

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

In the Matter of)
)
Amendment of Part 11 of the Commission's Rules) PS Docket No. 15-94
Regarding the Emergency Alert System)

ORDER

Adopted: February 3, 2026

Released: February 3, 2026

By the Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. In this Order, the Public Safety and Homeland Security Bureau (Bureau) considers a request filed by the Fort Myers Broadcasting Company (FMBC) seeking a limited waiver of the Commission's rule addressing operational readiness for Emergency Alert System (EAS) equipment as applied to three broadcast radio stations (WINK-FM, WTLQ-FM, and WAVV-FM) and one broadcast television station (WINK-TV) that FMBC seeks to relocate to a new facility. For the reasons discussed herein, the Bureau grants the request for FMBC's three broadcast radio stations (WINK-FM, WTLQ-FM, and WAVV-FM). The issue of whether to grant FMBC a limited waiver of the EAS operational readiness rules for its broadcast television station (WINK-TV) is moot because FMBC already moved that station's EAS equipment before Bureau action on its waiver request.

II. BACKGROUND

2. The EAS is a national system used to disseminate public warnings of impending emergencies over broadcast, cable, and satellite networks to consumers' radios, televisions, and other audio and video devices.¹ EAS Participants are required to have devices installed and capable of sending and receiving EAS tests and messages.² In particular, section 11.35 of the FCC's rules requires EAS Participants to ensure that their EAS equipment is "installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation."³ EAS Participants may operate without EAS equipment for up to 60 days pending the repair or replacement of defective equipment.⁴

3. FMBC is the licensee of broadcast radio stations WINK-FM, WTLQ-FM, and WAVV-FM and television station WINK-TV, which are all EAS Participants that operate EAS equipment that is

¹ See 47 CFR § 11.2(b) (defining "EAS Participants").

² See, e.g., 47 CFR §§ 11.11(a) (summarizing EAS encoder and decoder requirements for broadcasters); 11.52(a) (requiring EAS Participants to be capable of receiving the attention signal and emergency messages of other broadcast stations); 11.56(a) (requiring EAS Participants to have deployed equipment that can receive and process Common Alerting Protocol messages from the Integrated Public Alert and Warning System).

³ 47 CFR § 11.35(a).

⁴ *Id.* § 11.35(b); *see also id.* § 11.35(c) (requiring EAS Participants to submit a request to the FCC for additional time if the repair or replacement is not completed within 60 days).

located in an office in Fort Myers, Florida.⁵ On January 6, 2026, FMBC filed a petition seeking a waiver of section 11.35 to allow the relocation of these stations' EAS equipment to another location in Fort Myers, Florida on January 12, 2026.⁶ To complete this relocation, FMBC represents that it will need to "to uninstall, pack, move, and reinstall the EAS equipment,"⁷ thereby causing its stations to not meet the Commission's EAS requirements for a period not to exceed two hours. FMBC argues that the new location "is better protected from flood risk, the unavoidable outage will be limited in duration and scope, and there are no countervailing harms to the public interest."⁸ FMBC states that it "explored alternative options to avoid an outage, such as securing new EAS equipment, but such options were not available . . ."⁹ FMBC states that "no other EAS participants rely on FMBC's EAS signal so the unavoidable outage will briefly impact only FMBC's stations."¹⁰ FMBC states that it has confirmed that its relocation "will not occur during a planned EAS test" and states that it "will not proceed with the move if there appears to be any risk of an emergency event during the brief outage."¹¹ Independent of its waiver request, FMBC asserts that removing its EAS equipment for two hours for the purpose of installing it at another location falls under the section 11.35 exception that allows EAS Participants to continue operating pending the repair or replacement of defective equipment.¹²

4. On January 12, 2026, FMBC informed Bureau staff that it would be moving WINK-TV's EAS equipment on January 12, 2026 without waiting for the Commission to decide its waiver request, but that FMBC would delay moving its broadcast radio stations. In a supplemental waiver request dated January 26, 2026,¹³ FMBC indicated that it is scheduled to move WINK-FM and WAVV-FM on a staggered schedule on February 10, 2026, and WTLQ-FM, on February 11, 2026.

III. DISCUSSION

5. A provision of the Commission's rules "may be waived by the Commission on its own motion or on petition if good cause therefor is shown."¹⁴ The Commission may find good cause to grant a waiver "if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."¹⁵ The waiver applicant generally faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.¹⁶ Based on the circumstances described herein, we conclude there is good cause to grant FMBC a limited waiver of the Commission's EAS requirements to facilitate the relocation of WINK-FM's and WAVV-FM's EAS equipment for a period not to exceed two hours on February 10, 2026, and the relocation of WTLQ-FM's EAS equipment for a period not to exceed two hours on February 11, 2026. Each of these limited waivers is conditioned on

⁵ See Fort Myers Broadcasting Company - Limited Waiver Request of Rule 47 C.F.R. § 11.35, PS Docket No. 15-94 (filed Jan. 6, 2026) (*FMBC Waiver Request*). We construe FMBC's filing as a request to waive all rules, such as 11.11(a), 11.35(a), 11.52(a), and 11.56(a), that may require continuous operation of EAS equipment.

⁶ *Id.* at 1-2.

⁷ *Id.* at 2.

⁸ *Id.* at 2-3 (noting that FMBC's current offices were flooded during Hurricane Ian in 2022).

⁹ *Id.* at 2.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 1.

¹³ See Fort Myers Broadcasting Company - Supplement to Limited Waiver Request of Rule 47 C.F.R. § 11.35, PS Docket No. 15-94 (filed Jan. 26, 2026) (*FMBC Supplemental Request*).

¹⁴ 47 CFR § 1.3.

¹⁵ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

¹⁶ *WAIT Radio v. FCC*, 418 F.2d at 1157.

FMBC's statement that it will not proceed with the move if there appears to be any risk of an emergency event or a planned EAS test.¹⁷

6. The Bureau finds that special circumstances exist and that it is in the public interest to grant FMBC a narrow waiver to facilitate the relocation of EAS equipment necessary to enable FMBC's broadcast radio stations to continue to be able to support EAS and comply with FCC rules going forward. According to FMBC, its new office location is better protected from flood risks than the current facility, which will provide greater resiliency for the broadcaster and its EAS equipment and allow FMBC to continue broadcasting during severe weather events,¹⁸ consistent with the underlying purpose of the EAS requirements. Because of the limited duration of the waiver and FMBC's assurance that it will not relocate the equipment during a planned EAS test or if there appears to be any risk of an emergency event, we conclude that the risk of harm to the public interest by granting the waiver is limited. Further, the Bureau finds that it would be unreasonable to require FMBC to purchase new EAS equipment solely for the purpose of meeting its EAS obligations during this brief period.

7. We dismiss the waiver request for WINK-TV as moot because its EAS equipment was already moved on January 12, 2026 without Commission approval. Although we dismiss this request as moot, this decision in no way implies retrospective Commission approval of that decision or a finding that FMBC's conduct complied with the Commission's EAS equipment rules. Our action here is without prejudice to any enforcement action by the Commission for noncompliance with the Communications Act of 1934, as amended, or the Commission's rules.

8. The Bureau rejects FMBC's assertion that the relocation of EAS equipment falls under the Commission's rules provision for the repair and replacement of defective EAS equipment.¹⁹ Section 11.35(b) provides only for the continued operation of EAS Participants without further FCC action when EAS equipment becomes "defective."²⁰ The facts presented by FMBC indicate that its EAS equipment is not defective (i.e., the equipment itself became unable to exercise its monitoring or transmission functions),²¹ but that it is in good operating condition and being taken offline only so that it can be relocated. Simply removing EAS equipment from operation does not make it defective.²²

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and (j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j), and section 1.3 of the Commission's rules, 47 CFR § 1.3, sections 11.11(a), 11.35(a), 11.52(a), and 11.56(a) of the Commission's rules, 47 CFR §§ 11.11(a), 11.35(a), 11.52(a), and 11.56(a), ARE WAIVED, as to stations WINK-FM, WTLQ-FM, and WAVV-FM as specified herein.

10. The request is DISMISSED AS MOOT as to station WINK-TV.

11. Action on this request is without prejudice to any enforcement action by the Commission for non-compliance with the Communications Act of 1934, as amended, or the Commission's rules.

¹⁷ FMBC Supplemental Request at 2.

¹⁸ FMBC Waiver Request at 2.

¹⁹ 47 CFR § 11.35(b).

²⁰ *Id.*

²¹ Cf. 47 CFR § 11.35(a) ("EAS Participants are responsible for ensuring that EAS . . . equipment . . . are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation").

²² Cf. *Charter Communications*, Consent Decree, 39 FCC Rcd 13136, 13141, para. 9 (EB 2004) (asserting that EAS equipment is not "defective" under section 11.35(b) when they are capable of performing the monitoring and transmitting functions that are required to be available during the times when the EAS participant's systems are in operation).

12. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Zenji Nakazawa
Chief
Public Safety and Homeland Security Bureau