

November 14, 2023

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
45 L Street NE
Washington DC 20554

Re: PS Docket No. 15-94; Request for Extension of Compliance Deadline

Dear Ms. Dortch:

REC Networks (REC)¹ and the National Association of Broadcasters (NAB)² respectfully submit this joint request for a 90-day extension of the deadline to comply with new regulations that require an Emergency Alert System (EAS) Participants to prioritize the Common Alerting Protocol (CAP)-formatted version of an EAS message when it receives both a legacy version and CAP-formatted version of the same alert.³

The Commission approved this requirement in the EAS Order adopted on September 29, 2022, in which the Commission revised its EAS rules to improve the clarity and accessibility of EAS messages.⁴ The Commission mandated compliance with the rules adopted in the EAS Order no later than one year from the effective date of the Order.⁵ The Report and Order was published in the Federal Register on November 10, 2022, with an effective date of December 12, 2022,⁶ thereby establishing a compliance deadline of December 12, 2023.⁷

¹ REC Networks is an unincorporated entity that provides regulatory advocacy before the Federal Communications Commission focusing on small radio stations, especially the Low Power FM (LPFM) radio service as well as on initiatives that will help radio remain relevant through diverse access to the airwaves and fostering innovation in the medium. REC is also a FEMA approved developer of products that interact with the IPAWS-OPEN system.

² The National Association of Broadcasters (NAB) is a nonprofit trade association that advocates on behalf of local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

³ 47 C.F.R. § 11.55(c).

⁴ *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, Report and Order, 37 FCC Rcd 11844, 11849-54 (2022) ("EAS Order").

⁵ *Id.* at 11860.

⁶ 87 F.R. 67808 (2022).

⁷ *Public Safety and Homeland Security Bureau Announces Effective Date and Compliance Dates for Certain Emergency Alert System (EAS) Rules*, Public Notice, DA 22-1189 (Nov. 10, 2022).

The Commission established the one-year implementation schedule based in part on indications from the major suppliers of EAS equipment that the necessary firmware updates could be implemented within that time period.⁸

It has recently come to our attention that one of the major EAS encoder-decoder manufacturers will not be able to release the needed firmware update until shortly before the compliance deadline.⁹ This manufacturer has a significant market share of both low power and full-power FM radio stations,¹⁰ and also serves numerous television and multiple video programming distributor EAS Participants.

REC and NAB understand from broadcast stations across the country that a considerable number of EAS Participants will be unable to implement the firmware update by December 12th due to the delayed release of this manufacturer's firmware update. We further understand that, given the rapidly approaching deadline, many of these entities will be unable to comply regardless of when the manufacturer releases the update. Simply put, it is already too late for many EAS Participants to meet the current deadline.

Many radio and television stations, especially low power and small full-power stations that lack in-house technical personnel, rely on contract engineers to implement these types of updates,. However, in many areas, there are few such engineers qualified to ensure the proper implementation of this firmware update, and given the delay in the firmware's release, it will be difficult for stations to obtain the necessary service by the current deadline. This challenge is exacerbated by the fact that hundreds, if not thousands, of EAS Participants must update their firmware by the same deadline.

In addition, some radio and television groups have dozens or even hundreds of EAS boxes that must be updated, including boxes that are located at remote locations near a station's transmitter. Implementing the firmware update by the required deadline, whether using in-house expertise or with the help of a contract engineer, will be further complicated by the upcoming holidays.

The Commission may grant an extension of a compliance deadline for good cause.¹¹ Good cause is shown and an extension is appropriate if "special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."¹² Accordingly, to provide

⁸ EAS Order, 37 FCC Rcd at 11860.

⁹ McLane, Paul, *Sage EAS Firmware Update Is Still Pending*, Radio World (Nov. 7, 2023), available at <https://www.radioworld.com/news-and-business/headlines/sage-eas-firmware-update-is-still-pending>.

¹⁰ See *Comments of REC Networks* at 29, Question 9, PS Docket 22-329 (Dec. 22, 2022) (constituent survey publicized through REC's support channels that received a representative sample of 35 responses from LPFM and full-service radio stations).

¹¹ 47 C.F.R. § 1.3.

¹² *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

sufficient time for all EAS Participants to meet the compliance deadline, REC and NAB respectfully request a 90-day extension of the December 12th deadline, until March 11, 2024.

In this case, a brief extension is justified because the unexpected delay of the necessary firmware update – beyond the control of EAS Participants – will make compliance by the existing deadline impossible. Granting this request would also serve the public interest because it will help facilitate the orderly, proper update of EAS equipment by qualified personnel. Finally, we note that granting this extension request will not reduce EAS functionality because EAS Participants will continue to be able to process EAS messages as they do today, without any disruption or impairment.

Please contact the undersigned with any questions.

Respectfully submitted,

/S/
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