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August 27, 2002

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA COURIER

Ms. Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
c/o Vistronix, Inc.
236 Massachusetts Avenue, NE
Suite 110
Washington, DC 20002

91-171

**Re: Northland Cable Television, Inc.
Petition for Waiver of Emergency Alert System**

Dear Ms. Dortch:

Enclosed please find one original and four copies of the above-referenced Petition for Waiver of Emergency Alert System. Please note there are two versions of this filing, a public version and another version to be filed under seal, which includes the confidential financial statements, and has the appropriate pages marked "Confidential—Not for Public Inspection" in compliance with FCC rules. Also included with each confidential filing is a Request That Materials Submitted To The Commission Be Withheld From Public Inspection.

Thank you for your attention to this matter. If you have any questions, please feel free to give me a call.

Sincerely,


Cody J. Harrison

CJH:tmz

Enclosures

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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AUG 27 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Petition for Waiver of the Commission's) FO Docket No. 91-301
Emergency Alert Requirements for) FO Docket No. 91-171
Cable Television Systems)

To: Chief, Technical & Public Safety Division
Enforcement Bureau

**PETITION FOR WAIVER OF
EMERGENCY ALERT SYSTEM REQUIREMENTS**

Northland Cable Television, Inc. ("Northland"), hereby requests a waiver or alternatively, a five (5) year extension of time to comply with the Federal Communications Commission's ("FCC") Emergency Alert System ("EAS") requirements at 76 C.F.R. § 11.11(a) for fifteen (15) of Northland's small cable systems.¹ Northland seeks relief for the fifteen (15) cable systems listed on Attachment A, incorporated by reference herein, from the requirement that by October 1, 2002 all systems with less than 5,000 subscribers provide national level EAS messages on all channels, or have EAS equipment capable of providing audio alerts and video interrupt on all channels, and video EAS messages on one channel. Because of the small size of these cable systems and their financial condition, it is not economically feasible for Northland to purchase and install the necessary EAS equipment at this time. Northland owns thirty-six (36) cable

¹ In its recent Report and Order, the Commission clarified that it "will continue to grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship." *In the Matter of Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, Report and Order, EB Docket No. 0166, RM-9156, RM-9215; ¶ 73 (Rel. Feb. 26, 2002). The Commission reiterated the information that must be contained in the waiver request: "(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." *Id.* This petition addresses each of the four areas.

television systems located in the states of California, Georgia, North Carolina, South Carolina, Texas and Washington., as listed on Attachment B, incorporated by reference herein. The majority of the cable systems serve fewer than 5,000 subscribers, with the fifteen (15) cable systems listed on Attachment A serving less than 1,000 subscribers each (the majority serve less than 500 subscribers each). A requirement of full EAS compliance by October 1, 2002 would result in serious financial hardship to Northland. Northland has contacted various EAS equipment vendors and has developed a cost estimate of the expense per headend to comply with the EAS requirements. These cost estimates range from \$6,652 to \$8,440 per headend, depending on equipment features and manufacturer. These estimates are consistent with the FCC's cost estimates of \$6,000 to \$10,000 per headend, as outlined in the FCC's 1997 Report and Order. *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Second Report and Order, 12 FCC Rcd. 15503, ¶ 23 (rel. Sep. 29, 1997). However, contrary to what the FCC believed at the time of the Second Report and Order, the anticipated equipment cost reductions that would render compliance for small cable systems less burdensome, has not materialized. *Id.* at ¶ 25.

To comply with the EAS requirements by October 1, 2002, Northland anticipates installing EAS equipment for its twenty-one (21) largest cable systems representing 105,172 subscribers, which will cost approximately \$147,000.00. The remaining fifteen (15) systems, as set forth in Attachment A, represent a total of 6,583 subscribers. The cost to install the EAS equipment for these fifteen (15) remaining systems would cost approximately \$105,000.00. The additional costs to Northland and the rate increases to cover such costs would only serve to erode Northland's existing subscriber base in an increasingly competitive industry that has been hit hard by satellite operators and local municipalities offering video and internet services to consumers.

Northland is aware of the FCC's recent decision, which provided relief to small cable systems for EAS requirements by allowing the installation and utilization of an FCC-certified decoder, if such devices are available by October 1, 2002, in lieu of an encoder/decoder unit. *In the Matter of Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, Report and Order, EB Docket No. 01-66, RM-9156, RM 9215, ¶ 71 (rel. Feb. 26, 2002). However, this relief is not sufficient for Northland for two reasons. First, based on market research and discussions with vendors, the decoder only unit will likely not be available until August of 2003, well after the October 1, 2002 compliance deadline, and remains dependent on FCC approval and certification. Second, if and when an FCC-certified decoder only unit becomes available, it will not provide enough relief for Northland to prevent significant financial hardship. In Northland's discussions with vendors, it has been advised that the decoder only unit will cost approximately \$6,372.83, or only approximately \$600.00 less than the encoder/decoder unit. The cost to install the decoder only unit for these remaining systems would cost approximately \$96,000.00.

In efforts to remain competitive and prevent subscriber loss in these specific markets, Northland must prioritize its capital budget to focus on upgrade and rebuild of the cable systems in Attachment A in order to expand capacity and launch new services. The projected cost to Northland of implementing a contemplated upgrade and rebuild of these cable systems is over \$4,800,000.00, resulting in an average per subscriber cost of \$735.00. Rebuild and upgrade estimates for each system are attached hereto as Attachment C, incorporated by reference herein. Additionally, Northland continues to make significant capital expenditures for its remaining cable systems. Attachment D reflects the historical financial information for each system listed on Attachment A for the period ending December 31, 2001. As reflected in the 2001 income

statements for each system, these systems generate negative cash flow contributions to Northland's operations. Completion will be dependent on the incurrence of additional debt, if available, and/or significant subsidies from other systems. If a waiver of the EAS requirements is not granted, Northland will be forced to consider whether it can complete its upgrade and rebuild plans to remain competitive and install the necessary EAS equipment, or shutdown operations in certain of the systems listed on Attachment A. It will be difficult, if not impossible, for Northland to purchase EAS equipment for all of its systems and, at the same time, make the capital expenditures necessary to complete its upgrade and rebuild plans.

In addition to the financial hardship, the availability of numerous alternative sources of emergency alert information supports this waiver request. The Five Points, Lushmeadow, Mariposa, Fish Camp, Coursegold, Dublin, Hico, Hamilton, Lake Buchanan, Llano, Coolidge, Wortham, Jewett, Buffalo and Saluda systems each carry the off-air television broadcast signals on the basic service package, which provide emergency alert information. These systems also have at least one, 24-hour cable news network on the basic service tier, which ensures that subscribers have access to breaking national news events. In the event of a national emergency, approximately one-third of the programming services carried on the Five Points, Lushmeadow, Mariposa, Fish Camp, Coursegold, Dublin, Hico, Hamilton, Lake Buchanan, Llano, Coolidge, Wortham, Jewett, Buffalo and Saluda systems would likely transmit national emergency information, including programming networks such as Headline News, C-Span, CNN, CNBC, the Weather Channel and Fox News. In addition to cable service, emergency alert information is available from over the air broadcast television and AM and FM radio stations.

The most likely hazardous risk in the relevant communities is weather related. In many communities, civil defense siren systems provide notice of serious weather emergencies,

including Coolidge, Wortham, Jewett, and Buffalo. Local emergency weather information is available on the local stations carried on the basic service tier. Northland personnel work diligently to ensure the continued operation of all of its cable systems through weather emergencies so that these channels are available to provide information to all affected subscribers. Furthermore, the EAS rules do not require small cable systems to carry state and local emergency information. *Amendment of Part 73. Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Report and Order and FNPRM, 10 FCC Red 1786, ¶ 66 (rel. Dec. 9, 1994). This fact is especially noteworthy since the primary risks in the communities that Northland serves are localized weather risks. Because Northland's systems are overwhelmingly in rural areas, the threat of nuclear or terrorist attacks is minimal. Also, none of Northland's systems are near nuclear reactors, major airports or international borders. If a national emergency developed, subscribers would be notified by existing non-cable alert systems, by the cable news channels, and by local over-the-air television broadcast stations carried on the cable systems.

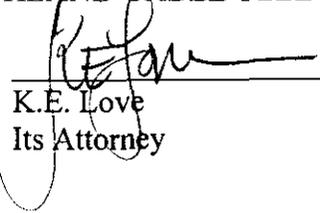
Northland recognizes the importance of the EAS and has taken substantial steps toward the implementation of the EAS requirements on substantially all of Northland's cable systems to ensure this service reaches as many subscribers as economically feasible. Northland will have twenty-one (21) cable systems EAS compliant on or before October 1, 2002. Given the financial burden on Northland to implement EAS requirements on all of its cable systems and to complete its upgrade and rebuild plans, it is simply not economically feasible for Northland to comply with the October 1, 2002 deadline for EAS on the fifteen (15) remaining cable systems listed on Attachment A that combined serve less than 7,000 subscribers. Northland's small subscriber base and very low density of service in Five Points, Lushmeadow, Mariposa, Fish Camp,

Coursegold, Dublin, Hico, Hamilton, Lake Buchanan, Llano, Coolidge, Wortham, Jewett, Buffalo and Saluda are only a few factors that circumscribe Northland's ability to finance system improvements and make other necessary capital expenditures. Accordingly, for the foregoing reasons, we hereby respectfully request a waiver of the EAS requirements contained at 47 C.F.R. 11.11 et. seq. for the fifteen (15) cable systems listed on Attachment A. Alternatively, we hereby request a 5-year extension of time to enable Northland to improve its financial position and increase the economic feasibility of compliance with the FCC's EAS requirements.

Respectfully submitted,

NORTHLAND CABLE TELEVISION, INC.

By:



K.E. Love
Its Attorney

- Attachment A: List of systems by headend including subscriber numbers for which Northland is requesting a waiver or extension.
- Attachment B: List of systems by headend including subscriber numbers.
- Attachment C: List of systems by headend including estimated upgrade and rebuild costs for each system for which Northland is requesting a waiver or extension.
- Attachment D: Historical financials for each system for which Northland is requesting a waiver or extension.

Attachment A

System Headend	PSID No.	Number of Subscribers
Five Points, South Carolina	013859	220
Lushmeadow, California	009504	249
Mariposa, California	006653	472
Fish Camp, California	008540	126
Coursegold, California	015285	613
Dublin, Texas	003552	689
Hico, Texas	003554	308
Hamilton, Texas	006539	885
Lake Buchanan, Texas	011442	734
Llano, Texas	011458	674
Coolidge, Texas	001462	150
Wortham, Texas	013367	221
Jewett, Texas	013660	176
Buffalo, Texas	007719	397
Saluda, South Carolina	006204	669

Attachment B

System Headend	PSID No.	Number of Subscribers
Seneca, South Carolina	006129	13,172
Five Points, South Carolina	013859	220
Oakhurst, California	008771	2,605
Lushmeadow, California	009504	249
Mariposa, California	006653	472
Fish Camp, California	008540	126
Coursegold, California	015285	613
Port Angeles, Washington	000417	5,867
Moses Lake, Washington	002979	6,231
Ephrata, Washington	003014	2,265
Othello, Washington	005679	1,548
Statesboro, Georgia	006826	8,412
Yreka, California	005807	2,955
Mt. Shasta, California	004013	4,282
Stephenville, Texas	008622	3,707
Dublin, Texas	003552	689
Hico, Texas	003554	308
Hamilton, Texas	006539	885
Marble Falls, Texas	010707	5,746
Lake Buchanan, Texas	011442	734
Llano, Texas	011458	674
Mexia, Texas	004075	3,753
Fairfield, Texas	004076	1,807
Coolidge, Texas	001462	150
Wortham, Texas	013367	221
Jewett, Texas	013660	176
Marlin, Texas	003432	1,189
Buffalo, Texas	007719	397
Crockett, Texas	003390	2,132
Madisonville, Texas	007782	1,151
Navasota, Texas	003553	1,407
Aiken, South Carolina	003141	16,371
Edgefield, South Carolina	006203	1,245
Saluda, South Carolina	006204	669
Greenwood, South Carolina	003641	16,406
Highlands, North Carolina	008931	2,921

Attachment C

System Headend	PSID No.	Estimated Cost of Upgrade/Rebuild	Estimated Cost per Subscriber
Five Points, South Carolina	013859	\$306,000	\$1,336.00
Lushmeadow, California	009504	\$324,000	\$1,227.00
Mariposa, California	006653	\$168,000	\$353.00
Fish Camp, California	008540	\$36,000	\$284.00
Coursegold, California	015285	\$624,000	\$1,016.00
Dublin, Texas	003552	\$234,000	\$310.00
Hico, Texas	003554	\$192,000	\$607.00
Hamilton, Texas	006539	\$87,500	\$98.00
Lake Buchanan, Texas	011442	\$816,000	\$1,077.00
Llano, Texas	011458	\$300,000	\$437.00
Coolidge, Texas	001462	\$276,000	\$1,781.00
Wortham, Texas	013367	\$456,000	\$1,943.00
Jewett, Texas	013660	\$456,000	\$2,401.00
Buffalo, Texas	007719	\$216,000	\$558.00
Saluda, South Carolina	006204	\$348,000	\$518.00

Attachment D

See attached copies.