

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

In the Matter of)	
)	
TelePartners, L.L.C.)	File No. EB-02-TS-265
)	
Operator of Cable Systems in the States of:)	
)	
Iowa and Nebraska)	
)	
Request for Waiver of Section 11.11(a) of the Commission's Rules)	

ORDER

Adopted: October 21, 2002

Released: October 25, 2002

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant TelePartners, L.L.C. (“TelePartners”) temporary waivers of Section 11.11(a) of the Commission’s Rules (“Rules”) for 44 cable television systems in the above-captioned states. Specifically, we grant 24-month waivers of Section 11.11(a) for two cable systems listed in Attachment A and 36-month waivers of Section 11.11(a) for 42 cable systems listed in Attachment A. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System (“EAS”) messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.¹

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 (“Act”), which requires that cable systems be capable of providing EAS alerts to their subscribers.² In 1994, the Commission adopted rules requiring cable systems to participate in EAS.³ In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The

¹ 47 C.F.R. § 11.11(a).

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that “each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations” 47 U.S.C. § 544(g).

³ *Amendment of Part 73, Subpart G, of the Commission’s Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) (“*First Report and Order*”), *reconsideration granted in part, denied in part*, 10 FCC Rcd 11494 (1995).

⁴ *Amendment of Part 73, Subpart G, of the Commission’s Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) (“*Second Report and Order*”).

Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).⁵ However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁶ In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.⁷ The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.⁸

3. On June 21, 2002, TelePartners filed a request for temporary, 24-month and 36-month waivers of Section 11.11(a) for 44 cable systems in the two captioned states. In support of its waiver request, TelePartners states that these are small, rural cable systems with the two largest systems, Missouri Valley and Logan, Iowa, serving 710 and 804 subscribers, respectively, and the 42 smaller systems each serving between 12 and 400 subscribers. Based on a price quote provided by an EAS equipment manufacturer, TelePartners estimates that it would cost nearly \$320,000 to install EAS equipment at these systems. TelePartners asserts that this cost will impose a substantial financial hardship on it and provides its financial statements for 2000 and 2001 in support of this assertion. In addition, TelePartners submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, TelePartners notes that its subscribers will continue to have access to national EAS messages on at least 53 percent of all programmed channels. TelePartners further submits that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations.

4. Based upon our review of the financial data and other information submitted by TelePartners, we conclude that temporary, 24-month waivers of Section 11.11(a) are warranted for the for the largest two cable systems in Attachment A and temporary, 36-month waivers of Section 11.1(a) are warranted for the smaller 42 cable systems in Attachment A.⁹ In particular, we find that the estimated \$320,000 cost of EAS equipment for these small cable systems could impose a financial hardship on TelePartners..

⁵ *Id.* at 15512-13.

⁶ *Id.* at 15516-15518.

⁷ *Id.* at 15513.

⁸ *Id.* at 15513, n. 59.

⁹ The 24-month waivers will extend from October 1, 2002, until October 1, 2004, and the 36-month waivers will extend from October 1, 2002 until October, 1 2005. Additionally, we clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

5. We note that the Commission recently amended the EAS rules to permit cable systems serving fewer than 5,000 subscribers to install FCC-certified decoder-only units, rather than both encoders and decoders, if such a device becomes available.¹⁰ Based on comments from equipment manufacturers, we anticipate that such a decoder-only system could result in significant cost savings to small cable systems.¹¹

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,¹² TelePartners, L.L.C. **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2004 for two cable television systems in Attachment A and **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2005 for 42 cable television systems in Attachment A.

7. **IT IS FURTHER ORDERED** that TelePartners, L.L.C. place a copy of this waiver in its system files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for TelePartners, L.L.C., Christopher C. Cinnamon, Esq., Cinnamon Mueller, 307 North Michigan Avenue, Suite 1020, Chicago, Illinois 60601.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Technical and Public Safety Division
Enforcement Bureau

¹⁰ *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, EB Docket 01-66, FCC 02-64 at ¶ 71 (released February 26, 2002).

¹¹ One manufacturer estimated that an EAS decoder-only system can reduce the cost by 64% over what a cable operator would spend for an encoder/decoder unit. *Id.* at ¶ 70.

¹² 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

Attachment A**Cable Systems:****Temporary Waiver Granted Until:****Iowa**

Logan, Iowa	October 1, 2004
Missouri Valley, Iowa	October 1, 2004
Bronson, Iowa	October 1, 2005
Fonda, Iowa	October 1, 2005
Hornick, Iowa	October 1, 2005
Lawton, Iowa	October 1, 2005
Little Sioux, Iowa	October 1, 2005
Lytton, Iowa	October 1, 2005
Modale, Iowa	October 1, 2005
Mondamin, Iowa	October 1, 2005
Newell, Iowa	October 1, 2005
Persia, Iowa	October 1, 2005
Pisgah, Iowa	October 1, 2005
Pomeroy, Iowa	October 1, 2005
Smithland, Iowa	October 1, 2005
Underwood, Iowa	October 1, 2005

Nebraska

Bee, Nebraska	October 1, 2005
Beemer, Nebraska	October, 1, 2005
Bennington, Nebraska	October 1, 2005
Butte, Nebraska	October 1, 2005
Cedar Bluffs, Nebraska	October 1, 2005
Clarkson, Nebraska	October 1, 2005
Davey, Nebraska	October 1, 2005
Decatur, Nebraska	October 1, 2005
Dodge, Nebraska	October 1, 2005
Dwight, Nebraska	October 1, 2005
Ewing, Nebraska	October 1, 2005
Fremont, Nebraska	October 1, 2005
Goehner, Nebraska	October 1, 2005
Howells, Nebraska	October 1, 2005
Leigh, Nebraska	October 1, 2005
Lindsay, Nebraska	October 1, 2005
Lynch, Nebraska	October 1, 2005
Mead, Nebraska	October 1, 2005
Monroe, Nebraska	October 1, 2005
Nickerson, Nebraska	October 1, 2005
Mead, Nebraska	October 1, 2005
Monroe, Nebraska	October 1, 2005
Nickerson, Nebraska	October 1, 2005

Cable Systems:

Omaha, Nebraska
Orchard, Nebraska
Papillion, Nebraska
Platte Center, Nebraska
Rural Douglas Co., Nebraska
Spencer, Nebraska
Stuart, Nebraska
Yutan, Nebraska

Temporary Waiver Granted Until:

October 1, 2005
October 1, 2005