

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

In the Matter of	)	
	)	
Willamette Broadband, LLC	)	File No. EB-02-TS-649
	)	
Operator of Cable Systems in:	)	
	)	
Canby, Oregon	)	
Woodburn, Oregon	)	
Molalla, Oregon	)	
	)	
Request for Waiver of Section 11.11(a) of the	)	
Commission’s Rules	)	

**ORDER**

**Adopted: July 1, 2003**

**Released: July 3, 2003**

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

1. In this *Order*, we grant Willamette Broadband, LLC (“Willamette”) temporary waivers of Section 11.11(a) of the Commission’s Rules (“Rules”) for the three above-captioned cable television systems. Section 11.11(a) requires cable systems serving more than 5,000 but fewer than 10,000 subscribers from a headend to install Emergency Alert System (“EAS”) equipment and begin providing EAS audio and video messages on all channels by October 1, 2002.<sup>1</sup> Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level 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.<sup>2</sup> In 1994, the Commission adopted rules requiring cable systems to participate in EAS.<sup>3</sup> In 1997, 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).

Commission amended the EAS rules to provide financial relief for small cable systems.<sup>4</sup> 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).<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. Willamette filed a request for temporary, six-month waivers of Section 11.11(a) for the three captioned rural cable systems on October 9, 2002. In support of its waiver request, Willamette states that the Canby, Oregon system serves 6,900 subscribers, the Woodburn, Oregon system serves 5,200 systems and the Molalla, Oregon system serves 1, 700 subscribers. Willamette further states that it ordered EAS equipment for the Canby system headend and plans to interconnect the three systems. Based on the \$16,350 price to install EAS equipment at the Canby system, Willamette estimates that it would cost a total of approximately \$49,000 to install EAS equipment at the three systems. Willamette 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, Willamette submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, Willamette notes that its subscribers currently have access to national EAS messages on at least 44 percent of all programmed channels. Willamette also asserts that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations. Finally, Willamette believes that it can bring the captioned cable systems into EAS compliance within the next six months.

4. Based upon our review of the financial data and other information submitted by Willamette, we conclude that temporary waivers of Section 11.11(a) for the three captioned systems are warranted.<sup>9</sup> In particular, we find that the estimated \$49,000 cost to install EAS equipment at these

---

<sup>4</sup> *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*").

<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 9, 2002 until April 1, 2003. We clarify that the waivers we are granting

systems could impose a financial hardship on Willamette. However, we note that Willamette did not file its waiver request until October 9, 2002, after the October 1, 2002 deadline for cable systems serving 10,000 or fewer subscribers to install EAS equipment. We find that Willamette was in violation of the requirement in Section 11.11(a) of the Rules to install EAS equipment by October 1, 2002. We admonish Willamette for this violation.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,<sup>10</sup> Willamette Broadband, LLC **IS GRANTED** a waiver of Section 11.11(a) of the Rules until April 1, 2003 for the three captioned cable television systems.

6. **IT IS FURTHER ORDERED** that Willamette Broadband, LLC **IS ADMONISHED** for violating the requirement in Section 11.11(a) of the Rules to install EAS equipment by October 1, 2002.

7. **IT IS FURTHER ORDERED** that Willamette Broadband, LLC, place a copy of this waiver in its systems files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to Peter C. Luscombe, President, Willamette Broadband, LLC, P.O. Box 850, Canby, Oregon 97013.

FEDERAL COMMUNICATIONS COMMISSION

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

---

also encompass the EAS testing and monitoring requirements.

<sup>10</sup> 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.