

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

In the Matter of
US Cable of Coastal-Texas, L.P.
Operator of Cable Systems in the States of:
Colorado, Minnesota, Missouri, New Mexico,
South Carolina and Texas
Request for Waivers of Section 11.11(a) of the
Commission's Rules
File No. EB-02-TS-561

ORDER

Adopted: July 1, 2003

Released: July 11, 2003

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

1. In this Order, we grant US Cable of Coastal-Texas, L.P. ("US Cable") temporary, 36-month waivers of Section 11.11(a) of the Commission's Rules ("Rules") for 37 cable television systems in the six above-captioned states. 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.

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. In 1994, the Commission adopted rules requiring cable systems to participate in EAS. In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems. 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).<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>

3. On September 25, 2002, US Cable filed a request for temporary, 36-month waivers of Section 11.11(a) for 37 small, rural cable systems in six captioned states. US Cable states that these cable systems serve between 25 and 689 subscribers. Based on price quotes provided by an EAS equipment manufacturer, US Cable estimates that it would cost approximately \$9,206 per headend for a total of \$340,622 to install EAS equipment at these cable systems. US Cable asserts that this cost will impose a substantial financial hardship on it and provides its financial statements for 2001 and 2002 in support of this assertion. In addition, US Cable submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, US Cable notes that its subscribers currently have access to national EAS messages on more than one-fourth of all programmed channels. US Cable also asserts 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 US Cable we conclude that temporary, 36-month waivers of Section 11.11(a) for the 37 cable systems in the six captioned states are warranted.<sup>9</sup> In particular, we find that the estimated \$340,622 cost of EAS equipment for these small cable systems could impose a financial hardship on US Cable.

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.<sup>10</sup> Based on comments from equipment

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<sup>5</sup> *Id.* at 15512-13.

<sup>6</sup> *Id.* at 15516-15518.

<sup>7</sup> *Id.* at 15513.

<sup>8</sup> *Id.* at 15513, n. 59.

<sup>9</sup> The waivers will extend from October 1, 2002, until October 1, 2005. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

<sup>10</sup> *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).

manufacturers, we anticipate that such a decoder-only system could result in significant cost savings to small cable systems.<sup>11</sup>

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,<sup>12</sup> US Cable of Coastal-Texas, L.P. **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2005 for the 37 cable television systems listed in Attachment A.

7. **IT IS FURTHER ORDERED** that US Cable of Coastal-Texas, L.P. 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 US Cable of Coastal-Texas, L.P., J. Christopher Redding, Esq., Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>11</sup> 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.

<sup>12</sup> 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

Federal Communications Commission  
Attachment A

DA 03-2213

US Cable of Coastal-Texas, L.P.

Cable Systems

Temporary Waiver Granted Until:

**Colorado**

Bailey, Colorado	October 1, 2005
Cripple Creek, Colorado	October 1, 2005
Greystone, Colorado	October 1, 2005
Hudson, Colorado	October 1, 2005
Keenesburg, Colorado	October 1, 2005
Kersey, Colorado	October 1, 2005
Loveland, Colorado	October 1, 2005
Platteville, Colorado	October 1, 2005

**Minnesota**

Brewster, Minnesota	October 1, 2005
Ceylon, Minnesota	October 1, 2005
Dunnel, Minnesota	October 1, 2005
Geneva, Minnesota	October 1, 2005
Granada, Minnesota	October 1, 2005
Hendricks, Minnesota	October 1, 2005
Heron Lake, Minnesota	October 1, 2005
Mazeppa, Minnesota	October 1, 2005
Northrop, Minnesota	October 1, 2005
Round Lake, Minnesota	October 1, 2005
Storden, Minnesota	October 1, 2005
Taylors Falls, Minnesota	October 1, 2005
Wanamingo, Minnesota	October 1, 2005

**Missouri**

Edina, Missouri	October 1, 2005
Jonesburg, Missouri	October 1, 2005
Madison, Missouri	October 1, 2005
Paris, Missouri	October 1, 2005
Perry, Missouri	October 1, 2005

**New Mexico**

Chama, New Mexico	October 1, 2005
Dexter-Hagerman, New Mexico	October 1, 2005
Dixon, New Mexico	October 1, 2005
Penasco, New Mexico	October 1, 2005
Tierra Amarilla, New Mexico	October 1, 2005

Cable Systems

Temporary Waiver Granted Until:

**South Carolina**

Yemassee, South Carolina

October 1, 2005

**Texas**

Comstock, Texas

October 1, 2005

Iraan, Texas

October 1, 2005

Lajitas, Texas

October 1, 2005

Rankin, Texas

October 1, 2005

Sanderson, Texas

October 1, 2005