



# PUBLIC NOTICE

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## THE COMMISSION SEEKS COMMENT ON IMPLEMENTATION OF A GRANT PROGRAM FOR REMOTE COMMUNITY ALERT SYSTEMS PURSUANT TO SECTION 605(A) OF THE WARNING, ALERT, AND RESPONSE NETWORK (WARN) ACT

PS Docket No. 07-8

**Comment Date: February 6, 2007**  
**Reply Comment Date: February 22, 2007**

On October 13, 2006, President Bush signed the Security and Accountability For Every Port (SAFE Port) Act into law.<sup>1</sup> Title VI of the SAFE Port Act, the Warning, Alert, and Response Network (WARN) Act, establishes a process for commercial mobile service providers to voluntarily elect to transmit emergency alerts.<sup>2</sup> Section 605(a) of the WARN Act establishes a grant program for the installation of technologies in remote communities to enable residents of those communities to receive emergency alerts. Specifically, Section 605(a) of the WARN Act provides:

The Under Secretary of Commerce for Oceans and Atmosphere, in consultation with the Secretary of Homeland Security, shall establish a program under which grants may be made to provide for outdoor alerting technologies in remote communities effectively unserved by commercial mobile service (as determined by the Federal Communications Commission within 180 days after the date of enactment of this Act) for the purpose of enabling residents of those communities to receive emergency alerts.<sup>3</sup>

By this Public Notice, the Commission asks how it should interpret “remote communities effectively unserved by commercial mobile service,” as required under Section 605(a) of the WARN Act.

“*Remote Communities.*” In a Report and Order modifying certain regulations and policies to facilitate the deployment of wireless services in rural areas, the Commission, *inter alia*, determined to define “rural area” as: “those counties (or equivalent) with a population density of 100 persons per square

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<sup>1</sup> Security and Accountability For Every Port Act of 2006, Pub. L. No. 109-347, 120 Stat. 1884 (2006).

<sup>2</sup> Warning, Alert, and Response Network (WARN) Act, Pub. L. No. 109-347, §§ 601-613, 120 Stat. 1884, 1936-1943 (2006).

<sup>3</sup> WARN Act, § 605(a).

mile or less, based upon the most recently available Census data.”<sup>4</sup> In reaching this definition of “rural area,” the Commission found that it was important that the definition be easy to administer and understand.<sup>5</sup> The Commission also sought to “ensure that our policies are appropriately tailored to promote service to consumers in rural areas,”<sup>6</sup> and stated that this definition serves as a “practical guideline” to “maintain continuity with respect to existing definitions of rural area that have been tailored to apply to specific policies” and “will apply for current or future Commission wireless radio service rules, policies and analyses for which the term has not been expressly defined.”<sup>7</sup>

We ask whether the Commission’s definition of a “rural area” also would be appropriate for defining “remote communities” under the WARN Act. Would this definition be of equal benefit for purposes of administering the grant program envisioned by Congress under Section 605(a)? We also seek comment on other possible interpretations of “remote communities.”

“*Commercial Mobile Service.*” Section 602(b)(1)(A) of the WARN Act specifically defines “commercial mobile service” by cross-reference to the definition of “commercial mobile service” in Section 332(d)(1) of the Communications Act of 1934, as amended.<sup>8</sup> Section 20.3 of the Commission’s rules defines “commercial mobile radio service” in a manner that is similar to the definition of “commercial mobile service.”<sup>9</sup> Should we interpret the term “commercial mobile service” to have the same meaning as “commercial mobile radio service” for purposes of implementing Section 605(a) of the WARN Act? We seek comment on this and other possible interpretations.

“*Effectively Unserved.*” We believe the phrase “effectively unserved” modifies the phrase “remote communities,” and that the intent of this language is to identify those remote communities that would not be able to receive emergency warning alerts from commercial mobile service providers who voluntarily elect to transmit emergency alerts. We seek comment on possible interpretations of the phrase “effectively unserved.” Should effectively unserved mean that commercial mobile radio services are not available to any consumers at all in a “remote community,” a significant portion of consumers, or some portion of consumers? How should the unavailability of commercial mobile radio services be

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<sup>4</sup> See Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services, WT Docket No. 02-381, 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services, WT Docket No. 01-14, Increasing Flexibility to Promote Access to and the Efficient and Intensive Use of Spectrum and the Widespread Deployment of Wireless Services, and to Facilitate Capital Formation, WT Docket No. 03-202, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 19078, 19087 ¶ 11 (2004).

<sup>5</sup> *Id.* Specifically, the Commission noted that:

“[D]efinitions based on county boundaries are easy to administer and understand, population data based on county boundaries are widely available to the public, and county boundaries rarely change. Moreover, the total population of the counties that fall within this definition of “rural area” closely tracks the Census Bureau’s overall population for non-urban areas.” *Id.* (citations omitted).

<sup>6</sup> *Id.* at 19086 ¶ 10.

<sup>7</sup> *Id.* at 19088 ¶ 12.

<sup>8</sup> See WARN Act, § 602(B)(1)(A); 47 U.S.C. § 332(d)(1) (“commercial mobile service means any mobile service [ ] 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”).

<sup>9</sup> See 47 C.F.R. § 20.3. In addition, Section 20.9 specifies which mobile services “shall be . . . regulated as commercial mobile radio services.” 47 C.F.R. § 20.9.

demonstrated? Should a variety of means be used, such as coverage maps from service providers, technical analyses, field tests, or subscriber levels?

*Comment Filing Procedures.* Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal Rulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
  - For ECFS filers, if multiple dockets or rulemaking numbers appear in the caption of this proceeding, filers must transmit a copy of the comments in each of the dockets or rulemaking numbers referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

*Ex Parte.* We believe that it would be in the public interest to treat this proceeding as a permit-but-disclose proceeding in accordance with the Commission's *ex parte* rules.<sup>10</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.<sup>11</sup> Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) of the Commission's rules as well.

*Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., CY-A257, Washington, D.C. 20554. These documents also will be available via ECFS in Acrobat PDF File Format.

Action by the Commission on January 22, 2007: Chairman Martin, Commissioners Copps, Adelstein, Tate and McDowell.

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<sup>10</sup> 47 C.F.R. §§ 1.1200, 1.1206; Amendment of 47 C.F.R. § 1.1200 *et seq.* Concerning Ex Parte Presentations in Commission Proceedings, GC Docket No. 95-21, *Report and Order*, 12 FCC Rcd 7348 (1997).

<sup>11</sup> 47 C.F.R. § 1.1206(b)(2).