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November 2, 2006

**BY OVERNIGHT DELIVERY**

Disability Rights Office  
Consumer & Governmental Affairs Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Attn: Ms. Pam Gregory, Special Advisor

**Re: FCC No. 06-N98254**

Dear Ms. Gregory

On behalf of WUSA-TV ("WUSA"), this letter responds to the above-referenced Notice of Informal Complaint dated October 18, 2006 ("NOIC"), in which the Commission requests a response to a complaint filed with the FCC by Ken Putkovich ("Complainant") with regards to WUSA's broadcast of visually accessible weather emergency information on September 28, 2006.

The Complaint alleges that during WUSA's approximately three (3) minute coverage of a weather report on September 28, 2006 failed to include closed captioning of the report.

WUSA has thoroughly reviewed its programming videotapes of its broadcasts and believes it complied with applicable Commission rules, which require only that emergency information provided aurally be provided visually, through whatever method; therefore, real time closed captioning of emergency information is not required. As described below, WUSA immediately contacted its live, real-time captioning service upon notification from the National Weather Service of a tornado warning and thunderstorm warning, and pending the activation of such captioning, WUSA provided vital visual information in the form of text, graphics, maps, weather radars, affected community names, wind direction, storm paths, and I-Bars (as defined below) during its

coverage period from 6:39:03 to 6:42:15. WUSA also provided an on-screen referral to WUSA's website for additional information.

Specifically, at approximately 6:35 p.m., WUSA received notification from the National Weather Service regarding a tornado warning for Anne Arundel County, Maryland and associated thunderstorm warning for Prince George's County, Maryland. WUSA immediately contacted its captioning service to commence live, real-time captioning. Pending the arrival of real-time captioning, WUSA interrupted the CBS Evening News at 6:38:50 p.m. for a live special report ("Special Report") of the impending severe weather. During the Special Report, the following appeared on-screen:

**6:39:03 p.m.:** A banner ("I-Bar") was displayed on the bottom of the screen containing the following messages:

*"Severe thunderstorm watch until 10:00 PM"*

*"Thunderstorm warning for Prince George's County, MD until 7:15 PM"*

*"Tornado warning for Anne Arundel County, MD until 7:00 PM"*

*"9 News Now – 24 hours a day – wusa9.com"*

Each of these messages within the I-Bars remained on-screen for five (5) to seven (7) seconds. The sequence was rotated and repeated a total of 10 (ten) times throughout the Special Report, until its conclusion at 6:42:15 p.m.

**6:39:05 p.m.:** While the I-Bars were displayed, a horizontal bar graphic was presented on the lower third of the screen, situated above each I-Bar, displaying the following message ("Graphic"):

*"Tornado Warning in Anne Arundel County"*

The Graphic remained on the screen for approximately one second.

**6:39:48 to 6:40:52 p.m.:** The Graphic reappeared for one (1) minute and four (4) seconds.

**6:41:53 to 6:42:00 p.m.:** The Graphic reappeared for a period of seven (7) seconds.

Throughout the Special Report, in addition to the I-Bars and Graphics, WUSA displayed emergency information visually on the remainder of the screen in the form of:

- detailed, color-coded Doppler maps indicating the tornado's and thunderstorm's locations and intensity, with specific location names, including

the identify of major streets and highways in the path of the storm, and cursor arrows indicating the movement and direction of the storm and affected communities

- weather radar/satellite images
- “drop down” box indicating wind speed
- probability of hail
- estimated time of tornado’s and thunderstorm’s arrival at certain communities

**6:42:15:** Special Report concludes.

As the preceding description clearly shows, some form of visual presentation of emergency information was presented at all times during the Special Report.

Incidentally, the Complainant’s comment that closed captioning of the CBS Evening News was displayed for a period of time when WUSA’s emergency coverage commenced refers to a few seconds of lingering network news captioning that remained on the screen when WUSA interrupted the network for the Special Report.

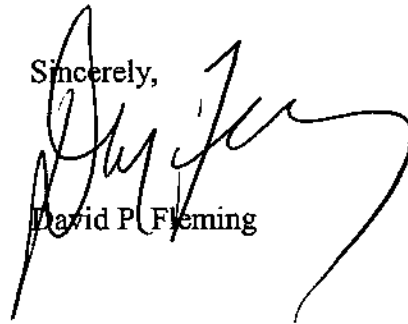
### **Summary**

WUSA respectfully submits that the foregoing demonstrates the seriousness with which it treats its commitment to providing emergency information available to persons who are deaf or hard-of-hearing. WUSA’s coverage of the tornado and severe thunderstorm warnings in counties and communities within the Washington, D.C. DMA on September 28, 2006 fully complied with Section 79.2 of the Commission’s rules. Throughout its coverage, WUSA broadcast a continual I-Bar, a rotating Graphic, maps, a weather radar, satellite images, and other visual information sufficient to alert all viewers, including deaf and hard-of-hearing viewers, as to the severity of the tornado and thunderstorm, the affected areas, storm paths, and approximate arrival times for specific communities.

Although Complainant objects to the lack of real-time closed captioning for a certain portion of WUSA’s weather coverage, the Commission’s rules do not require real-time captioning of emergency information. In fact, the Commission recently confirmed through its Public Notice released August 7, 2006 (DA 06-1600, *Clarification of Obligation of Video Programming Distributors to Make Emergency Information Accessible to Persons With Hearing Disabilities Using Closed Captioning*) that stations should not wait until the real-time closed captioning service is activated to provide critical weather emergency to its viewers through any visual means. Thus, the Commission’s rules require only that emergency information provided aurally be provided visually, through whatever method.

Should there be any further questions about this matter, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "David P. Fleming", written over the printed name.

David P. Fleming

cc: Darryll J. Green, WUSA  
Ken Putkovich

#75838