



The Competitive Carriers Association

**Rural Cellular Association**

805 15<sup>th</sup> Street NW, Suite 401

Washington, DC 20005

Office: (202) 449 -9866 • Fax: (866) 436 -1080

April 5, 2012

**VIA ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Room TW-B204  
Washington, DC 20554

**Re: Waiver and Extension Request of RCA –The Competitive Carriers Association; PS Docket Nos. 07-287 & 08-146**

Dear Ms. Dortch:

RCA—The Competitive Carriers Association (“RCA”),<sup>1</sup> on behalf of its carrier members and the wireless industry generally, hereby requests a brief waiver and extension of the deadline of six weeks from the date that the Federal Emergency Management Agency (“FEMA”) returns an executed Memoranda of Agreement (“MOA”) for commercial mobile service providers to test and implement the Commercial Mobile Alert System (“CMAS”) for transmitting emergency alerts to their respective subscribers. Alternatively, RCA requests a brief extension of time from the current April 7, 2012 deadline to June 1, 2012.

Many of RCA’s members have opted into the voluntary CMAS and plan on providing this important public safety capability to their subscribers. In addition, many RCA members have been working for a considerable period of time and expended significant amounts of their own resources to meet the April 7, 2012 CMAS implementation deadline. A significant number of RCA carrier members either have CMAS-capable handsets available and in service with certain end users or on order for near-term delivery; have executed their Interconnection Security Agreements (“ISA”) with FEMA and the Department of Homeland Security; and have executed their respective MOA with FEMA’s Integrated Public Alert and Warning System (“IPAWS”) Program Management Office.

Nonetheless, while substantial progress has been made, the wireless industry, in particular rural and regional carriers, generally has experienced challenges in achieving timely CMAS implementation, including unforeseen delays during the FEMA contracting and interconnection process. One such set of circumstances is described in the waiver and extension request filed by four wireless providers earlier this week. In that situation, the vendor chosen by those carriers sought to establish the requisite secure interface with the Federal Alert Aggregator/Gateway (the “Gateway”),

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<sup>1</sup> RCA is an association representing the interests of more than 100 competitive wireless carriers, including many rural and regional carriers providing commercial services to subscribers throughout the nation. Most of RCA’s members serve fewer than 500,000 customers.

but an unexpected delay occurred because the standard ISA proposed by FEMA for CMAS implementation was crafted for direct connections by a participating carrier with the Gateway, rather than for use by third party vendors.<sup>2</sup>

Yet many carriers have found it necessary to rely on vendors to ensure efficient and timely participation in CMAS and expended significant amounts of time and resources working with vendors in their efforts to meet the April 7 deadline. Indeed, many RCA members have experienced issues similar to those identified in the April 3, 2012 waiver request.<sup>3</sup> As a result of the problems with the contracting and interconnection process, the FCC has informed RCA that there are approximately 160 wireless carriers that have opted in to CMAS, but FEMA reported that as of April 4, only 44 carriers had initiated or completed MOAs and only six carriers had completed the testing and production phases. Thus, absent an extension or temporary waiver, approximately 116 carriers either will miss the April 7 deadline or will need to change their election.<sup>4</sup>

It would plainly disserve the public interest if carriers seeking to participate in CMAS were forced to withdraw based on initial implementation challenges. It is assuredly a great benefit to consumers if wireless carriers opt in to and implement CMAS. It also is plain that all parties to the process in both the commercial and government sectors have been working diligently to achieve CMAS implementation, and are very close to success. On the other hand, to the extent that carriers that are still in the process of CMAS implementation miss the April 7 deadline, they may be forced to change their election. There also is a significant risk that there will be widespread consumer and carrier confusion and/or delay among carriers in implementing the customer notification requirements set forth in the Commission's rules on a timely basis at points of sale and in other venues.<sup>5</sup> Those results would not be in the public interest, and indeed, would undercut the very

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<sup>2</sup> See Letter to James Arden Barnett, Jr., Chief, Public Safety & Homeland Security Bureau, Federal Communications Commission, from Cincinnati Bell Wireless LLC, Cricket Communications, Inc., Flat Wireless LLC and nTelos Wireless (April 3, 2012).

<sup>3</sup> For example, three RCA members filed elections to participate in CMAS in September of 2011 (after having previously elected not to participate). They contacted FEMA the first week of October of 2011, and have been steadily engaged with FEMA to complete the necessary documentation and implement CMAS. The CMAS platform which these carriers will utilize to provide CMAS is fully installed and ready for testing and live CMAS production. After working closely with FEMA, these carriers have submitted all the required, fully-executed documentation to FEMA. All that remains is for FEMA to counter-sign the documentation and for the parties to establish the necessary VPN for testing and the delivery of live CMAS messages. Despite diligently working with FEMA since October, however, these carriers, through no fault of their own, will not be capable of delivering CMAS alerts on April 7, 2012. The circumstances preventing them from being CMAS-capable are entirely beyond the carriers' control. Although FEMA has been working cooperatively with these members, the process simply takes longer and is more complex than anyone anticipated. One RCA member requested the MOA from FEMA in early February, but did not receive the template until mid-March. Without requesting any substantive changes to the agreement, it took another RCA member over three weeks to receive a signed MOA from FEMA.

<sup>4</sup> Although these carriers could seek individual relief from the Commission, review of individual waiver requests would be an inefficient use of resources. Individual relief also would distract both carrier and Commission resources from actually working to implement the CMAS. The experience of RCA carrier members is not unique, and the Commission should address this industry-wide problem on an industry-wide basis.

<sup>5</sup> See 47 C.F.R. §§ 10.260, 10.240, and 10.250.

purpose of the rules, which “are designed to *prevent* consumer confusion about CMAS availability from service providers.”<sup>6</sup>

There is no downside to providing a brief extension of time for wireless carriers to complete CMAS implementation. The Commission has the authority to waive a compliance deadline for good cause shown.<sup>7</sup> Here, good cause is demonstrated by the facts that: (1) wireless carriers, including many of RCA’s carrier members companies, have proceeded on a timely and diligent basis in a good faith effort to meet the April 7, 2012 compliance date; (2) the inability to meet the deadline in many instances is due to unexpected circumstances beyond their immediate control; and, (3) only a brief extension is being requested, which serves as further confirmation that the industry, including RCA’s members, have been working hard to comply. Under these circumstances, a waiver will not undercut the rule, and in fact will serve the public interest.

Based upon the foregoing, RCA respectfully requests a brief extension of time of six weeks from the date that FEMA returns an executed MOA in which to test and implement CMAS. Alternatively, if the Commission finds it necessary to grant a waiver request based on a unified timeline, RCA requests a brief extension of time until June 1, 2012, to comply with the implementation deadline established by Section 10.11 of the Commission’s rules and the *Public Notice* released December 7, 2009.<sup>8</sup>

Respectfully submitted,

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/s/

Rebecca Murphy Thompson  
RCA – The Competitive Carriers Association  
805 15<sup>th</sup> Street NW, Suite 401  
Washington, DC 20005  
(202) 449-9866

cc: James Arden Barnett, Jr., Chief, Public Safety & Homeland Security Bureau  
Thomas Beers, Chief, Policy & Licensing Division  
Gregory M. Cooke, Associate Chief, Policy & Licensing Division  
Timothy May, Policy & Licensing Division

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<sup>6</sup> Public Notice, *Public Safety and Homeland Security Bureau Announce Timetable for Commercial Mobile Service Providers Electing Not to Transmit Commercial Mobile Alert System (CMAS) Alerts to Existing and Potential Customers*, PS Docket No. 07-287, DA 12-149 (Mar. 16, 2012).

<sup>7</sup> See 47 C.F.R. Section 1.3 (stating that “[a]ny provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefore is shown”).

<sup>8</sup> See Public Notice, *FCC’s Public Safety and Homeland Security Bureau Sets Timetable in Motion for Commercial Mobile Alert Service Providers*, PS Docket No. 07-287, DA 09-2556 (rel. Dec. 7, 2009).