

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

| | | |
|---|---|-----------------------|
| In the Matter of |) | |
| |) | |
| Coleman County Telephone Cooperative, Inc. |) | File No. EB-02-TS-696 |
| |) | |
| Operator of Cable System in: |) | |
| |) | |
| Santa Anna, Texas |) | |
| |) | |
| 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 Coleman County Telephone Cooperative, Inc. (“Coleman County”) a temporary waiver of Section 11.11(a) of the Commission’s Rules (“Rules”) for the above-captioned wireless 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

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).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

3. Coleman County filed a request for a temporary, six-month waiver of Section 11.11(a) for the captioned cable system on November 5, 2002. In support of its waiver request, Coleman County states that it had difficulty locating a vendor with EAS equipment suitable for its small, rural wireless cable system which serves approximately 236 subscribers. Coleman County further states that after ordering EAS equipment, the vendor informed Coleman County that delivery and installation of EAS equipment would be delayed at least six weeks. Coleman County asserts that its subscribers will continue to have ready access to national EAS information from other sources, including its cable system. Finally, Coleman County believes that it can bring the captioned cable system into EAS compliance within the next six months.

4. Based upon our review of the information submitted by Coleman County, we conclude that a temporary waiver of Section 11.11(a) for the captioned cable system from November 5, 2002 until April 1, 2003 is warranted.⁷ However, we note that Coleman County did not file its waiver request until November 5, 2002, after the October 1, 2002 deadline for cable systems serving 10,000 or fewer subscribers to install EAS equipment. We find that Coleman County was in violation of the requirement in Section 11.11(a) of the Rules to install EAS equipment by October 1, 2002. We admonish Coleman County for this violation.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,⁸ Coleman County Telephone Cooperative, Inc. **IS GRANTED** a waiver of Section 11.11(a) of the Rules from November 5, 2002 until April 1, 2003 for the captioned cable television system.

6. **IT IS FURTHER ORDERED** that Coleman County Telephone Cooperative, Inc. 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 Coleman County Telephone Cooperative, Inc. place a copy of this waiver in its system file.

⁵ *Id.* at 15512-13.

⁶ *Id.* at 15516-15518.

⁷ We clarify that the waiver we are granting also encompasses the EAS testing and monitoring requirements.

⁸ 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Coleman County Telephone Cooperative, Inc., John Kuykendall, Esq., Kraskin, Lesse & Cosson, LLP, 2120 L Street, N.W., Suite 520, Washington, D.C. 20037.

FEDERAL COMMUNICATIONS COMMISSION

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