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July 31, 2014

Filed By ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: EB Docket 04-296

Dear Ms. Dortch:

On July 29, 2014 the undersigned and Anthony Masiello of Sirius XM Radio Inc. (“SiriusXM”) met with Gregory Cooke and David Munson of the Commission’s Public Safety & Homeland Security Bureau and Stephen Duall and Chip Fleming of the Commission’s International Bureau, to discuss SiriusXM’s Petition for Partial Reconsideration and Clarification (the “Petition”)¹ of the Commission’s 2005 decision² regarding the Emergency Alert System (the “EAS”). SiriusXM files this notice with the Commission pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206.

The Petition explained that the EAS testing rules as applied to SiriusXM were unnecessarily onerous, imposing requirements having a more significant impact on satellite radio and its listeners than those the Commission imposed on DBS, cable television, or terrestrial broadcasters. The Petition discussed the extent of SiriusXM’s efforts to promote emergency communications, but requested that the Commission scale back its EAS testing requirements for SDARS to bring them more into line with the obligations of similar broadcast-type media.

SiriusXM has complied with the EAS testing rules since the rules adopted in the 2005 Order went into effect. Nonetheless, the concerns that SiriusXM expressed in the Petition remain valid and need to be addressed. In the intervening years, while SiriusXM’s commitments

¹ The Petition was originally filed by XM Radio Inc., with supporting comments filed by Sirius Satellite Radio Inc., prior to the 2008 merger of those two entities. For purposes of the instant filing, the petitioning entity is referred to as “SiriusXM.”

² *Review of the Emergency Alert System, First Report and Order and Further Notice of Proposed Rulemaking*, 20 FCC Rcd 18625 (the “2005 Order”).

to emergency alerting and the EAS system remain just as strong,³ it has become even more apparent that the Commission's EAS testing rules are unnecessarily broad and require revision as they apply to satellite radio.

The requirement to carry weekly and monthly EAS tests on all SiriusXM channels has imposed an excessive, disproportionate, and unnecessary burden on SiriusXM and its subscribers. Unlike other multichannel services such as cable television, the satellite radio service rarely has natural breaks in programming for inserting a test, and never has uniform breaks that apply to all of our approximately 150 channels. All of our music channels are also broadcast without commercials, which further minimizes the opportunities for the natural programming breaks that most broadcasters use to transmit EAS tests.

The result is that many of the weekly and monthly EAS tests interrupt what our customers are listening to, and do so in a way that can be intrusive. Whether the programming is live sports, talk radio, news, or live concerts, SiriusXM's subscribers frequently have their listening experience interrupted by emergency alert tests and the company is aware that subscribers have been confused by the practice. Moreover, unlike DBS providers who are not required to transmit weekly tests and have to conduct monthly testing on only 10% of their channels each month, SiriusXM must broadcast EAS tests to its listeners every week, on all channels. And unlike terrestrial broadcasters who can schedule a test during a commercial break or other programming change on a single channel, there is no uniform time when SiriusXM can carry an EAS test on its satellite radio platform that would minimize the disruptions to our 26.3 million customers.

Weekly testing of our emergency alert capabilities is unnecessary and duplicative. First, the Commission's requirement that SiriusXM test its emergency alert equipment is largely superseded by FEMA's own testing of the ENDEC box which is central to our EAS capabilities. FEMA conducts this testing on a regular basis through remote polling of the box without even notifying SiriusXM of the testing – unless a problem is discovered – and without any disruption to our customers. Second, the Commission can further ensure the proper functioning of emergency alert equipment through its logging requirements, as it does for DBS, rather than requiring transmissions to listeners. Third, testing is less critical in the satellite radio context

³ SiriusXM is a part of the national EAS infrastructure as a Primary Entry Point ("PEP") station. SiriusXM has also worked with the Federal Emergency Management Agency ("FEMA") since 2006 to provide an alternate transmission means for transporting FEMA-originated emergency alert messages to other PEP stations and state emergency operations centers. Under this arrangement, the company designed and provided 108 EAS receivers to be installed at PEP stations and state emergency communications offices across the country. SiriusXM has been prepared since that time to transmit the Emergency Alert Network's Presidential Message to those receivers using SiriusXM's own satellite infrastructure, if the terrestrial communication distribution system is disrupted in a national emergency. SiriusXM continues to work with FEMA to find additional ways to facilitate the transmission of emergency communications using our facilities.

since in contrast to terrestrial radio and television, no other entities in the EAS network monitor SiriusXM's emergency alerts as a mechanism to trigger their station's own EAS equipment. Finally, to the extent the Commission believes regular EAS testing is critical to ensure listeners' familiarity with emergency alerts and the responses they should take in the event of a real emergency, it is unnecessary to require that SiriusXM broadcast those tests weekly. If it were necessary, the Commission would surely require weekly announcements to be carried by all comparable media, rather than imposing that requirement disproportionately on satellite radio.

The passage of time and changed circumstances since SiriusXM initially filed the Petition has also simplified the relief that is needed. Consistent with SiriusXM's request in the Petition, we now ask that the Commission modify the EAS testing rules applying to satellite radio only as follows:

1. For the weekly EAS tests, the Commission should treat satellite radio in a manner comparable to DBS providers and certain broadcasters in Section 11.61(a)(2)(ii) of the Rules,⁴ such that SDARS providers would not be required to transmit a weekly EAS test but would have to only log receipt of its tests, as specified in Sections 11.35(a) and 11.54(a)(3) of the Rules;⁵ and
2. For the monthly EAS tests, the Commission should treat satellite radio in a manner comparable to DBS providers by allowing SDARS providers to conduct these tests on a minimum of 10% of all satellite radio channels monthly, so that over the course of a given year, 100% of all channels are tested.⁶

The scope of the EAS testing required of satellite radio is inconsistent with the operation of the platform and with the public's needs. Reconsidering the 2005 EAS rules and revising them as requested herein will significantly reduce the burdens on SiriusXM and its customers while imposing obligations commensurate with those required of other communications providers. These changes will not materially impact SiriusXM's ability to demonstrate that its EAS facilities operate as needed, nor will they interrupt programming to our subscribers any more than is necessary, while continuing to ensure the availability and proper operation of the EAS.

⁴ 47 C.F.R. § 11.61(a)(2)(ii).

⁵ 47 C.F.R. § § 11.35(a), 11.54(a)(3).

⁶ 47 C.F.R. § 11.61(a)(1)(ii).

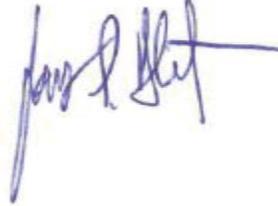
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Please contact the undersigned if further questions arise in connection with this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "James S. Blitz". The signature is stylized with a long horizontal stroke extending to the right.

James S. Blitz

Vice President, Regulatory Counsel

cc: Gregory Cooke, David Munson, Stephen Duall, Chip Fleming (by email)