

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

In the matter of
Cable One, Inc.
Operator of Cable Systems in:
Shelby, Mississippi
Mound Bayou/Merigold, Mississippi
Request for Waiver of Section 11.11(a) of the
Commission's Rules
File No. EB-04-HS-007

ORDER

Adopted: February 10, 2004

Released: February 11, 2004

By the Director, Office of Homeland Security, Enforcement Bureau:

1. In this Order, we grant Cable One, Inc., ("Cable One") eight-month waivers of section 11.11(a) of the Commission's rules ("Rules") for the two above-captioned cable television systems. Section 11.11(a) of the Rules 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.

2. The Cable Act of 1992 added new section 624(g) to the Communications Act of 1934, which requires that cable systems be capable of providing EAS alerts to their subscribers. In 1994, the Commission adopted rules requiring cable systems to participate in EAS. In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems. The Commission declined to

1 47 C.F.R. § 11.11(a).

2 Id.

3 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).

4 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), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

5 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).

exempt small cable systems from the EAS requirements entirely, however, concluding that such an exemption would be inconsistent with the statutory mandate of section 624(g).⁶

3. The amended rules 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.⁷ 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.⁸

4. On January 9, 2004, Cable One filed a request for temporary, eight-month waivers of the EAS requirements of section 11.11(a) of the Rules for the two captioned small cable systems, which each serve less than 600 subscribers. Cable One filed an amendment to this waiver request on February 3, 2004, reporting that it completed the purchase of the captioned small cable systems on February 1, 2004,⁹ and requesting temporary waivers of section 11.11(a) of the Rules through September 30, 2004. Cable One states that it plans to interconnect these cable systems to its Cleveland, Mississippi system which is in full compliance with the Commission's EAS rules. Based on the costs associated with bringing other small cable systems into compliance with the Commission's EAS rules, Cable One estimates that the cost of installing EAS equipment at the two above-captioned cable systems would exceed \$20,000. Cable One asserts that the cost of installing EAS equipment at the two cable systems will impose an unnecessary financial expenditure since the two headends will be eliminated once the interconnection is completed. In addition, Cable One submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, Cable One notes that its subscribers currently have access to national EAS messages on a substantial number of all programmed channels. Finally, Cable One subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations.

5. Based upon our review of the financial data and other information submitted by Cable One, we conclude that a temporary, eight-month waiver of section 11.11(a) for the two captioned systems is warranted.¹⁰ In particular, we find that the approximate \$20,000 cost of installing EAS equipment for these small cable systems could impose an unnecessary financial expenditure for Cable One.¹¹

⁶ *Id.* at 15512-13.

⁷ *Id.* at 15516-15518.

⁸ *Id.* at 15513.

⁹ Cable One acquired these cable systems from Galaxy Cable, Inc. ("Galaxy"). The FCC previously granted Galaxy temporary 36-month waivers of Section 11(a) of the Rules which extended from October 1, 2002, to October 1, 2005. See *Galaxy Telecom, L.P.*, Order, 17 FCC Rcd 11805 (Chief, Technical and Public Safety Division, Enforcement Bureau 2002), *clarified*, *Galaxy Cable, Inc.*, 18 FCC Rcd 14522 (Chief, Technical and Public Safety Division, Enforcement Bureau 2003) ("*Galaxy Cable*"). However, these waivers do not continue to apply when the cable systems are sold. See *Galaxy Cable*, 18 FCC Rcd at 14524.

¹⁰ The waivers will extend from February 1, 2004 to October 1, 2004. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

¹¹ See also, *Cable One, Inc.*, 18 FCC Rcd 7646 (2003) (granting similar temporary waiver requests).

6. Accordingly, **IT IS ORDERED**, pursuant to sections 0.111, 0.204(b) and 0.311 of the Rules,¹² that Cable One, Inc.'s request for temporary waiver of section 11.11(a) of the Rules for the two captioned cable television systems is **GRANTED** consistent with the discussion and conclusions in this Order.

7. **IT IS FURTHER ORDERED** that Cable One, 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 Cable One, Inc., Stuart F. Feldstein and Lisa Chandler Cordell, Fleischman and Walsh, L. L. P., 1919 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

James A. Dailey
Director, office of Homeland Security
Enforcement Bureau

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