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

In the Matter of	)	
	)	
ATC Cablevision Company	)	File No. EB-02-TS-302
	)	
Operator of Cable Systems in:	)	
	)	
Ayrshire/Gillet Grove, Iowa	)	
Cylinder, Iowa	)	
Whittemore, Iowa	)	
	)	
Request for Waiver of Section 11.11(a) of the Commission's Rules	)	

ORDER

Adopted: January 31, 2003 **Released: February 5, 2003**

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

1. In this *Order*, we grant ATC Cablevision Company ("ATC") temporary, 36-month 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 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] 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. On July 17, 2002, ATC filed a request for permanent or five-year waivers of Section 11.11(a) for the three captioned cable systems. In support of its waiver request, ATC states that these are small, rural cable systems which serve a total of approximately 342 subscribers. Based on price quotes provided by EAS equipment manufacturers, ATC estimates that it would cost approximately $24,000 to install EAS equipment at these systems. ATC asserts that the cost of installing EAS equipment at these systems will impose a substantial financial hardship on it and provides financial statements for 2000 and 2001 in support of this assertion. In addition, ATC submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. ATC also asserts that its 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 Craig, we find that a permanent or five-year waiver of Section 11.11(a) of the Rule for the three captioned cable systems is not warranted. However, we conclude that a temporary, 36-month waiver of Section 11.11(a) for these systems is warranted.[9] In particular, we find that the estimated $24,000 cost of EAS equipment for these small cable systems could impose financial hardship on ATC.

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 waivers will extend from October 1, 2002, until October 1, 2005. Additionally, 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).

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] ATC Cablevision Company **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2005 for the three captioned cable television systems.

7. **IT IS FURTHER ORDERED** that ATC Cablevision Company 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 Donald D. Miller, General Manager, ATC Cablevision, 1405 Silver Lake Avenue, Box 248, Ayrshire, Iowa 50515.

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.