

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

In the Matter of)	
)	
Small Town Cable Partners I, L.P.)	File No. EB-02-TS-715
)	
Operator of Cable Systems in:)	
)	
Chapel Hill, Tennessee)	
Cornersville, Tennessee)	
Ethridge, Tennessee)	
Linden, Tennessee)	
Lobelville, Tennessee)	
Lynnville, Tennessee)	
Minor Hill, Tennessee)	
Surgoinsville, Tennessee)	
)	
Request for Waiver of Section 11.11(a) of the Commission's Rules)	

ORDER

Adopted: August 19, 2003

Released: August 21, 2003

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. In this *Order*, we grant Small Town Cable Partners I, L.P. (“Small Town”) temporary waivers of Section 11.11(a) of the Commission’s Rules (“Rules”) for the eight above-captioned cable television systems. Specifically, we grant temporary waivers until October 1, 2003 for two cable systems, and temporary waivers until October 1, 2005 for six cable systems. 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

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,*

Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The 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. Small Town filed a request for temporary, 12-month waivers of Section 11.11(a) for its Chapel Hill and Surgoinsville, Tennessee cable systems and temporary, 36-month waivers of Section 11.11(a) for its Cornersville, Ethridge, Linden, Lobelville, Lynnville and Minor Hill, Tennessee cable systems on November 29, 2002. In support of its waiver requests, Small Town states that these are small, rural cable systems, with two systems serving more than 1,000 subscribers and six systems serving between 55 and 353 subscribers. Based on price quotes provided by EAS equipment manufacturers, Small Town estimates that it would cost a total of approximately \$65,910 to install EAS equipment at these systems. Small Town 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, Small Town submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, Small Town notes that its subscribers currently have access to national EAS messages on at least 41 percent of all programmed channels. Small Town further submits that 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 Small Town, we conclude that temporary waivers of Section 11.11(a) from November 29, 2002 until October 1,

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*”).

⁵ *Id.* at 15512-13.

⁶ *Id.* at 15516-15518.

⁷ *Id.* at 15513.

⁸ *Id.* at 15513, n. 59.

2003 for the Chapel Hill and Surgoinsville, Tennessee cable systems and from November 29, 2002 until October 1, 2005 for the Cornersville, Ethridge, Linden, Lobelville, Lynnville and Minor Hill, Tennessee cable systems are warranted.⁹ However, we note that Small Town did not file its waiver request until November 29, 2002, after the October 1, 2002 deadline for cable systems serving 10,000 or fewer subscribers to install EAS equipment. We find that Small Town was in violation of the requirement in Section 11.11(a) of the Rules to install EAS equipment by October 1, 2002. We admonish Small Town for this violation.

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 Small Town Cable Partners I, L.P. **IS GRANTED** a waiver of Section 11.11(a) of the Rules from November 29, 2002 until October 1, 2003 for the Chapel Hill and Surgoinsville, Tennessee cable television systems and **IS GRANTED** a waiver of Section 11.11(a) of the Rules from November 29, 2002 until October 1, 2005 for the Cornersville, Ethridge, Linden, Lobelville, Lynnville and Minor Hill, Tennessee cable television systems.

7. **IT IS FURTHER ORDERED** that Small Town Cable Partners I, L.P. **IS ADMONISHED** for violating the requirement in Section 11.11(a) of the Rules to install EAS equipment by October 1, 2002.

8. **IT IS FURTHER ORDERED** that Small Town Cable Partners, I, L.P. place a copy of this waiver in its system files.

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

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey

⁹ We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

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.

Chief, Spectrum Enforcement Division
Enforcement Bureau