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

In the Matter of	)	
	)	
Johnsonburg Community Television, Inc.	)	File No. EB-02-TS-375
	)	
Operator of Cable System in:	)	
	)	
Johnsonburg, Pennsylvania	)	
	)	
Request for Waiver of Section 11.11(a) of the Commission's Rules	)	

ORDER

Adopted: April 28, 2003 **Released: May 2, 2003**

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

1. In this *Order*, we grant Johnsonburg Community Television, Inc. ("JCTI") a temporary, 12-month waiver of Section 11.11(a) of the Commission's Rules ("Rules") for the above-captioned cable television system. 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 Commission declined to exempt small cable systems from the EAS requirements, concluding that such an

[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*").

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. JCTI a request for a temporary, 24-month waiver of Section 11.11(a) for the captioned cable system on July 29, 2002. In support of its waiver request JCTI states that this is a small, rural cable system which serves approximately.1,432 subscribers. Based on price quotes provided by EAS equipment manufacturers, JCTI estimates that it would cost approximately $10,000 to install EAS equipment at the system. JCTI asserts that this cost will impose a substantial financial hardship on it and provides financial data for 2000 through 2002 in support of this assertion. In addition, JCTI submits that subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, JCTI notes that its subscribers currently have access to national EAS messages on at least 16 programmed channels. JCTI further submits that subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations. Finally, JCTI believes is can fund EAS equipment for its cable system within the next two years.

4. Based upon our review of the financial data and other information submitted by JCTI, we find that a temporary, 24-month waiver of Section 11.121(a) for the captioned cable system is not warranted. However, we conclude that a temporary, 12-month waiver of Section 11.11(a) for the system is warranted.[9] In particular, we find that the estimated $10,000 cost of EAS equipment for this small cable system could impose a financial hardship on JCTI.

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

[5] *Id.* at 15512-13.

[6] *Id.* at 15516-15518.

[7] *Id.* at 15513.

[8] *Id.* at 15513, n. 59.

[9] The waiver will extend from October 1, 2002, until October 1, 2003. We clarify that the waiver we are granting also encompasses 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).

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] Johnsonburg Community Television, Inc. **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2003 for the captioned cable television system.

7. **IT IS FURTHER ORDERED** that Johnsonburg Community Television, Inc. place a copy of this waiver in its system file.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Johnsonburg Community Television, Inc., 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

[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.