

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

In the matter of)	
)	
Carson Communications, L.L.C.)	
)	
Operator of Cable Systems in:)	
)	File No. EB-04-HS-058
Havensville, Kansas)	
Onaga, Kansas)	
)	
Request for Waivers of Section 11.11(a) of the)	
Commission's Rules)	

ORDER

Adopted: January 31, 2005

Released: February 2, 2005

By the Director, Office of Homeland Security, Enforcement Bureau

1. In this *Order*, we grant Carson Communications, L.L.C. (Carson) temporary waivers of section 11.11(a) of the Federal Communications Commission's (Commission) rules (Rules)¹ for the above-captioned cable television systems. Section 11.11(a) of the Rules required 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 to 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

2. The Cable Act of 1992 added new section 624(g) to the Communications Act of 1934, as amended³ (Act), and required that cable systems be capable of providing EAS alerts to their subscribers.⁴ In 1994, the Commission adopted rules requiring cable systems to participate in EAS.⁵ In 1997, the

¹ 47 C.F.R. § 11.11(a).

² *Id.*

³ The Communications Act of 1934 was amended by the Telecommunications Act of 1996. Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act).

⁴ 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).

⁵ *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.⁶ 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).⁷ 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.⁸ 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.⁹

3. On July 14, 2004, Carson filed a request for temporary waivers of the EAS requirements for the above captioned cable television systems which it acquired from Galaxy Cable, Inc. on June 1, 2004.¹⁰ In support of its waiver requests, Carson reports that these are small, rural cable systems which serve between 36 and 155 subscribers, respectively. Based on price quotes provided by EAS equipment vendors, Carson estimates that it would cost approximately \$20,000 to purchase and install EAS equipment at the subject cable systems. Carson asserts that this cost will impose a substantial financial hardship on it and provides financial data for 2004 and through May 2004, in support of this assertion. Carson argues that the need for the waivers is especially acute because the Havensville and Onaga system are very small and are not yet generating the revenue to fund the purchase and installation of EAS equipment. Finally, Carson contends that subscribers will continue to have ready access to national EAS information from other sources, including its cable system and over-the-air reception of broadcast television and radio stations.

4 Based upon our review of the financial data and other information submitted by Carson, we conclude that temporary waivers of section 11.11(a) of the rules its cable television systems in Havensville and Onaga, Kansas, are warranted. In particular, we find that the estimated \$20,000 cost to purchase and install EAS equipment at these recently acquired cable television systems could impose a financial hardship on Carson.

3. Accordingly, **IT IS ORDERED** that, pursuant to sections 0.111, 0.204(b) and 0.311 of the rules,¹¹ Carson Communications, Inc.'s request for temporary waivers of section 11.11(a) of the rules is **GRANTED** until October 1, 2005, for its cable television systems in Havensville and Onaga, Kansas.¹²

4. **IT IS FURTHER ORDERED** that Carson Communications, Inc. place a copy of this waiver in its system files.

⁶ *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*).

⁷ *Id.* at 15512-13.

⁸ *Id.* at 15516-15518.

⁹ *Id.* at 15513.

¹⁰ On June 18, 2002, Galaxy was granted temporary waivers, until October 1, 2005, for the subject systems. *See, Galaxy Telecom., L.P.*, Order, 17 FCC Rcd 11798 (2002); In an *Order* released July 18, 2003, we clarified that the waivers granted to Galaxy Telecom, L.P. would apply to its successor, Galaxy Cable, Inc., *See Galaxy Cable, Inc.* Order 17 FCC Rcd 14522 (2003). (Chief, Spectrum Enforcement Division, Enforcement Bureau).

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

¹² We clarify that these waivers also encompass the EAS testing and monitoring requirements.

5. **IT IS FURTHER ORDER** that a copy of this Order shall be sent by Certified Mail Return Receipt Requested to counsel for Carson Communications, L.L.C, Christopher C. Cinnamon, Esq., Cinnamon Muller, 307 North Michigan Avenue, Suite 1020, Chicago, Illinois 60601.

FEDERAL COMMUNICATIONS COMMISSION

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