergency alert system if the costs of participation are significant and unreasonable. Additional small rural representation on CMSAAC is one means by which the Commission can consider how to minimize the economic impact of the NPRM.¹⁹ Additional small rural representation may be necessary on some key issues to balance large carrier representation on the CMSAAC. The Commission should include additional small rural carrier representatives, such as NTCA, so that the voices of rural carriers in America's heartland can be heard.

¹⁸ NPRM, ¶¶ 33, 34. The Regulatory Flexibility Act of 1980, 5 U.S.C. § 601-612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Pub.L. 104-121, Title II, 110 Stat. 857 (1996).

¹⁹ NPRM, ¶ 34.

IV. CONCLUSION.

For these reasons, the Commission should adopt the CMSAAC recommendations completely without deviation and should expand its committee membership to include additional small rural carrier representatives such as NTCA.

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CERTIFICATE OF SERVICE

I, Adrienne L. Rolls, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in PS Docket No. 07-287, FCC 07-214, was served on this 19th day of February 2008 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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