

COLE, RAYWID & BRAVERMAN, L.L.P.

CODY J. HARRISON
ADMITTED IN MD ONLY
PRACTICE LIMITED TO MATTERS
AND PROCEEDINGS BEFORE
FEDERAL COURTS AND
AGENCIES
DIRECT DIAL
202-828-9879
CHARRISON@CRBLAW.COM

ATTORNEYS AT LAW
1919 PENNSYLVANIA AVENUE, N.W., SUITE 200
WASHINGTON, D.C. 20006-3458
TELEPHONE (202) 659-9750
FAX (202) 452-0067
WWW.CRBLAW.COM

LOS ANGELES OFFICE
2381 ROSECRANS AVENUE, SUITE 110
EL SEGUNDO, CALIFORNIA 90245-4290
TELEPHONE (310) 643-7999
FAX (310) 643-7997

August 27, 2002

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AUG 28 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA COURIER

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

91-171

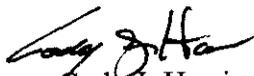
**Re: Northland Cable Properties Eight Limited Partnership
Petition for Waiver of Emergency Alert System**

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

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

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AUG 28 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 Properties Eight Limited Partnership ("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 three (3) of Northland's small cable systems.¹ Northland seeks relief for the three (3) 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.

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.

Northland owns six (6) cable television systems located in the states of Alabama, Georgia and Washington, as listed on Attachment B, incorporated by reference herein. Each such cable system serves fewer than 5,000 subscribers, with the three (3) cable systems listed on Attachment A serving less than 1,000 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 three (3) largest cable systems representing 8,321 subscribers, which will cost approximately \$21,000.00. The remaining three (3) systems systems, as set forth in Attachment A, represent a total of 2,395 subscribers. The cost to install the EAS equipment for these three (3) remaining systems would cost approximately an additional \$21,000.00. 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 three (3) remaining systems would cost approximately \$19,000.00.

In efforts to remain competitive and prevent subscriber loss in its 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 of its Millport system is approximately \$480,000.00, resulting in an average per subscriber cost of \$859.00. The cost of a contemplated upgrade of the Eutaw system will cost approximately \$396,000.00, resulting in an average per subscriber cost of \$408.00. The cost of a contemplated upgrade of the Marion system will cost approximately \$420,000.00, resulting in an average per subscriber cost of \$450.00. Additionally, Northland continues to make significant capital expenditures for its remaining cable systems.

Northland currently has no credit availability under its loan agreement and consequently is funding its upgrade and rebuild program solely through cash provided by operations. Under the current circumstances, it is anticipated that the completion of system upgrades will not be completed for several years. Attachment C 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. Although we recognize the importance of EAS, as evidenced by our intention to install it in systems representing 78% of total subscribers, Northland must be vigilant in allocating scarce capital in hopes of improving its competitive position. 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 Millport, Eutaw and Marion 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 Millport, Eutaw and Marion systems would likely transmit national emergency information, including programming networks such as Headline News, C-Span, CNN, and the Weather Channel. 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. 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.

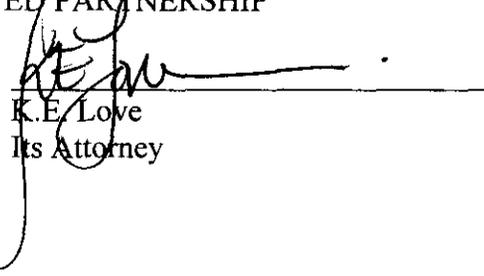
Northland recognizes the importance of the EAS and has taken substantial steps toward the implementation of the EAS requirements on substantially all of Northland's cable systems to ensure this service reaches as many subscribers as economically feasible. Northland will have three (3) cable systems EAS 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 three (3) remaining cable systems listed on Attachment A that combined serve less than 1,000 subscribers. Northland's small subscriber base and very low density of service in Millport, Eutaw and Marion 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 three (3) 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 PROPERTIES EIGHT
LIMITED PARTNERSHIP

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: Historical financials for each system for which Northland is requesting a waiver or extension.

Attachment A

System Headend	PSID No.	Number of Subscribers
Millport, Alabama	002281	552
Eutaw, Alabama	003257	929
Marion, Alabama	007965	914

Attachment B

System Headend	PSID No.	Number of Subscribers
LaConner, Washington	004937	1,731
Aliceville, Pickens County, Alabama	003258	3,607
Millport, Alabama	002281	552
Eutaw, Alabama	003257	929
Marion, Alabama	007965	914
Swainsboro, Georgia	003296	2,983

Attachment C

See attached copies.