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

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

JENNIFER M. TOLAND
ADMITTED IN DC
WRITER'S EMAIL
JTOLAND@CRBLAW.COM

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

August 2, 2006

VIA HAND DELIVERY

RECEIVED

AUG - 2 2006

Federal Communications Commission
Office of Secretary

Marlene Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Ms. Dortch:

Enclosed for filing is an original and four copies of Northland Communications Corporation's Petition for Partial Reconsideration of the Enforcement Bureau's denial of Emergency Alert System ("EAS") waiver extensions for fifteen of its cable systems. Also, in conjunction with the Petition is an original and four copies of a Motion to Stay certain EAS compliance obligations until such time as the Bureau rules on the pending Petition for Partial Consideration.

If you have any questions regarding this filing, please contact the undersigned at (202) 659-9750.

Sincerely,

Jennifer M. Toland

Jennifer M. Toland

Enclosures

cc: Kenneth Moran, Enforcement Bureau

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ORIGINAL

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

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AUG - 2 2006

Federal Communications Commission
Office of Secretary

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

MOTION FOR STAY

Pursuant to Section 1.102(b)(2) of the Commission's Rules,[1] Northland Communications Corporation ("Northland"), on behalf of its affiliates and subsidiaries, hereby moves for a temporary stay of certain EAS compliance obligations otherwise required under the decision issued by the Enforcement Bureau ("Bureau") in its Public Notice, released on July 3, 2006, in the above captioned proceeding.[2] The Bureau's Public Notice grants certain very small cable systems extended waivers of the Commission's Emergency Alert System ("EAS") requirements under Part 11 of the Commission's rules. 47 C.F.R. § 11.11(a). The Enforcement Bureau explained that those cable systems not specifically listed in Appendices A or B of the Public Notice are expected to immediately comply with the Commission's EAS requirements.[3]

On August 2, 2006, Northland filed a "Petition for Partial Reconsideration" of the Bureau's Public Notice for fifteen of its small cable systems that were excluded from the Bureau's grant of extended waivers. Northland requests a temporary stay of the Bureau's Public

[1] 47 C.F.R. § 1.102(b)(2).

[2] *EAS Waiver Extensions Granted to Very Small Cable Systems*, Public Notice, DA-06-1373, 2006 FCC LEXIS 3671 (released July 3, 2006) (hereafter "Public Notice").

[3] Public Notice at 3.

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Notice requiring EAS compliance by those systems not expressly granted waivers until such time as the Bureau rules on the pending Petition for Partial Reconsideration.

Northland submits that this case is precisely the type of situation where a stay is most appropriate. Even if Northland prevails on the merits of its Petition for Partial Reconsideration and Request for Waiver, the costs sought to be avoided will already have been incurred and will be unrecoverable if Northland is forced to become EAS compliant before the Bureau renders its decision. As discussed in the Petition for Partial Reconsideration, immediate compliance with the Commission's EAS rules for its small systems would cause significant financial hardship to those systems and their subscribers, and it might even require that the systems cease operating.

Accordingly, for the foregoing reasons, Northland hereby requests a stay of the referenced Bureau's Public Notice until such time as the Bureau rules on the pending Petition for Partial Reconsideration.

Respectfully submitted,

Northland Communications Corporation

By: Jennifer M. Toland

Robert L. James
Timothy P. Tobin
Jennifer M. Toland

COLE, RAYWID & BRAVERMAN, L.L.P.
Suite 200
1919 Pennsylvania Avenue, NW
Washington, DC 20006
202/659-9750

Its Attorneys

August 2, 2006

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Federal Communications Commission
Office of Secretary

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

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

To: Marlene Dortch
Secretary, Office of the Secretary

PETITION FOR PARTIAL RECONSIDERATION

Pursuant to 47 C.F.R. § 1.106, Northland Communications Corporation and its subsidiaries and affiliates ("Northland")[1] hereby requests partial reconsideration of the Public Notice ("Public Notice") issued by the Enforcement Bureau ("Bureau") on July 3, 2006 concerning Emergency Alert System ("EAS") waiver extensions to very small cable television systems.[2] Specifically, Northland seeks reconsideration of the Bureau's denial of waiver extensions for fifteen of its smallest systems. Each of these systems has 605 or fewer subscribers, and more than half serve fewer than 250 subscribers. Although Northland has taken significant steps toward achieving EAS compliance for many of its small systems, bringing these fifteen small systems into immediate compliance with the Commission's EAS requirements would cause significant financial hardship to Northland.

---

[1] Northland subsidiaries and affiliates include Northland Cable Properties Eight Limited Partnership; Northland Cable Properties, Inc.; Northland Cable Ventures LLC; Northland Cable Networks LLC; and Northland Cable Television, Inc.

[2] *EAS Waver Extensions Granted to Very Small Cable Systems*, Public Notice, DA-06-1373, 2006 FCC LEXIS 3671 (released July 3, 2006) (hereafter "Public Notice").

On February 10, 2006, Northland filed a Petition for Waiver of EAS requirements ("February 2006 Petition for Waiver") for seventeen of its smallest cable systems on financial hardship grounds. *See* Attachment A. In the five months since Northland filed its February 2006 Petition for Waiver, it has shut down one of the systems and interconnected another with an EAS compliant cable system.[3] Moreover, during these five months, Northland also developed an interconnection plan for two additional systems that is expected to be completed by the end of 2006. According to this interconnection plan, systems in Millport, AL and Five Points, SC will be interconnected with other EAS compliant systems by the end of this year. *See* Attachment B. For the thirteen remaining systems: Coarsegold, CA; Mariposa, CA; Maben, MS; Raleigh, MS; Coolidge, TX; Cut and Shoot, TX; Dublin, TX; Hamilton, TX; Hico, TX; Kerens, TX; Lake Buchanan, TX; Llano, TX and Wortham, TX, Northland seeks additional time to develop an EAS compliance plan. *See* Attachment C.

Northland respectfully requests that the Bureau reconsider its denial of Northland's waiver extensions and grant temporary six-month waiver extensions until December 31, 2006 for the two systems listed in Attachment B for which Northland has already developed an interconnection plan. The additional time will enable Northland to complete its scheduled interconnection plan. Northland also seeks temporary waivers, until June 30, 2007, for the thirteen other systems listed in Attachment C that were included in its February 2006 Petition for Waiver. This additional time will enable Northland to develop and implement a comprehensive interconnection plan for these thirteen systems, as it has done for the two systems listed in Attachment B, or to shut down or sell the remaining systems that are not feasible to consolidate.

---

[3] Northland shut down the Lushmeadows, CA system on April 18, 2006. On March 3, 2006 it also interconnected the Malakoff, TX system with an EAS compliant system located in Gun Barrel City, TX.

In its Public Notice, the Bureau recognized that although EAS waivers should be limited to the extent possible, immediate imposition of EAS requirements on some of the "very smallest cable systems in the country" could "cause significant economic hardship."[4] Northland has taken concrete steps in bringing its systems into full EAS compliance, but bringing these small systems into immediate compliance simply isn't economically feasible. All of these systems serve rural areas and are among Northland's smallest systems. Their financial status continues to be precarious at best, and prospects for new subscribers are not promising. Based upon estimates received by Northland, the average cost per system for the required EAS equipment is $9,000, including tax and shipping, plus $200 for labor and materials to install the units. Some sites would also require another $100 per month for monitoring and logging tests. If Northland does not receive waivers for these systems, it will likely have no option but to shut them down, as Northland has already done with the Lushmeadows, CA system.

As explained in the February 2006 Petition for Waiver, subscriber rates for these small systems continue to decline in the wake of growing competition from satellite providers. To further exacerbate the loss of subscribers, these small Northland systems face steadily increasing expenses and operational costs. Northland continues to face enormous financial strain in bringing its smallest cable systems into compliance with the Commission's EAS requirements, particularly those systems that serve fewer than 250 customers. Accordingly, Northland respectfully requests that the Bureau reconsider its finding that these fifteen small Northland cable systems are ineligible for an extension of their EAS waivers. While Northland continues to work diligently to bring its small systems into compliance, the granting of an extended waiver

[4] Public Notice at 2.

would enable Northland to ascertain the most effective and cost efficient manner to bring its remaining systems into EAS compliance, or in the alternative, to shut down or sell these systems.

Respectfully submitted,

Northland Communications Corporation

By: _____

Robert L. James
Timothy P. Tobin
Jennifer M. Toland
Cole, Raywid & Braverman, LLP
1919 Pennsylvania Avenue, NW
Suite 200
Washington, D.C. 20006
(202) 659-9750

August 2, 2006

CERTIFICATION

I, Richard I. Clark, hereby certify that statements made in the foregoing Petition for Partial Reconsideration is made in good faith and are true and correct to the best of my knowledge, information and belief.

Richard I. Clark
Executive Vice President
Northland Communications Corporation.

August 2, 2006

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Attachment A

(February 2006 Petition for Waiver --Without Attachments)

STAMP & RETURN

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

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Federal Communication Commission
Bureau / Office

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: Kenneth P. Moran
Director, Office of Homeland Security
Enforcement Bureau

PETITION FOR WAIVER OF
EMERGENCY ALERT SYSTEM REQUIREMENTS

I. Introduction

This petition is submitted on behalf of Northland Communication Corporation and its subsidiaries and affiliates - Northland Cable Properties Eight Limited Partnership; Northland Cable Properties, Inc.; Northland Cable Ventures LLC; Northland Cable Networks LLC; and Northland Cable Television, Inc. (collectively "Northland") to request additional waivers for 17 of its cable systems (the "Northland Systems") to comply with the Emergency Alert System ("EAS") requirements in Section 11.11(a) of the Commission's rules. Northland is seeking new waivers of at least 36 months, until at least March 1, 2009, for twelve of its cable systems (*see* Attachment A), new 12 month waivers, until March 1, 2007, for four of its cable systems(*see* Attachment B), and a one month waiver, until April 1, 2006, for one of its systems (*see* Attachment C).

On September 22, 2005, the Commission adopted an Order granting a five month extension, until March 1, 2006, to all cable television systems, including Northland, that had

previously been granted waivers of their EAS obligations until October 1, 2005.[1] In the Order, the Commission cited regulatory uncertainty as the basis for its decision and did not reach the issue of whether waiver extensions should be granted on the basis of financial need. Indeed, Northland continues to face financial strain in implementing EAS requirements in its smaller cable systems, and files this petition for waiver extension on the basis of financial hardship.

In October and November, 2002, the Commission granted Northland temporary 36-month waivers for thirty-two of its cable television systems because of the financial hardship that complying with the Commission's EAS requirements would impose.[2] *See* Attachment D. Northland now seeks new 36 month waivers for its systems listed in Attachment A, each of which serves fewer than 1,000 customers, because complying with the Commission's EAS requirements by March of this year, or any time in the foreseeable future, would be a financial hardship.[3] Northland seeks only 12 month waivers for the systems listed in Attachment B, because over the next year it plans to interconnect those systems with larger Northland systems

---

[1] *Petitions for Waiver of the Emergency Alert System Rules filed by Various Cable Television Systems, Requests for Waivers of Section 11.11(a) of the Commission's R ules*, Order, EB-05-HS-034 (rel. Sept. 23, 2005).

[2] In 2002, six separate waivers were filed for each Northlands operating subsidiary. *See Northland Cable Networks, LLC, Request for Waiver of Section 11.11(a) of the Commission' s Rules*, Order, DA-02-2491 (adopted Oct. 9, 2002); *Northland Cable Properties, Inc., Request for Waiver of Section 11.11(a) of the Commission's Rules*, Order, DA-02-2610 (adopted Oct. 10, 2002); *Northland Cable Properties Seven Limited Partnership, Request for Waiver of Section 11.11(a) of the Commission's Rules*, Order, DA-02-4750 (adopted Oct. 21, 2002); *Northland Cable Networks, LLC, Request for Waiver of Section 11.11(a) of the Commission' s Rules*, Order, DA-02-2864 (adopted Oct. 29, 2002); *Northland Cable Networks, LLC, Request for Waiver of Section 11.11(a) of the Commission's Rules*, Order, DA-02-2865 (adopted Oct. 29, 2002); *Northland Cable Networks, LLC, Request for Waiver of Section 11.11(a) of the Commission's Rules*, Order, DA-02-2906 (adopted Nov. 12, 2002) (here inafter "Previous Orders"). For administrative reasons, Northland is now consolidating the new waiver requests.

[3] Of the thirty-two cable systems subject to the Commission's earlier waivers, Northland retains ownership of only 19 of them. Of these 19 systems, Saluda, SC and Harris, NC are now EAS compliant.

that are already EAS complaint. Complying with the EAS requirements prior to interconnecting these systems would likewise cause financial hardship. Northland seeks only a one month waiver for the Lushmeadows system (listed in Attachment C) because this system will be shut down on March 31, 2006.

II. Northland has Already Demonstrated it Meets the Condition of a Waiver

In a 2002 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." *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.* As demonstrated by the Commission's prior orders encompassing the cable systems at issue, Northland has already demonstrated it meets these factors. Northland therefore incorporates by reference its *Petition[s] for Waiver of Emergency Alert System Requirements* submitted June 10, 2002 and August 27, 2002 ("Original Petitions"), addressing each of these factors. *See* Attachment E (containing previous petitions referenced in note 1, *supra*). Since the Commission's 2002 and September 2005 Orders, the Northland Systems have continued to struggle financially.

III. EAS Compliance will Cause an Undue Hardship

The Northland Systems' financial position is unimproved since Northland's June and August 2002 filings. Since the release of the Previous Orders, each of these Northland Systems continues to operate at a loss. For example, by year-end 2004, the Lake Buchanan, TX system operated at a loss of $84,721. By year-end 2005, the operating loss had increased to $112,720. *See* Attachment F (contains financial statement for each system).

The requirement of full EAS compliance by March 1, 2006 would result in serious financial hardship to Northland. Northland estimates that the cost of an EAS system for each cable system headend would be approximately $7,900.00 per headend, plus 15% for tax, shipping and installation, totaling more than $160,000.00. This estimate is 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 (even with the availability of decoder-only units). *Id.* at ¶ 25.

The prices for equipment and installation impose significant per-subscriber costs on the Northland Systems, which are already struggling with ever increasing programming costs. To pay for the equipment, the Northland Systems would need to consider rate increases to its subscribers. The additional costs and the rate increases to cover such costs would only serve to further erode the Northland Systems' existing subscriber base in an increasingly competitive industry hit hard by vigorous competition from satellite providers. The Northland Systems are simply not in a position to raise rates further than is already necessary as nearly every Northland System

continues to lose subscribers at a steady rate. *See* Attachments A, B and C (reflecting subscriber losses since the 2002 waiver petitions). For example, as of the filing of the Petitions in 2002, the Hamilton, TX system had 885 subscribers and now has only 605 subscribers, a 32% decrease.

The squeeze on capital and continuing financial losses in the Northland Systems are evident in other ways. Nearly three years after its initial waiver request, and despite having been granted the earlier waiver, the Northland Systems have still not been upgraded because of restrictions on capital. However, these systems must be upgraded to remain viable. Northland's small subscriber base and low density of service in the cable headend areas that are the subject of this waiver (*see* Attachments A, B and C) are only a couple of the factors that circumscribe the system's ability to finance system improvements and make other necessary capital expenditures. Requiring EAS compliance would only make any system upgrade even more unlikely and therefore exacerbate an already tenuous financial situation, and further hinder competitive deployment of advanced services and digital television to rural America.

IV. The Remaining Factors Favor Extending the Waiver

The Commission's other non-financial factors (addressed in the original petition), continue to favor a waiver as well. The availability of numerous alternative sources of emergency alert information supports these waiver requests. The Northland Systems carry the off-air television broadcast signals on the basic service package, which provide emergency alert information. The Northland Systems also carry various 24-hour cable news networks, including Headline News, FOX News, CNN, and CNBC, 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 Northland Systems would likely transmit national emergency information, including the broadcast networks, the cable news networks already mentioned, and other

ESPN, VH-1, MTV, HBO, and others. In addition, apart from the cable system, emergency alert information is available from over the air broadcast television and AM and FM radio stations and through local emergency plans, promulgated by local officials. Although there is no other cable provider serving these communities, DBS service is available, which includes news and other programming containing emergency information.

The most likely hazardous risk in each of these communities is weather related. Local emergency weather information is available on the local stations carried on the basic service tier and through the Weather Channel. 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. Moreover, the community has in place safety protocols for local weather emergencies. 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 Rcd 1786, ¶ 66 (rel. Dec. 9, 1994). This fact is especially noteworthy since the primary risks in these communities are localized weather risks. Because Northland's cable headends are located in rural areas, the threat of nuclear or terrorist attacks is minimal. Moreover, the Northland Systems are not near any nuclear reactors, prisons, 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 Northland Systems.

Northland recognizes the importance of the EAS and has taken substantial steps toward the implementation of the EAS requirements on most of its other cable systems to ensure this service reaches as many subscribers as economically feasible. Given the financial burden, it is

simply not economically feasible for the cable headends listed in Attachments A, B and C to be EAS compliant by the March 1, 2006 deadline.

Accordingly, for the foregoing reasons, Northland hereby respectfully requests at a minimum, additional 36 month waivers from the Commission's EAS requirements for twelve of its cable systems, twelve month waivers for four of its systems, and a one month waiver for one of its systems. Northland hopes such extensions would enable the systems to improve their financial condition and viability so that it can ultimately achieve full EAS compliance. Alternatively, if the Commission denies Northland's waiver requests, Northland requests at least a temporary waiver of sufficient time to allow it to attempt to achieve compliance after determining whether or not these systems can be economically viable and remain in operation given the additional expenditures that would be required.

Respectfully submitted,

NORTHLAND COMMUNICATIONS CORPORATION.

By:_____

Robert L. James
Timothy P. Tobin
COLE, RAYWID & BRAVERMAN, LLP
1919 Pennsylvania Avenue, NW, Suite 200
Washington, DC 20006
202-659-9750

February 10, 2006

Attachment A:	Northland cable systems requesting new 36-month waivers
Attachment B:	Northland cable systems requesting new 12-month waivers
Attachment C:	Northland cable system requesting a 1-month waiver
Attachment D:	Prior Northland Orders
Attachment E:	*Petitions for Waiver of Emergency Alert System Requirements* submitted June 10, 2002 and August 27, 2002 (without attachments).
Attachment F:	Financial Information for the Northland Systems

CERTIFICATION

I, Richard I. Clark, hereby certify that statements made in the foregoing Petition for Waiver is made in good faith and are true and correct to the best of my knowledge, information and belief.

Richard I. Clark
Executive Vice President
Northland Communications Corporation.

February 3, 2006

Attachment B

(Northland Systems Seeking Six Month Waiver Extensions)

Attachment B

Northland Systems Seeking Six Month Waiver Extensions

* = Interconnection with EAS compliant system in progress.
(Completion expected by end of 2006.)

System	Northland Entity	Subscribers
Alabama		
Millport*	NCP-Eight	411
South Carolina		
Five Points*	NCTV	130

Attachment C

(Northland Systems Seeking Twelve Month Waiver Extensions)

Attachment C

Northland Systems Seeking Twelve Month Waiver Extensions

System	Northland Entity	Subscribers
California		
Coarsegold	NCTV	488
Mariposa	NCTV	325
Mississippi		
Maben	NCNLLC	223
Raleigh	NCNLLC	243
Texas		
Coolidge	NCTV	119
Cut and Shoot	NCP-Inc.	174
Dublin	NCTV	413
Hamilton	NCTV	605
Hico	NCTV	225
Kerens	NCVLLC	148
Lake Buchanan	NCTV	547
Llano	NCTV	469
Wortham	NCTV	140