

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
Equipment and Operational Issues	)	EB Docket No. 04-296
Identified Following the First	)	
Nationwide Test of the Emergency	)	
Alert System		

To: Office of the Secretary

**JOINT REPLY COMMENTS OF THE  
NAMED STATE BROADCASTERS ASSOCIATIONS**

Alabama Broadcasters Association, Alaska Broadcasters Association, Arizona Broadcasters Association, Arkansas Broadcasters Association, California Broadcasters Association, Colorado Broadcasters Association, Connecticut Broadcasters Association, Florida Association of Broadcasters, Georgia Association of Broadcasters, Hawaii Association of Broadcasters, Idaho State Broadcasters Association, Illinois Broadcasters Association, Indiana Broadcasters Association, Iowa Broadcasters Association, Kansas Association of Broadcasters, Kentucky Broadcasters Association, Louisiana Association of Broadcasters, Maine Association of Broadcasters, MD/DC/DE Broadcasters Association, Massachusetts Broadcasters Association, Michigan Association of Broadcasters, Minnesota Broadcasters Association, Mississippi Association of Broadcasters, Missouri Broadcasters Association, Montana Broadcasters Association, Nebraska Broadcasters Association, Nevada Broadcasters Association, New Hampshire Association of Broadcasters, New Jersey Broadcasters Association, New Mexico Broadcasters Association, The New York State Broadcasters Association, Inc., North

Dakota Broadcasters Association, Oklahoma Association of Broadcasters, Oregon Association of Broadcasters, Pennsylvania Association of Broadcasters, Radio Broadcasters Association of Puerto Rico, Rhode Island Broadcasters Association, South Carolina Broadcasters Association, South Dakota Broadcasters Association, Tennessee Association of Broadcasters, Texas Association of Broadcasters, Utah Broadcasters Association, Vermont Association of Broadcasters, Washington State Association of Broadcasters, West Virginia Association of Broadcasters, Wisconsin Broadcasters Association, and Wyoming Association of Broadcasters (collectively, the “State Associations”), by their attorneys in this matter, hereby submit their Joint Reply Comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice released on September 23, 2013 in the above-captioned proceeding.<sup>1</sup>

### **Introduction**

In complementing the outstanding work of the FCC, FEMA, the National Association of Broadcasters, National Public Radio and many others in the area of EAS, the State Broadcasters Associations serve as the equally committed, boots-on-the-ground representatives of the over-the-air broadcast industry in each of the fifty States, the District of Columbia and the Commonwealth of Puerto Rico, working directly with state and local emergency authorities. The EAS-related mission of these State Associations is to best ensure that the tried and true, one-to-many communications architecture of the nation’s radio and television broadcasters continues to be relied upon as a highly efficient communications tool protecting lives and property and speeding recovery efforts after virtually any kind of natural and man-made disaster. Toward that end, the State Associations play a critical leadership role, among other EAS-related matters (i)

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<sup>1</sup> See Public Safety and Homeland Security Bureau Seeks Informal Comment Regarding Equipment and Operational Issues Identified Following the First Nationwide Test of the Emergency Alert System, *Public Notice*, EB Docket No. 04-296, DA 13-1969 (rel. Sep. 23, 2013) at 1-2 (“*Public Notice*”).

working with state and local emergency management authorities in drafting, updating and fine-tuning the various State EAS plans that the Commission requires be filed, approved and followed, (ii) educating/training state and local emergency management authorities, (iii) administering the required regular monthly tests, (iv) checking EAS equipment under the State Association sponsored Alternative Broadcast Inspection Programs, and (v) where resources permit, assisting stations to acquire updated EAS equipment

### **Discussion**

Given the State Associations' first-hand knowledge of what is working well and what is not, they urge the Commission to resolve this proceeding consistent with at least the following two basic principles which are, by no means, intended to be exhaustive:

**Principle No. 1** – What must be assured is that the public receives timely and fully relevant information about impending and occurring emergency events, as well as about the aftermath recovery efforts and steps to be taken.

For that reason, any actions that the FCC may be considering to further improve EAS must not follow a one-size-fits-all approach but rather should assure operational flexibility at the final point of public dissemination of emergency information. In the case of local radio and television broadcasters, they are the ones who know what is expected to happen and is happening within their service areas and thus are in the best position to develop and provide information for their listeners and viewers that is timely and substantively responsive. In that regard, we support the positions of the NAB and other commenters which advocate flexibility as relates to the presentation of text and audio, given the vast number of configurations in station plants and equipment, and even variances among different EAS encoder-decoders, all of which represent substantial, unfunded commitments in capital investments.

**Principle No. 2** – Cable operators should not be able to block members of the public, who are their subscribers, from having immediate, continuing and full access to emergency information developed by local television stations which are carried on their systems. In short, cable operators should be prohibited from preventing local television stations from doing their “First Informer” jobs by denying their subscribers access to emergency information provided by local television stations.

Specifically, the Commission should amend its rules to require all cable providers, during EAS activations, to pass through the programming of every over-the-air television station that makes weather-related and other emergency information available to its viewers. Beginning many years ago, and again in its Comments filed in this proceeding the NAB, the State Associations and others have shown that public safety is compromised when, during an EAS activation, a cable operator overrides the time sensitive, location targeted, critical emergency information broadcast by over the-air television broadcast stations to their viewers. *See e.g.*, Comments of NAB, at 19-22 (Jan. 24, 2006); Comments of NAB, at 10-14 (Nov. 4, 2013); State Associations Reply Comments (Dec. 13, 2004 and June 14, 2010); and Comments of Capitol Broadcasting Company (Dec. 13, 2004). Local television stations invest considerable sums of money in technology, equipment and personnel to ensure their viewers receive the most current and precise weather and emergency information – most of which is specific to each community within a local region. The Commission regards full public access to this information as so important that it requires television stations to caption not only the critical details of emergency information that are scripted but also critical details of emergency information that are non-scripted.<sup>2</sup> *By refusing to pass through the very emergency information that the Commission*

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<sup>2</sup> *See, Public Notice Reminder Regarding Video Programming Distributors’ Obligation to make Emergency Information Accessible to Persons with Hearing or Vision Disabilities*, 24 FCC Rcd 11738 (2009). Indeed,

*requires television stations to caption, cable systems stand the Congressional and FCC policy foundation for captioning on its head – the cable system denies all of its subscribers access to the station’s emergency programming even though the station itself must in fact augment its emergency programming with captioning for the benefit of an important sub-set of those subscribers - the hearing impaired. At bottom, the cable override problem prejudices in particular the very class of viewers that the Congress and the FCC have specifically sought to protect. That practice should end immediately.*

### **Conclusion**

The State Associations respectfully urge the Commission to adopt the positions advanced herein. The State Associations remain committed to working with the Commission, emergency management authorities around the country, NAB, citizen and public interest groups and others, to ensure continued improvements in the nation’s emergency alert system for the benefit of all residents of the United States.

Respectfully submitted,

**NAMED STATE BROADCASTERS ASSOCIATIONS**

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recognizing the importance of captioning emergency information during emergencies, the Commission has vigorously sought to enforce the requirement by, for example, entering into consent decrees with broadcasters requiring compliance plans and significant monetary contributions by broadcasters to the Federal government for failure to do so. *See, e.g., Midwest Television, Inc.*, 22 FCC Rcd 4405 (2007)(\$18,000 contribution); *Waterman Broadcasting Corp.*, 22 FCC Rcd 4363 (2007)(same); *Fort Myers Broadcasting Company*, 22 FCC Rcd 2201 (2007)(\$20,000 contribution); *Fox Television Stations, Inc.*, 21 FCC Rcd 13364 (2006)(\$12,000 contribution).