

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

In the Matter of)	
)	
Review of the Emergency Alert System;)	EB Docket No. 04-296
)	
Independent Spanish Broadcasters)	
Association, the Office of Communication)	
of the United Church of Christ, Inc., and the)	
Minority Media and Telecommunications)	
Council, Petition for Immediate Relief)	
)	
Randy Gehman Petition for Rulemaking)	

REPLY COMMENTS



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EXECUTIVE SUMMARY

The American Cable Association (“ACA”) submits these reply comments in response to comments filed in the Commission’s Third Further Notice of Proposed Rulemaking (“3rd FNPRM”) examining a series of proposed changes to the Emergency Alert System (“EAS”) regulations to clarify obligations related to the processing of alert messages in Common Alert Protocol (“CAP”). The record conclusively demonstrates that there remain significant unanswered questions regarding the codification of specific obligations for CAP functionality, the incorporation of that functionality into the Commission’s existing equipment certification scheme, the use of intermediary devices for compliance, and the certification of such devices that cannot plausibly be resolved sufficiently in advance of the current and rapidly approaching September 30, 2011 CAP-compliance deadline.

Accordingly, ACA has joined a coalition of broadcasters and larger cable providers in a Petition requesting that the Commission grant, on an expedited and bifurcated basis, a general extension of the CAP-compliance deadline of at least 180 days, to run from the effective date of the Commission’s amendment of any Part 11 rules pursuant to the 3rd FNPRM. The Commission should act quickly to grant the Petition as the September 30 deadline is fast approaching.

In addition, the record supports ACA’s call for an additional period for compliance by small operators. Small operators experience a number of unique challenges when faced with requirements involving equipment purchases, including a supplier technology lag and supply shortages as manufacturer efforts are focused first on larger providers making high-volume purchases; smaller staffs with less available time and technological

expertise to evaluate equipment needs and options; a nascent CAP-compliance marketplace where meaningful competition and the lower prices it brings have yet to develop; and the disproportionate impact of expedited equipment purchases on providers with fewer subscribers per-headend over which the spread the additional costs. In addition, smaller operators are also more likely to use intermediary devices in an effort to find the most cost efficient means of compliance, and the Commission has yet to determine whether (i) it will permit reliance on intermediary devices to achieve CAP-compliance and (ii) include them in its equipment certification program. All of these factors militate in favor of extending the general deadline ultimately adopted by 12 months for cable operators with 1.5 million subscribers or fewer.

The record also supports ACA's call for a blanket exemption for small systems serving 500 subscribers or fewer. Small systems serving 500 or fewer subscribers are increasingly facing significant financial hurdles merely to survive. For these systems, the very small number of subscribers available over which to spread fixed costs makes each and every purchasing decision critical. It is an unfortunate fact that for many of these very small systems, *any* additional significant financial investment that is needed, including replacing existing non-CAP compliant EAS equipment, would likely cause them to have to cease operations entirely. For very small operators, the cost of compliance for additional equipment or replacement equipment may be the proverbial straw that breaks the camel's back.

The Commission should forestall this loss of functioning communications infrastructure in small and rural communities by relieving the smallest providers of the *obligation* to participate in EAS. These operators will continue to participate in EAS as

long as they are able to remain in operation (and have functioning EAS equipment), and they will be able to remain in operation far longer if relieved of unnecessary regulatory burdens requiring new equipment purchases. The impact of the exemption would be slight as they will be carrying broadcast signals that are CAP-compliant.

A CAP-compliance exemption should also be granted to any cable system where Internet access is either not provided to subscribers or available at the headend as requested by ACA and others filing comments. In some small towns or rural areas served by ACA members an always-on wired Internet connection is not available, and the cost of acquiring Internet access for the sole purpose of becoming CAP-compliant is significant. Rather than forcing small system operators to shutter such systems for lack of an always-on Internet connection, an exemption should be provided.

Finally, the record supports ACA's call for the Commission to establish a hardship waiver process for financial reasons similar to what was done for the initial EAS compliance. The initial EAS hardship waiver process allowed operators additional time to obtain funding for compliance, obtaining compliance by interconnecting systems or by selling systems to a neighboring system that could interconnect with a compliant system. These same options should be made available to obtain CAP-compliance. Hardship waivers would help forestall premature closure of systems that would otherwise be unable to come into compliance on an individual basis, thus keeping open the possibility that alternatives other than closure could be found.

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REPLY COMMENTS



I. INTRODUCTION.

The American Cable Association (“ACA”)¹ submits these reply comments in response to comments filed in the Commission’s Third Further Notice of Proposed Rulemaking² examining a series of proposed changes to the Emergency Alert System (“EAS”) regulations to clarify obligations related to the processing of alert messages in

¹ ACA represents nearly 900 small and medium-sized cable operators, companies providing video, broadband Internet, and phone service in smaller markets across the United States. ACA’s membership includes a variety of businesses – family owned companies serving small towns and villages, multiple system operators serving predominantly rural markets in several states, and hundreds of companies in between. These companies deliver affordable basic and advanced services, such as high-definition television, next-generation Internet access, and digital phone, to about 7.6 million households and businesses.

² *In the Matter of Review of the Emergency Alert System*, Third Further Notice of Proposed Rulemaking, 26 FCC Rcd 8149 (2011) (“3rd FNPRM”).

Common Alert Protocol (“CAP”). The 3rd FNPRM addresses and seeks to clarify several key issues related to a cable operator’s obligation to receive and process CAP formatted messages using the EAS system. The biggest and most pressing issue however is one of timing — cable operators are currently under an obligation to accept and transmit CAP formatted messages by September 30, 2011.

Nearly all commenters agree that before the Commission can adopt clear, definite and codified CAP- compliance mandates, it must resolve the many open issues in this proceeding, including key questions concerning whether use of intermediary devices is an acceptable means of compliance and the standards for equipment certification. They also largely agree with ACA that mandating compliance before these issues are resolved is a classic case of putting the cart in front of the horse.

Accordingly, ACA joined a coalition of broadcasters and larger cable operators in a petition requesting that the Commission grant, on an expedited and bifurcated basis, a general extension of the CAP- compliance deadline of at least 180 days, to run from the effective date of the Commission’s amendment of any Part 11 rules pursuant to the 3rd FNPRM.³ The Commission should act expeditiously to grant the petition.

As ACA noted in its comments, for small and medium-sized operators, even more time is needed to comply for the following reasons:

- Manufacturers and vendors of technology typically cater to the interests and concerns of larger operators first, and do not expend time and resources assisting smaller operators until later.

³ *In the Matter of Review of the Emergency Alert System*, Petition of the State Broadcasters Associations, National Association of Broadcasters, the Broadcast Warning Working Group, National Cable and Telecommunications Association, American Cable Association, National Public Radio, Association of Public Television Stations, and the Public Broadcasting Service for an Expedited Further Extension of the 180-Day “CAP” Compliance Deadline, EB Docket No. 04-296 (filed July 29, 2011) (“Joint Petition”).

- Equipment shortages are common whenever an industry is mandated to purchase new technology, with larger volume purchasers receiving service first.
- Small and medium-sized operators typically have smaller less technically specialized staffs to devote to evaluating equipment needs and options.
- Due in part to the lack of final rules, the marketplace for CAP-compliant EAS equipment and software is small and still developing; additional time will provide an opportunity for meaningful competition to develop in this nascent market, increasing the likelihood that smaller operators can find cost-effective CAP-compliant equipment and software.
- These issues are compounded by the fact that new regulatory mandates requiring the purchase of equipment on an expedited basis have a disproportionate economic impact on small and rural operators due to three factors: (i) the smaller number of subscribers served by each headend; (ii) the consequent inability to spread the fix cost over a large enough subscriber base; and (iii) the larger number of free-standing headends involved.

In light of these facts, the Commission should adopt a longer period for compliance in smaller systems similar to what was done in the initial deployment. The Commission should extend the general deadline ultimately adopted by 12 months for cable operators with 1.5 million subscribers or fewer.

As ACA noted in its comments, and as supported in the record, the Commission should also implement additional protections taking into account specific factors affecting some small operators and systems. Specifically, the Commission should:

- exempt small systems of 500 subscribers or fewer from EAS compliance;
- waive CAP-compliance on any cable system where internet access is not provided on the system or available at the headend; and
- recognize and allow hardship waivers for systems similar to what was done for the initial EAS compliance.

These provisions and extensions will help lessen the disproportionate impact and provide greater flexibility to smaller cable operators without having a significant impact on the important goal of upgrading the EAS system.

The initial deployment of EAS was a substantial, resource intensive, undertaking for many ACA members, especially those with multiple free standing systems serving very few subscribers per system. Smaller companies rely on the Commission to assist them by establishing clear and certain obligations, assurances through the certification process that equipment and options available will provide compliance, and the time and ability to analyze alternative solutions and vendors if at all possible. Accordingly, the Commission should provide such certainty and, just as importantly, give smaller operators adequate time to respond by granting reasonable exemptions, extensions and other relief requested herein.

II. THE COMMISSION SHOULD GRANT A GENERAL EXTENSION OF THE CAP-COMPLIANCE DATE.

In its comments, ACA requested that the Commission extend the general CAP-compliance date from the release of the Order in this rulemaking for all providers, large and small, to permit the orderly implementation of the new rules, the development of marketplace solutions, and compliance by EAS participants.⁴

The vast majority of commenters responding to the 3rd FNPRM also requested that the Commission grant a general extension of the CAP- compliance date.⁵

⁴ *In the Matter of Review of the Emergency Alert System*, Comments of the American Cable Association, EB Docket No. 04-296, at 2-3 (filed July 20, 2011) (“ACA Comments”).

⁵ *In the Matter of Review of the Emergency Alert System*, Comments of the National Cable & Telecommunications Association, EB Docket No. 04-296, at 4-5 (filed July 20, 2011) (“NCTA Comments”); *In the Matter of Review of the Emergency Alert System*, Comments of Verizon, EB Docket No. 04-296, at 2-3 (filed July 20, 2011); *In the Matter of Review of the Emergency Alert System*, Comments of the National Association of Broadcasters, EB Docket No. 04-296, at 26-27 (filed July 20, 2011) (“NAB Comments”); *In the Matter of Review of the Emergency Alert System*, Comments of the Houston Christian Broadcasters et al., EB Docket No. 04-296, at 5-6 (filed July 20, 2011) (“Joint Broadcasters.”); *In the Matter of Review of the Emergency Alert System*, Comments of the Association of Public Television Stations and the Public Broadcasting Service, EB Docket No. 04-296, at 2-3, 5 (filed July 20, 2011); *In the Matter of Review of the Emergency Alert System*, Comments of the Prometheus

Subsequent to the initial comment filing date, ACA joined a coalition of broadcasters and larger cable operators in a petition requesting that the Commission grant, on an expedited and bifurcated basis, a general extension of the CAP- compliance deadline of at least 180 days, to run from the effective date of the Commission's amendment of any Part 11 rules pursuant to the 3rd FNPRM.⁶

Petitioners cite precisely the same reasons for an extension noted in ACA's comments: failure to grant additional time will result in an unnecessarily rushed, expensive and likely incomplete process that will fail to achieve the objectives of the program.⁷ Key reasons that militate in favor of a general extension cited in the Joint Petition include the following:

- EAS Participants should not be required to purchase costly equipment without knowing whether it will be fully FCC compliant.
- EAS Participants will need to take into consideration any changes to the Part 11 rules *before* making final purchase decisions, as well as finalize their planning for installation, training, testing and operations.
- It is uncertain whether the Commission will implement its own certification testing (separate from the Federal Emergency Management Agency), creating uncertainty for EAS participants who will need to review any testing results *before* making decisions regarding the purchase of EAS equipment.
- It is uncertain whether the Commission will determine that use of intermediary devices is an acceptable means for compliance.
- EAS Participants will need time to test and integrate it into their systems to make sure that technical and operational issues are addressed *before* CAP is deployed.
- EAS Participants will need time to gain better awareness regarding what is necessary for compliance and for smaller providers to assess the need for and file for hardship waivers if necessary.

Radio Project, EB Docket No. 04-296, at 2 (filed July 20, 2011) ("Prometheus Radio Project Comments").

⁶ See Joint Petition.

⁷ ACA Comments at 4-5; Joint Petition at 3.

- The majority of EAS message originators (states and the National Weather Service) will not be prepared to send CAP-enabled messages for the foreseeable future.⁸

In summary, the Joint Petition reiterates the “nearly unanimous view of those parties who commented on the Commission’s current September 30 CAP-compliance deadline . . . that the deadline should be further extended because the FCC still has not decided whether it will conduct separate equipment conformance testing, and the Third Further Notice may lead to Part 11 rule changes that could alter the obligations of EAS Participants regarding the purchase, installation and operation of equipment.”⁹

Consistent with the foregoing, and for the reasons discussed in its Comments, ACA reiterates its call for an expedited grant of general deadline extension for CAP-compliance of 180 days, to run from the effective date of the Commission’s amendment of any Part 11 rules pursuant to the 3rd FNPRM.

III. THE COMMISSION SHOULD GRANT SMALL OPERATORS AN ADDITIONAL 12 MONTHS FOR COMPLIANCE.

The record also supports ACA’s position that even more time is needed to comply for small and medium-sized operators. Small broadcasters and MVPDs have demonstrated that a later deadline will allow the market for CAP-compliant EAS devices to further develop, and provide smaller EAS participants the time to fully evaluate their needs, talk with multiple vendors, and make cost-effective purchasing decisions that result in operators receiving equipment on time.

⁸ ACA Comments at 4-8; Joint Petition at 3-6.

⁹ Joint Petition at 6.

In its Comments, ACA set forth a number of reasons why an additional 12 month extension for smaller MVPDs is appropriate. First, manufacturers and vendors of technology typically cater to the interests and concerns of larger operators first, and do not expend time and resources assisting smaller operators until later.¹⁰ Second, equipment shortages are common whenever an industry is mandated to purchase new technology, and this equipment is often made available first to larger providers who often purchase in greater volumes.¹¹ Third, small and medium-sized operators often have smaller staffs, and therefore the process of evaluating their needs and options take longer than for larger operators with staff that has more specialized technical knowledge.¹² Fourth, the marketplace for CAP- compliant EAS equipment and software is small and still developing, due in part to the fact that the Commission hasn't provided clear guidance to manufacturers, software vendors, and EAS participants regarding CAP- compliance.¹³ Additional time for smaller operators will provide an opportunity for meaningful competition to develop in this nascent market, thereby increasing the likelihood that smaller operators can find CAP- compliant equipment and software at reasonable prices.¹⁴ Lastly, these issues are compounded by the fact that new regulations that require the purchase of equipment on an expedited basis also

¹⁰ ACA Comments at 8.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 5.

¹⁴ *Id.* at 9 n.9 (noting ACA's understanding that there are only two providers of certified EAS equipment today, Monroe Electrics, Inc. and Trilithic, Inc.).

have a disproportionate economic impact on small and rural cable systems. The economic impact is greater because of (i) the smaller number of subscribers served by each headend; (ii) the inability to spread the costs over a sufficiently large number of subscribers; and (iii) the larger number of free-standing headends involved. It is easier for smaller operators to prepare and budget for such additional fixed costs if given more time to comply. In light of these facts, the Commission should adopt a longer period for compliance in smaller systems similar to what was done in the initial deployment. The Commission should extend the general deadline ultimately adopted by 12 months for cable operators with 1.5 million subscribers or less.

Smaller broadcasters also call for special treatment for small providers. The Joint Broadcasters state that one problem for smaller broadcasters with the EAS market is the “difficulty of finding type accepted CAP- equipment at a reasonable price due to the lack of meaningful competition between the very few manufacturers who have type accepted equipment,” a difficulty that will be compounded by the short deadline under the Commission’s current CAP- compliance date.¹⁵ Joint Broadcasters also emphasize that the expenses involved in acquiring and installing such equipment puts a large burden on the backs of the non-profit, noncommercial broadcasters, particularly “during the time of an economic recession and when there are extremely limited contributions to their operations.”¹⁶

¹⁵ Joint Broadcasters Comments at 6.

¹⁶ *Id.*

Similarly, Prometheus Radio Project describes how the requirement to purchase equipment on short notice is especially unreasonable for small providers on severely limited budgets:

Without an extension, participants will be forced to buy equipment without a guarantee that it will meet future certification requirements. If the equipment is not in compliance with the eventual requirements, participants will have to buy replacement equipment. For many small, volunteer-run radio stations, the cost to buy a new EAS unit with few sources of grant money available is a significant burden already. . . . The requirement to purchase new equipment on short notice is unreasonable, and a requirement to buy new equipment twice could be devastating.¹⁷

Many ACA members with constrained financial resources will similarly find the requirement to purchase new CAP-compliant EAS equipment burdensome, and unless the Commission delays the compliance date, will also face the prospect of purchasing equipment that may ultimately not be found CAP-compliant in this rulemaking, thus raising the prospect of additional equipment purchases or upgrades down the line. In light of the impact of all of these issues, ACA reiterates its call for the Commission to adopt a longer period for compliance for small and medium size operators similar to the extra 3 years that was provided in the initial deployment for systems with less than 10,000 subscribers, again noting that the public will not be adversely affected because viewers will continue to receive alerts using the existing EAS system.¹⁸ Accordingly, the

¹⁷ Prometheus Radio Project Comments at 2.

¹⁸ In the initial deployment while the deadline was December 31, 1998, systems with less than 10,000 subscribers were given until October 1, 2002 to comply, with specific hardship waivers available thereafter. An additional benefit of granting a longer compliance period is that the Commission will be less likely to suffer the administrative burden of having to process hundreds of waiver requests, like the

Commission should extend the general deadline ultimately adopted by an additional 12 months for cable operators with 1.5 million or fewer subscribers.

IV. THE COMMISSION SHOULD EXEMPT SMALL SYSTEMS SERVING 500 OR FEWER SUBSCRIBERS FROM EAS COMPLIANCE.

The same considerations also support ACA's request that the Commission should no longer require the very smallest cable systems to abide by EAS requirements.¹⁹ Small systems serving 500 or fewer subscribers are increasingly facing significant financial hurdles merely to survive. As ACA has noted, the very small number of subscribers available over which to spread costs makes each and every purchasing decision critical. It is an unfortunate fact that for many of these very small systems, *any* additional significant financial investment that is needed, including replacing existing non-CAP-compliant EAS equipment, would likely cause them to cease operations entirely. The Commission should forestall this loss of functioning communications infrastructure in small and rural communities by relieving the smallest providers of the *obligation* to participate in EAS. As we explain below, these operators will continue to participate in EAS as long as they are able to remain in operation (and their EAS equipment remains functional), and they will be able to remain in operation far longer if relieved of regulatory burdens requiring additional equipment purchases.

ACA member Cable Services, Inc. ("CSI"), with three cable systems in rural North Dakota, has determined that if it is required to purchase new EAS equipment to

Commission dealt with regarding the initial deployment.

¹⁹ ACA Comments at 10.

comply with CAP mandates, or even to replace its existing non-CAP- compliant equipment, it will be forced to shutter its 40-subscriber Lisbon system—a system that is currently EAS-compliant.²⁰

As noted in the Declaration, the Lisbon system, while EAS-compliant, suffers from the fact that there is no software or firmware fix for CAP compliance for its deployed equipment. The quoted cost of new Monroe CAP-compliant equipment to replace the existing equipment cannot be economically justified for this system. Thus, without relief from the immediate CAP- compliance mandate, and existing obligations to maintain non-CAP- compliant EAS complaint (after existing equipment breaks down), the system will be shut down, thus depriving their customers of a quality broadcast signal that they cannot obtain in their community off air. Unless the deadline is extended, notices of the shutdown are planned to be sent out no later than August 28, 2011, and unless exemptions are provided thereafter, EAS mandates will be the nail in the coffin for these systems.

If the Commission eliminated EAS-compliance obligations on the very smallest systems, operators of these systems would continue to operate these systems using their existing EAS equipment for the foreseeable future, whether obligated to do so or not. It is only the obligation to become CAP-compliant either by obtaining an intermediary device for use with existing EAS equipment, or replacing all existing non-CAP- compliant EAS equipment with CAP-compliant equipment that could lead an operator to immediately shutter its system.

In considering ACA's request, the Commission should take into account that

²⁰ Attachment A, Declaration of Roy Sheppard, President, Cable Services, Inc. at 2.

these systems would continue to carry broadcast channels that will be EAS and CAP-compliant, thus the impact on the efficacy of EAS in exempting such small systems from compliance in the future will be mitigated. In many areas, such as Lisbon, North Dakota the local broadcast stations do not deliver a good quality signal off-air and thus the citizens must rely on cable or satellite to receive the signals. The residents of the small towns and rural areas where broadcast service is not uniform or of high quality will be far better off being served by systems that continue to carry broadcast stations that offer CAP-compliant alerts, than having no cable service at all. Accordingly, the Commission should no longer require systems of 500 or fewer subscribers to be EAS compliant, and force operators to face the decision of achieving compliance or shutting the system down.

NCTA concurs with the need to provide special treatment for small systems.²¹

NCTA also observes that customers will continue to receive EAS alerts in the existing protocol via the broadcast stations carried on the systems.²²

V. THE RECORD DEMONSTRATES THE NEED FOR CAP-COMPLIANCE WAIVERS WHERE INTERNET ACCESS IS NOT AVAILABLE AT THE HEADEND.

The record also supports ACA's request for CAP-compliance waivers for any cable system that does not have Internet access available in its system headend.²³

NCTA argues that cable systems in remote locations, regardless of size, located in

²¹ NCTA Comments at 10.

²² *Id.*

²³ ACA Comments at 10-11.

areas that lack Internet access should be exempt from the new CAP requirements.²⁴

As CSI has explained in its declaration, securing access to an always-on Internet connection is simply not a practical solution—purchasing such a connection would be cost prohibitive for the sole purpose of continuous and redundant RSS monitoring. A small system that cannot support wired Internet service should not be required to pay additional costs for constant wireless internet access solely for RSS monitoring purposes. As the CSI situation demonstrates, for very small system cable systems, many of which have at most a few hundred subscribers and as few as 40 or less, simply shutting down the system in light of such additional costs is not only an option that would have to be considered, it may be a virtual certainty.

This problem is faced by small and rural broadcasters as well. Prometheus Radio Project observes that some broadcasters do not have Internet connections at the location where the EAS unit operates and that in some rural locations, obtaining connectivity will be both costly and require new infrastructure builds, thus necessitating the need for special consideration for non-Internet connected EAS Participants.²⁵ NAB urges the Commission to consider an alternative notification process for those stations unable to receive RSS feeds because they are located in rural or other areas lacking always-on Internet access.²⁶

ACA respectfully maintains that the cleanest approach is for the Commission to

²⁴ NCTA Comments at 10.

²⁵ Prometheus Radio Project Comments at 3.

²⁶ NAB Comments at 15-16.

establish a CAP-compliance exemption for EAS Participants lacking always-on Internet connections. This is far preferable to forcing small cable operators into the no-win scenario of simply closing up shop. Again, the impact on consumers of an exemption would not be great as presumably the broadcast channels will be monitoring the RSS feed and all cable systems that have more than 500 subscribers, but are without an always-on Internet connection, will continue to monitor the standard EAS.

VI. THE COMMISSION ALSO SHOULD ESTABLISH A PROCESS FOR FILING INDIVIDUAL HARDSHIP WAIVERS.

The record also supports extending the Commission's initial EAS implementation hardship waiver process to cover CAP-compliance to avoid placing unsustainable economic burdens on individual providers.²⁷ As ACA observed in its Comments, with the initial deployment of EAS, the hardship waiver process resulted in needed assistance through compliance extensions to over 300 financially strapped systems, including many serving 100 subscribers or fewer, where immediate compliance with the deadline could have resulted in a shutdown of the system, and there is no reason to expect better results with the CAP-compliance mandate.²⁸

NCTA likewise supports the granting of hardship waivers noting that "the Commission should adopt a waiver process for small systems that demonstrate financial or other hardships with compliance with CAP requirements".²⁹ The lack of opposition in the record to the Commission's suggestion of case-by-case hardship

²⁷ ACA Comments at 11-12; *EAS Waiver Extensions Granted to Very Small Cable Systems*, Public Notice, 21 FCC Rcd 7129 (2006).

²⁸ ACA Comments at 12.

²⁹ NCTA Comments at 10.

waivers is telling.³⁰ Even the EAS equipment manufacturers recognize that case-by-case waivers may be applicable in appropriate cases of “economic hardship” or lack of Internet connectivity.³¹

With the initial EAS compliance mandate, the granting of hardship waivers allowed operators additional time to obtain funding for compliance, obtain compliance by interconnecting systems, or to sell to a neighboring system that could interconnect the system to a compliant system. The waivers also prevented systems otherwise slated for closure in the near future due to the inability to come into EAS compliance from being shut down prematurely, thus keeping open the possibility that an alternative other than closure could be found.

The Commission similarly should establish a hardship waiver process for CAP-compliance similar to the hardship waiver process used for the initial deployment of EAS. As noted above, for some small operators CAP-compliance may require the costly replacement of their existing EAS equipment. Similarly, if a small operator has existing plans to collapse and interconnect headends after the compliance deadline, the operator should not be forced to integrate CAP-compliance in each system or replace the entire EAS equipment in each system. A hardship waiver process, accordingly, should be established for case-by-case evaluation of operators unable to achieve CAP-compliance on an individual basis.

³⁰ 3rd FNPRM, at ¶ 111.

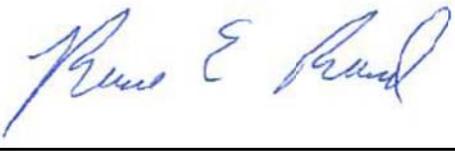
³¹ *In the Matter of Review of the Emergency Alert System*, Comments of Monroe Electronics, EB Docket No. 04-296, at 18 (filed July 19, 2011).

VII. CONCLUSION.

The Commission needs to expeditiously grant an extension of the September 30, 2011 deadline as requested in the Petition and as supported by the record. The Commission should not require CAP-compliance until an Order is issued in this proceeding and the industry has time to react. In addition, the Commission needs to recognize the additional burden CAP-compliance has on small operators and smaller systems. For the reasons noted herein, and as supported by the record, the Commission needs to:

- Grant a further extension of the September 30, 2011 CAP-compliance deadline of at least 180 days to run from the effective date of the Commission's amendment of any Part 11 rules resulting from the 3rd FNPRM;
- Grant small operators serving 1.5 million subscribers or less an additional 12 month extension beyond the new general deadline;
- Exempt small systems of 500 subscribers or less from EAS compliance obligations;
- Waive CAP-compliance on any cable system where internet access is not provided on the system or available at the headend; and
- Recognize and allow hardship waivers for individual systems similar to what was done for the initial EAS compliance.

Respectfully submitted,

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August 4, 2011

Attachment A

Declaration of Roy Sheppard, President, Cable Services, Inc.



CABLE SERVICES, inc

Roy Sheppard ~ President

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DECLARATION OF ROY SHEPPARD

1. My name is Roy Sheppard. I am President of Cable Services, Inc. of Jamestown, North Dakota ("CSI"). Through my role as President with responsibility for regulatory compliance I have personal knowledge of the facts presented in this Declaration.
2. CSI operates cable system headends in the North Dakota rural communities of Jamestown, Valley City and Lisbon.
3. CSI serves a total of approximately 5,500 subscribers in the three systems.
4. The broadcast channels in our areas do not provide a good quality signal off-air and without cable or satellite service, residents in our communities would be unable in many cases to view broadcast programming. Our customers also appreciate the local customer service we offer residents in our communities.
5. CSI's Lisbon headend serves 40 subscribers. We do not have Internet connectivity at the Lisbon headend.
6. The Lisbon system is EAS compliant. The HollyAnne EAS compliant equipment we deployed in the Lisbon headend a few years back however is not capable of receiving or processing Common Alert Protocol (CAP) alerts.
7. The Lisbon system currently carries 6 broadcast stations. Our customers receive EAS alerts directly from our company, but also from the broadcast stations that we carry.
8. In anticipation of the September 30, 2011 deadline for CAP compliance we investigated costs and solutions and determined that:
 - a. There is not a firmware or software upgrade for our existing HollyAnne EAS equipment.
 - b. The cost of Monroe Equipment with a CAP license to replace our existing EAS equipment would be approximately \$5,000 with installation and set up.
 - c. The cost to obtain 5mb Internet access from the local USDA funded co-op would be \$65 a month.
9. We have determined that the cost of the FCC CAP compliance mandate for the Lisbon systems equals 75% the cost of wreck-out of the distribution plant for the Lisbon system.

10. We have determined that, if required to comply with the CAP compliance mandate, we have no realistic alternative other than to shut the Lisbon system down. Along the same lines, if we had to even replace our existing EAS system with another non-CAP EAS system, we would likely have to shut down the plant.
11. We have begun plans for the shutdown based on the September 30, 2011 deadline for CAP compliance. We are preparing appropriate notices informing our customers of the September 30, 2011 shutdown of the system. We plan to forward the shutdown notices to our customers on August 28, 2011 unless the CAP compliance deadline is extended.
12. The facts contained herein are true and correct to the best of my knowledge, information, and belief.

Dated: August 3, 2011



Roy Sheppard
President
Cable Services, Inc.
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