

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

In the Matter of	)	
	)	
Charter Communications, Inc.	)	File No. EB-02-TS-459
	)	
Operator of Cable Systems in the States of:	)	
	)	
Colorado, Georgia, Idaho, Illinois, Indiana,	)	
Kentucky, Louisiana, Michigan, Mississippi,	)	
Missouri, Nebraska, Nevada, North Carolina,	)	
Oklahoma, Tennessee, Texas, Utah, Washington	)	
	)	
Request for Waiver of Section 11.11(a) of the	)	
Commission’s Rules	)	

**ORDER**

**Adopted: February 25, 2003**

**Released: March 3, 2003**

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

1. In this *Order*, we grant Charter Communications, Inc. (“Charter Cable”) temporary, 36-month waivers of Section 11.11(a) of the Commission’s Rules (“Rules”) for 69 cable television systems in 18 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.<sup>1</sup>

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.<sup>2</sup> In 1994, the Commission adopted rules requiring cable systems to participate in EAS.<sup>3</sup> In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.<sup>4</sup> The

<sup>1</sup> 47 C.F.R. § 11.11(a).

<sup>2</sup> 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).

<sup>3</sup> *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).

<sup>4</sup> *Amendment of Part 73, Subpart G, of the Commission’s Rules Regarding the Emergency Broadcast System*,

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 August 23, 2002, Charter filed a request for temporary, three-year waivers of Section 11.11(a) for 69 small, rural cable systems in the 18 captioned states. Charter states that these cable systems serve 100 or fewer subscribers. Based on price quotes provided by EAS equipment manufacturers, Charter estimates that it would cost a total of approximately \$655,500 to install EAS equipment at the 69 systems. Charter 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, Charter submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. Charter also asserts that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations. Finally, Charter believes that it can ensure that all stand alone systems comply with EAS requirements within three years.

4. Based upon our review of the financial data and other information submitted by Charter, we conclude that temporary, 36-month waivers of Section 11.11(a) for the 69 cable systems in the captioned states are warranted.<sup>9</sup> In particular, we find that the estimated \$655,500 cost to install EAS equipment at these cable systems could impose a financial hardship on Charter.

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

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*Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("*Second Report and Order*").

<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 12-month waiver will extend from October 1, 2002, until October 1, 2003, and the 36-month waiver 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.

encoders and decoders, if such a device becomes available.<sup>10</sup> Based on comments from equipment 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> Charter Communications, Inc. **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2005 for 69 cable television systems listed in Attachment A.

7. **IT IS FURTHER ORDERED** that Charter Communications, Inc. 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 Charter Communications, Inc., Timothy P. Tobin, Esq., Cole, Raywid & Braverman, LLP, 1919 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

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

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<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).

<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.

## Attachment A

Charter Communications, Inc.

<b>Cable Systems:</b>	<b>Waivers Granted Until:</b>
<b>Colorado</b>	
Fleming, Colorado	October 1, 2005
<b>Georgia</b>	
Tignall, Georgia	October 1, 2005
<b>Idaho</b>	
Donnelly, Idaho	October 1, 2005
<b>Illinois</b>	
Enfield, Illinois	October 1, 2005
<b>Indiana</b>	
Lynnville, Indiana	October 1, 2005
Troy, Indiana	October 1, 2005
<b>Kentucky</b>	
Bradfordsville, Kentucky	October 1, 2005
Greenup, Kentucky	October 1, 2005
<b>Louisiana</b>	
Dixie Inn, Louisiana	October 1, 2005
Sicity Island, Louisiana	October 1, 2005
Tangipahoa Village, Louisiana	October 1, 2005
<b>Michigan</b>	
Ashley, Michigan	October 1, 2005
Barryton, Michigan	October 1, 2005
Barton City, Michigan	October 1, 2005
Brethren, Michigan	October 1, 2005
Broomfield, Michigan	October 1, 2005
Freesoil, Michigan	October 1, 2005
Luzerne, Michigan	October 1, 2005
Mesick, Michigan	October 1, 2005
Mikado, Michigan	October 1, 2005
Perrinton, Michigan	October 1, 2005
Prescot, Michigan	October 1, 2005
Sterling, Michigan	October 1, 2005
Wellston, Michigan	October 1, 2005
Woodland, Michigan	October 1, 2005

<b>Cable Systems:</b>	<b>Waivers Granted Until:</b>
<b>Mississippi</b>	
Osyka, Mississippi	October 1, 2005
<b>Missouri</b>	
Annapolis, Missouri	October 1, 2005
Bell City, Missouri	October 1, 2005
Cairo, Missouri	October 1, 2005
Chamois, Missouri	October 1, 2005
Fisk, Missouri	October 1, 2005
Qulin, Missouri	October 1, 2005
<b>Nebraska</b>	
Boelus, Nebraska	October 1, 2005
Elba, Nebraska	October 1, 2005
Dannebrog, Nebraska	October 1, 2005
Mason City, Nebraska	October 1, 2005
Oconto, Nebraska	October 1, 2005
Talmage, Nebraska	October 1, 2005
<b>Nevada</b>	
Lockwood, Nevada	October 1, 2005
<b>North Carolina</b>	
Ashe, North Carolina	October 1, 2005
<b>Oklahoma</b>	
Adair, Oklahoma	October 1, 2005
Agra, Oklahoma	October 1, 2005
Boynton, Oklahoma	October 1, 2005
Carney, Oklahoma	October 1, 2005
Cromwell, Oklahoma	October 1, 2005
Colcord, Oklahoma	October 1, 2005
Depew, Oklahoma	October 1, 2005
Dustin, Oklahoma	October 1, 2005
Hulbert, Oklahoma	October 1, 2005
Kansas, Oklahoma	October 1, 2005
Kellyville, Oklahoma	October 1, 2005
Luther, Oklahoma	October 1, 2005
Marland, Oklahoma	October 1, 2005
Milburn, Oklahoma	October 1, 2005
Porter, Oklahoma	October 1, 2005
Tryon, Oklahoma	October 1, 2005
Wyandotte, Oklahoma	October 1, 2005

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<b>Cable Systems:</b>	<b>Waivers Granted Until:</b>
<b>Tennessee</b>	
West Pointe, Tennessee	October 1, 2005
<b>Texas</b>	
Kosse, Texas	October 1, 2005
Leona, Texas	October 1, 2005
Lipan, Texas	October 1, 2005
Midway, Texas	October 1, 2005
North Zulch, Texas	October 1, 2005
Richland Springs, Texas	October 1, 2005
Spicewood Beach, Texas	October 1, 2005
Tilden, Texas	October 1, 2005
<b>Utah</b>	
Rockville, Utah	October 1, 2005
<b>Washington</b>	
Northport, Washington	October 1, 2005
Starbuck, Washington	October 1, 2005