

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of:)
)
Review of the Emergency Alert System) EB Docket No. 04-296
)
)

To: The Commission

**COMMENTS OF INDEPENDENT SPANISH BROADCASTERS ASSOCIATION,
OFFICE OF COMMUNICATION, UNITED CHURCH OF CHRIST, INC., AND
MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL**

I. Introduction

The Independent Spanish Broadcasters Association¹, the Office of Communication, United Church of Christ, Inc.,² and the Minority Media and Telecommunications Council³ (collectively “*Petitioners*”) hereby submit these Comments in response to the Further Notice of Proposed Rulemaking issued in the above referenced proceeding.⁴ The *EAS R&O and FNPRM* considers, among other items, the adoption of a plan proffered by *Petitioners* in a September 20, 2005 Petition for Immediate Interim Relief,⁵ which was incorporated into this proceeding.⁶

¹ The Independent Spanish Broadcasters Association (“ISBA”) was formed in 2004 to give a voice to the independent Spanish language and Latino radio and television broadcasters.

² The Office of Communication, United Church of Christ, Inc. (“OC, Inc.”) was incorporated in 1959 to advocate on behalf of those who had been historically excluded from the media, especially people of color and women.

³ The Minority Media and Telecommunications Council (“MMTC”), founded in 1986, is a national nonprofit organization dedicated to promoting and preserving equal opportunity and civil rights in the mass media and telecommunications industries. MMTC is generally recognized as the nation's leading advocate for minority advancement in communications.

⁴ See *Review of the Emergency Alert System*, EB Docket No. 04-296, *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 05-191 (rel. Nov. 10, 2005) (hereinafter “*EAS R&O and FNPRM*”).

⁵ See *Petition for Immediate Interim Relief* EB Docket No. 04-296 (filed September 22, 2005) (hereinafter “*Petition*”).

⁶ *EAS R&O and FNPRM* at para. 81.

Petitioners' plan would ensure that non-English speaking persons have access to emergency information during times of local, state and national emergencies. Access to local, state and national emergency information in multiple languages is critical to non-English speakers. Accordingly, the Commission should adopt the *Petitioners'* multilingual Emergency Alert System (“EAS”) messaging plan and also ensure that multilingual EAS messaging is an integral component of the recently adopted EAS requirements for digital service providers. In addition, to the extent technically feasible, the Commission should incorporate multilingual EAS messaging in the development of any alert and warning system deployed on other technologies.

II. Background

In 2004 the Commission issued a Notice of Proposed Rulemaking and undertook a comprehensive review of the Emergency Alert System.⁷ In the *EAS NPRM*, the Commission recognized that any review of the EAS must consider the needs of people with primary languages other than English. While the EAS proceeding was pending, Hurricane Katrina devastated the city of New Orleans and much of southern Mississippi. During Hurricane Katrina and in its immediate aftermath, as many as 300,000 people were without emergency information because they did not speak English fluently and emergency information was unavailable in languages other than English.⁸ Further, tens of millions of Americans are not fluent in English, and in many large cities there are no media outlets broadcasting in their languages.⁹

⁷ See *Review of the Emergency Alert System*, EB Docket No. 04-296, *Notice of Proposed Rulemaking*, 19 FCC Rcd 15775 (2004) (hereinafter “*EAS NPRM*”).

⁸ See *Petition* at 1-7; see also Idy Fernandez, *Katrina's Wrath*, Hispanic Magazine, October 2005, p. 10 (“[m]any Spanish-speaking residents of Mississippi complain they didn’t get adequate warning about Hurricane Katrina’s pending arrival in late August. By the time city workers came to warn them, one day before the hurricane was supposed to hit, they didn’t enough time to secure their homes, buy enough supplies or evacuate, they say.”)

⁹ See *Petition* at 7-10. For example, there are over 100,000 Latinos in the Detroit metropolitan area, yet no broadcast station there transmits in Spanish. *Id.* at 10 n. 26. When seeking vital news and information, racial and ethnic minority groups rely most heavily on media broadcasting in their languages. See *Petition* at 9 and n. 24.

The *Petition*, submitted in Katrina's wake, contains a blueprint for a simple, straightforward plan to provide non-English speaking persons in the United States with access to emergency information during times of local, state and national emergencies.

Under the plan proposed by *Petitioners*, the Commission would (1) require that EAS PEP stations air Presidential level messages in both English and Spanish; (2) require that state and local EAS plans designate a "Local Primary Spanish" ("LP-S") station to transmit emergency information in Spanish in local areas where a substantial portion of the population has its primary fluency in Spanish;¹⁰ (3) require that state and local EAS plans also designate a "Local Primary Multilingual" ("LP-M") station in local areas where a substantial portion of the population has its primary fluency in a language other than English or Spanish; (4) require that at least one broadcast station in every market monitor and rebroadcast emergency information carried by the local LP-S station and, where applicable, the local LP-M station; (5) require that stations remaining on the air during an emergency, broadcast emergency information in Spanish and in languages used on the LP-M station, if one exists (at least as part of their broadcasts) if the local LP-S or LP-M stations lose transmission capability; and (6) encourage all broadcasters to assist local LP-S and LP-M stations to return to the air under such circumstances.¹¹

The *EAS R&O and FNPRM* did not resolve the issue of how to ensure that non-English speakers are adequately warned during an emergency. However, in the *EAS R&O and FNPRM* the Commission recognized the critical importance of this issue and specifically sought comment

¹⁰ The Commission has ample authority to withhold approval of a state or local EAS plan that does not provide adequately for multilingual EAS communications. See 47 C.F.R. §11.21 and discussion in *Petitioners' October 18, 2005 Reply Comments* (filed in connection with the *Petition*) at 2-3.

¹¹ *Petition* at 4, 13-16. In their *Reply Comments*, responding to an issue raised by the National Association of Broadcasters, *Petitioners* urged the Commission, "during and after an emergency, to post on its home page in real time a link to a list of PEP, LP-1, LP-S and LP-M stations remaining on the air." *Reply Comments* at 5.

on the *Petitioners* plan for multilingual EAS messaging.¹² The Commission also sought comment on “any other proposals regarding how to best alert non-English speakers.”¹³ Significantly, the Commission stated, “[u]ntil we address these issues, we encourage that multilingual emergency information be provided in areas where a significant proportion of the population has its primary fluency in languages other than English.”¹⁴

In a separate statement, Commissioner Copps declared “we need to make sure that *all* Americans receive emergency information, including ... those whose primary fluency is in a language other than English. In the recent hurricanes, tens of thousands of residents whose primary language is not English lacked access to the information and warnings that others were receiving. We need to solve this problem.”¹⁵ Commissioner Adelstein added, “[w]e cannot overemphasize the importance of disseminating emergency information in multiple languages.”¹⁶ Commissioner Adelstein further noted that “[a]s set forth in Section 1 of the Communications Act, *we have an obligation to address this problem*. We must find ways to ensure that all households have access to emergency warnings and alerts in a language they understand....”¹⁷

III. The Commission Should Adopt The Petitioners’ Plan

The Commission can and should adopt the *Petitioners’* plan for multilingual EAS messaging. The *Petitioners* previously demonstrated that the plan is not controversial, can be easily implemented with minor rule amendments, and fits squarely within the Commission’s powers to implement. Moreover, there is a documented need for multilingual EAS relief.

¹² *EAS R&O and FNPRM* at para. 81.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Separate Statement of Commissioner Michael J. Copps (rel. Nov. 10, 2005).

¹⁶ Separate Statement of Commissioner Jonathan S. Adelstein (rel. Nov. 10, 2005) (emphasis supplied).

¹⁷ *Id.*

Hundreds of thousands of Latino and Vietnamese people lived in the area affected by the Hurricane Katrina and the consequent flooding, which left people with nothing but the clothes on their backs.¹⁸ Many Latinos and Vietnamese in these communities had little to no advance warning that this country's worst natural disaster in recent history was at their doorstep. Finding medical facilities, shelter, food, and potable water was a matter of life and death for thousands of non-English speakers in Katrina's aftermath. Finding and implementing a solution to this problem, such as the plan proffered by the *Petitioners*, ought to be priority one in considering the issues raised by the Commission in its *EAS R&O and FNPRM*.

The Commission served as a model of efficiency and effectiveness in the wake of Katrina, acting immediately to waive rules that impeded the robust flow of emergency communications. *Petitioners* applaud the Commission's responsiveness. The Commission recognized that immediate action was necessary to ensure the safety of life. Because the issue of multilingual EAS messaging also concerns the safety of life, the Commission should likewise act expeditiously to adopt the *Petitioners'* multilingual EAS messaging plan and ensure the widespread availability of multilingual emergency communications and the safety of millions of non-English speakers across the country during emergencies.

IV. Multilingual EAS Messaging In A Digital Environment

In the *EAS R&O and FNPRM*, the Commission recognized the increasing use of digital technologies by Americans and amended its rules to require digital broadcast, digital subscription television, and digital radio services to carry emergency alert and warning

¹⁸ Consular authorities from Latin American countries estimate that as many as 300,000 people from Mexico, Central American and several South American nations reside in the affected areas. See Diego Cevellas, *Thousands of Latin American Immigrants Among Katrina's Victims*, International Press News Agency (Sept. 5, 2005), <http://www.ipsnews.net/news.asp?idnews=30150>.

information.¹⁹ Specifically the Commission is requiring providers of digital broadcast and cable TV, digital audio broadcasting, satellite radio, and direct broadcast satellite services to air all national EAS messages.²⁰ Participation in state and local EAS activations will be voluntary, but if digital service providers choose to participate in state and local EAS activations they must comply with Part 11 of the Commission's rules.²¹ The Commission asks in its *EAS R&O and FNPRM*, "how any next generation digitally-based alert and warning system can be developed in a manner that assures persons with disabilities will be given equal access,"²² but does not ask how such a system will ensure non-English speakers will be warned in a digital environment. This question is equally important. The answer is simple.

The Commission should amend the relevant provisions of Part 11 of its rules concerning digital EAS requirements to provide for the mandatory carriage of national multilingual EAS messages on digital services and the mandatory carriage of local multilingual EAS messages on digital services where the digital service provider has chosen to participate in state and local EAS activations. The implementation of a digital multilingual EAS for all national activations can be accomplished with relative ease, to the extent digital service providers are required to monitor PEP stations and such PEP stations are required to air Presidential level messages in both English and Spanish, as *Petitioners* have urged. The implementation of a digital multilingual EAS for local EAS activations is similarly uncomplicated, where digital service providers elect to participate in state and local EAS activations, if the state and local EAS plans are required to include the designation and monitoring of local LP-S and LP-M stations that provide non-

¹⁹ See *EAS R&O and FNPRM* at paras. 19-49.

²⁰ *Id.*

²¹ *Id.*

²² *EAS R&O and FNPRM* at para. 80.

English EAS messages, as *Petitioners* have urged. Simply put, the Commission should not overlook the needs of non-English speaking persons in the digital environment.

V. The Commission Should Incorporate Multilingual EAS Messaging When Developing EAS Rules For New Technologies

In the *EAS R&O and FNPRM*, the Commission queries how it could facilitate the effective integration of wireless technologies into a next generation alert and warning system, and whether traditional telephone companies that plan to provide high definition digital content to customers' homes (through fiber optic connections) should similarly have public alert and warning responsibilities. Wireless applications such as "reverse 911" have great promise for emergency use.²³ To the extent technically feasible, the Commission should incorporate multilingual EAS messaging in the development of any alert and warning system deployed on other technologies.²⁴ Again, the Commission should not leave non-English speaking persons out of any enhanced EAS plan.

VI. Conclusion

For the reasons stated above, *Petitioners* respectfully request that the Commission expeditiously adopt the *Petitioners'* multilingual EAS messaging plan and ensure that multilingual EAS messaging is an integral component of recently adopted EAS requirements for digital service providers. To the extent technically feasible, the Commission should also incorporate multilingual EAS messaging in the development of any alert and warning system deployed on other technologies.

²³ *EAS R&O and FNPRM* at para. 81.

²⁴ Multilingual wireless text messaging, to millions of cellphones, is being used by ten agencies of the United Nations, including UNICEF and UNAIDS, to raise the profile of children with HIV/AIDS. See Celia W. Dugger, *UN Puts Children in Forefront of AIDS Effort*, The New York Times, October 26, 2005.

Respectfully submitted,

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January 24, 2006

CERTIFICATE OF SERVICE

I, David Honig, hereby certify that I have this 24th day of January 2006 caused a copy of the foregoing "Comments" to be delivered by electronic mail to the following:

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