

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendments to Part 11 of the Commission’s Rules) PS Docket No. 15-94
Regarding the Emergency Alert System)

ORDER

Adopted: December 14, 2023

Released: December 14, 2023

By the Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. In this Order, the Public Safety and Homeland Security Bureau (Bureau) addresses the request filed by CBS Broadcasting Inc., CBS Television Stations Inc., Los Angeles Television Station KCAL LLC, and Pittsburgh Television Station WPCW Inc. (collectively, “Petitioners” or “Paramount Global Licensees”), seeking an extension of certain December 12, 2023 Emergency Alert System (“EAS”) compliance deadlines requiring changes to alert displays and code processing adopted by the FCC in the 2022 EAS Report and Order.¹ For the reasons discussed below, the Bureau grants the request.

II. BACKGROUND

2. Overview of the EAS. The EAS is a national system used to disseminate public warnings of impending emergencies over broadcast, cable, and satellite networks to consumers’ radios, televisions, and other audio and video devices.² Both the Federal Communications Commission (Commission) and the Federal Emergency Management Agency (FEMA) jointly oversee the EAS. Authorized alert originators³ may transmit EAS messages to EAS Participants (for distribution to the public) either over FEMA’s Internet-based platform known as the Integrated Public Alert and Warning System (IPAWS) using the CAP format, or over the so-called “legacy” EAS distribution system, a broadcast-based process in which messages are transmitted via audio channels and relayed from one EAS Participant to another

¹ Amendment of Part 11 of the Commission’s Rules Regarding the Emergency Alert System, PS Docket No. 15-94, Report and Order, 37 FCC Rcd 11844 (2022) (2022 Part 11 Report and Order) see also PSHSB Announces Effective Date and Compliance Dates for Certain Emergency Alert System (EAS) Rules, PS Docket No. 15-94, Public Notice, DA 22-1189 (rel. Nov. 10, 2022). The FCC also adopted changes to the language associated with the national emergency code. The compliance deadline for cable systems to implement changes to this language is March 12, 2024, for certain set-top box software and hardware upgrades, and December 12, 2028, for certain set-top box hardware upgrades. Petitioners are not seeking an extension of these compliance deadlines.

² Id. See 47 CFR § 11.2(b) (defining “EAS Participants”).

³ See 47 CFR § 11.31 (describing “EAS Protocol”); see also FEMA, Alerting Originators, https://www.fema.gov/emergency-managers/practitioners/integrated-public-alert-warning-system/public-safety-officials/alerting-authorities#:~:text=An%20Alert%20Originator%20is%20an,composing%20and%20issuing%20the%20alert (last updated June 26, 2023).

throughout a geographic area.⁴ EAS Participants typically receive legacy EAS messages by monitoring audio transmissions from other EAS Participants or other sources. EAS Participants receive IP-based messages transmitted over IPAWS by periodically checking an Internet-connected server (a process known as “polling”) for messages from alert originators in CAP format.⁵ Alert messages transmitted over the legacy EAS are encoded in the Specific Area Message Encoding (SAME) protocol format (developed by the National Weather Service for weather alerts) and consist of audible tones that convey header codes, a two-tone attention signal, an audio stream (typically no longer than two minutes of a person’s voice), and an end-of-message signal.⁶ The header codes identify the type of event covered by the alert, the originator of the message, and the relevant times, locations, and geographic areas. CAP-formatted alerts disseminated over the IPAWS platform can convey considerably more information than legacy EAS-based alerts in the SAME format. For example, CAP alert messages may include detailed directions on how the public should respond to the specific emergency, information in languages other than English, picture and video files, and URLs. This information cannot be relayed when CAP alerts are converted into legacy alerts for distribution over the legacy EAS;⁷ all data other than the header codes are lost in this conversion process.

3. On September 30, 2022, the Commission took measures to promote clarity and accessibility of alerts and to maintain public confidence in the EAS as a reliable source of emergency information.⁸ Among other actions, the Commission adopted new rules to increase the proportion of alerts distributed to the public that include enhanced information.⁹ With a few enumerated exceptions, the Commission requires EAS Participants, upon receiving a legacy EAS alert message, to check whether a CAP version of the same alert is available by polling the IPAWS feed for CAP-formatted EAS messages.¹⁰ If a CAP version is available, the EAS Participants must transmit the CAP version rather than the legacy version. EAS Participants may not transmit an alert in legacy format until at least 10 seconds after receiving its header codes unless they confirm by polling the IPAWS feed that no matching

⁴ In the legacy EAS, when an EAS Participant broadcasts an alert message, the message is received not only by that EAS Participant’s local audience, but also by downstream EAS Participants that monitor the transmission, following a matrix of monitoring assignments set forth in State EAS Plans. The applicable State EAS Plan assigns each EAS Participant alert the sources from which it is required to monitor alert messages that they may transmit. The EAS Participant uses specialized EAS equipment to decode the header codes in each alert message it receives and, if the alert is in a category and geographic location relevant to that entity, it will rebroadcast the alert. That rebroadcast, in turn, is received not only by that entity’s audience, but also by additional downstream EAS Participants that monitor it. This process of checking and rebroadcasting the alert will be repeated until all affected EAS Participants in the relevant geographic area have received the alert and have delivered it to the public.

⁵ See 47 CFR 11.52(e)(2); Federal Emergency Management Agency (FEMA), *EAS Participants*, <https://www.fema.gov/emergency-managers/practitioners/integrated-public-alert-warning-system/broadcasters-wireless/emergency-alert-system-participants> (last updated July 28, 2021).

⁶ See 47 CFR § 11.31.

⁷ For example, if enhanced text is included in a CAP alert, a video service EAS Participant (such as a TV broadcaster or cable system) that receives it will generate a visual message that includes not only the header code data (as is the case with legacy EAS alerts) but also that enhanced text, which might include remedial actions to avoid hazards potentially posed by the emergency event.

⁸ 2022 *Part 11 Report and Order* at 1-2, paras. 1-3 and at 4-5, para. 10.

⁹ 2022 *Part 11 Report and Order* at 6, para. 14.

¹⁰ This requirement applies only to valid alert messages relating to event categories and locations for which the EAS Participant normally transmits such alerts pursuant to the State EAS Plan. The requirement does not apply to national emergency messages (i.e., alerts with the EAN event code), messages associated with national tests of the EAS (bearing the NPT code), or required weekly test messages (bearing the RWT code).

CAP version of the message is available.¹¹ EAS Participants must comply with this requirement, codified at Section 11.55(c)(2) of the Commission's rules, by December 12, 2023.¹²

4. *Paramount Global Licensees' Request.* On December 11, 2023, Petitioners filed a request for a 30-day temporary waiver of certain EAS compliance deadlines falling on December 12, 2023.¹³ In support of its request, Petitioners state that, of the 29 stations operated by the Paramount Global Licensees, three stations are unable to comply with the Commission's deadline as its equipment cannot be modified by software update, and these stations have not completed hardware changes necessary to support compliance with the relevant EAS rules due to minor vendor delays.¹⁴ Petitioners further state that a fourth station, having received updated equipment, subsequently discovered the equipment was improperly configured necessitating return of the hardware to the manufacturer.¹⁵ They assert that when the Paramount Global Licensees determined their current equipment was incompatible with the software-update method of compliance, they promptly identified the required equipment replacements and worked with their vendors to ensure compliance using alternative procedures, but that unexpected complications in the procurement process resulted in a "minor delay in the receipt and installation of the new equipment."¹⁶ They estimate compliance "in a matter of days."¹⁷

5. Petitioners thus seek a limited, temporary 30-day waiver for the EAS units for which the required hardware upgrades will not be complete prior to December 12, 2023, and request that it be granted an extension until January 10, 2024, to come into full compliance with the Commission's new EAS rules.

III. DISCUSSION

6. A provision of the Commission's rules "may be waived by the Commission on its own motion or on petition if good cause therefor is shown."¹⁸ The Commission may find good cause to extend a waiver "if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."¹⁹ The waiver applicant generally faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.²⁰ Based on the circumstances described herein, we conclude there is good cause to provide an short, temporary extension of time until January 10, 2024, to accommodate the anticipated hardware delivery and installation time estimated by the Paramount Global Licensees.

7. In further support of its waiver, counsel to the Paramount Global Licensees represented to staff that KDKA-TV, Pittsburgh, Pennsylvania (FCC Facility ID No. 25454) and Station WPKD-TV, Jeannette, Pennsylvania (FCC Facility ID No. 69880) both finalized purchase orders for replacement equipment on September 8, 2023. While equipment for KDKA-TV has not yet been delivered as of the

¹¹ 2022 Part 11 Report and Order at 5, para. 11.

¹² See 47 CFR § 11.55(c)(2).

¹³ At the request of staff, counsel to Petitioners clarified that wavier is sought specifically at to sections 11.31(d)(2), 11.51(d)(3), and 11.51(d)(3)(iii)of the Commission's rules, 47 CFR §§ 11.31(d)(2), 11.51(d)(3), and 11.51(d)(3)(iii).

¹⁴ Extension Request at 2. These stations include KCBS-TV, Los Angeles, California (FCC Facility ID No. 21422); KDKA-TV, Pittsburgh, Pennsylvania (FCC Facility ID No. 25454); and WFOR-TV (Miami, Florida) (FCC Facility ID No. 47902).

¹⁵ *Id.* at 2-3. (Station WPKD-TV, Jeannette, Pennsylvania (FCC Facility ID No. 69880)).

¹⁶ *Id.* at 4.

¹⁷ *Id.* at 3.

¹⁸ 47 CFR § 1.3.

¹⁹ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

²⁰ *WAIT Radio v. FCC*, 418 F.2d at 1157.

date of the waiver, with respect to WPKD-TV, counsel indicated that replacement equipment was received on December 4, 2023, but discovered to be faulty and promptly returned to the vendor. A further return of the equipment to the station from the vendor remains pending.

8. KCBS-TV, Los Angeles, California (FCC Facility ID No. 21422) finalized its purchase order for updated equipment on September 22, 2023, but was still pending receipt of the equipment as of the date of the waiver. As to WFOR-TV (Miami, Florida) (FCC Facility ID No. 47902), counsel indicated that the equipment purchase order was finalized in September 19, 2023, and shipment of the requisite equipment occurred on December 11, 2023.

9. We find that the limited nature of the extension to accommodate the unexpected delay from their vendor, coupled with the prompt action by the Licensees upon the discovery of the non-compatibility of the subject equipment, justifies a limited extension of time and will serve the public interest. Petitioners estimate receipt and installation of needed equipment in 7-10 days, seeking an additional 30-days for compliance in an abundance of caution.²¹ We agree with Petitioners that a narrowly-tailored brief extension, responding to unforeseen circumstances, will permit the Paramount Global Licensees to provide critical emergency and public safety information to the public promptly in compliance with the Commission's updated technical standards.²²

10. In order to ensure adequate service to its customers during the pendency of the upgrades, we condition our waiver on the requirement that the EAS equipment now in place will continue to operate in all respects except for the requirements related to the rules waiver herein until the new equipment is installed, so there will be no interruption to alerting.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and (j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j), and section 1.3 of the Commission's rules, 47 CFR § 1.3, sections 11.31(d)(2), 11.51(d)(3), and 11.51(d)(3)(iii) of the Commission's rules, 47 CFR §§ 11.31(d)(2), 11.51(d)(3), and 11.51(d)(3)(iii), ARE WAIVED, for Petitioners' stations KCBS-TV, Los Angeles, California (FCC Facility ID No. 21422); KDKA-TV, Pittsburgh, Pennsylvania (FCC Facility ID No. 25454); and WFOR-TV (Miami, Florida) (FCC Facility ID No. 47902) and WPKD-TV, Jeannette, Pennsylvania (FCC Facility ID No. 69880), to comply with the enumerated provisions of the Commission's September 2022 *Report and Order*. The Request for an Extension of Compliance Deadline is GRANTED to afford these Paramount Global Licensee stations until January 10, 2024.

12. This action is taken under delegated authority pursuant to sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191 and 0.392.²³

FEDERAL COMMUNICATIONS COMMISSION

Debra Jordan
Chief
Public Safety and Homeland Security Bureau
Federal Communications Commission

²¹ Extension Request at 3.

²² See, e.g., Extension Request at 4

²³ See 47 CFR §§ 0.191 and 0.392.