

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

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

To: David S. Turetsky, Chief
Public Safety and Homeland Security Bureau

PETITION FOR TEMPORARY WAIVER

Pursuant to 47 C.F.R. § 1.3 and 47 C.F.R. § 11.52(d)(4), this petition is submitted on behalf of Cequel Communications, LLC d/b/a Suddenlink Communications (“Suddenlink” or the “Company”) to request temporary waivers for 62 of its smallest cable systems (the “Waiver Systems”) from compliance with the Emergency Alert System (“EAS”) requirements in Section 11.56 of the Commission’s rules. Section 11.56 requires EAS Participants to be able to receive alerts formatted with the Common Alerting Protocol (“CAP”) by June 30, 2012.¹ Suddenlink

¹ The June 30, 2012 compliance deadline was adopted in the Commission’s *EAS Fourth Report and Order*. See *Review of the Emergency Alert System; 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*, EB Docket No. 04-296, *Fourth Report and Order*, 26 FCC Rcd 13710 (2011) (“*EAS Fourth Report and Order*”). In its *EAS Fifth Report and Order*, the FCC revised its Part 11 Rules to specify the manner in which EAS Participants must be able to receive alert messages formatted in the CAP. See *Review of the Emergency Alert System; 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*, EB Docket No. 04-296, *Fifth Report and Order*, 27 FCC Rcd 642 (2012) (“*EAS Fifth Report and Order*”).

has already purchased CAP-compliant equipment for 57 of the Waiver Systems (*see Appendix A*), but needs an additional ninety days to complete the installation and testing process. The remaining 5 Waiver Systems (*see Appendix B*) are among Suddenlink's smallest, most remote cable headends. Suddenlink respectfully seeks six month waivers for these sites because they lack the broadband Internet access necessary to reliably receive CAP-formatted alerts.

Suddenlink has devoted substantial resources to bringing all of its cable headends into compliance with the Commission's new CAP requirements. Indeed, Suddenlink began updating its legacy EAS equipment in 2011.² Since that time, the Company has invested more than one half million dollars toward CAP-compliant hardware and software upgrades.³ Suddenlink personnel have also invested countless hours installing and testing new devices to ensure their capacity to receive, convert and process CAP-formatted messages in accordance with the Commission's rules. As a result of these efforts, approximately 98 percent of Suddenlink's subscribers will be able to receive CAP-formatted messages by the June 30, 2012 deadline. As discussed below, the remaining Waiver Systems are in the final stages of installing and testing CAP compliant equipment, or are so remote that no viable means has yet been identified to obtain the broadband Internet access necessary to receive CAP formatted messages.

² Suddenlink's investment in legacy EAS equipment totals more than \$1.25 million in hardware and software costs alone.

³ Suddenlink's expenditures toward CAP equipment and software upgrades exceed \$600,000. This amount excludes labor and network connectivity costs.

I. A Ninety-Day Waiver Will Allow Suddenlink Sufficient Time to Complete Installation and Testing of CAP Equipment at Fifty-Seven Cable Headends

Suddenlink respectfully requests a temporary ninety (90) day waiver from Section 11.56 of the Commission's rules for the 57 headends listed in Appendix A. Although the Company has already purchased CAP-compliant equipment for each of these 57 sites, it is seeking a waiver in order to allow sufficient time to complete the installation and testing process.

Pursuant to Section 1.3, the Commission may waive its rules for good cause shown.⁴ The Commission may also exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest, and grant of a waiver would not undermine the policy served by the rule.⁵

Suddenlink respectfully submits that there is good cause to grant the temporary relief requested here. As noted above, Suddenlink has already purchased CAP-compliant equipment for each of the 57 Waiver Systems listed in Appendix A. Suddenlink is seeking a short-term waiver for these systems in order to ensure that its new CAP-compliant equipment for these sites is properly installed and tested. Given the importance of an effective emergency warning system, it would be inconsistent with the public interest to deploy new CAP equipment before Suddenlink's engineers have been able to verify that the equipment at these remaining sites is correctly installed, or before they have had an opportunity to thoroughly test its operational readiness. As Suddenlink's engineers have learned from their efforts installing CAP equipment at the Company's other cable headends, connecting and testing the new CAP devices—particularly intermediary devices that work in tandem with legacy EAS devices—is a multi-step

⁴ 47 C.F.R. 1.3. See also *Northeast Cellular Telephone Co. L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“FCC has authority to waive its rules if there is good cause to do so.”).

⁵ See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *aff'd* 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

and time-consuming process. Although this process is well underway and Suddenlink's engineers are working diligently to finalize the necessary steps as soon as possible, bringing these last 57 systems into full compliance by the June 30, 2012 CAP deadline simply is not feasible.

II. Suddenlink's Most Remote Systems Do Not Have Broadband Internet Access

In its *EAS Fifth Report and Order*, the Commission identified broadband Internet as the "primary method for distributing CAP messages."⁶ The FCC further recognized that "the physical availability of broadband Internet access would be a physical predicate for compliance with the requirement that EAS Participants be able to receive CAP-based alerts."⁷ Without broadband Internet connectivity, EAS Participants are not capable of fully utilizing new, CAP-compliant EAS equipment, because it is not possible to receive CAP formatted messages. Recognizing that some cable systems would be unable to comply with the June 30, 2012 deadline due to lack of broadband Internet access, the FCC concluded that "the physical unavailability of broadband Internet service offers a presumption in favor of a waiver."⁸

Suddenlink submits that there is good cause to grant waivers to its 5 most remote cable headends listed in Appendix B because they currently lack the broadband Internet access necessary to comply with Part 11 of the Commission's rules. Suddenlink is working to ascertain the best means to obtain broadband Internet and bring these remote cable systems into

⁶ *EAS Fifth Report and Order* at ¶152.

⁷ *Id.*

⁸ *Id.*

compliance with the Commission's new CAP requirements, but thus far it has been unable to identify a feasible solution.⁹

The subscribers at these Waiver Systems already have access to timely and effective emergency warnings through the legacy EAS equipment that is installed and fully operational at each of these remote locations. Suddenlink intends to operate its legacy EAS equipment at all of the sites listed in Appendix B until the time that broadband Internet access can be reasonably obtained. Moreover, Suddenlink will continue to evaluate options for obtaining broadband Internet access at these sites, and will immediately notify the Commission once CAP compliance is possible.

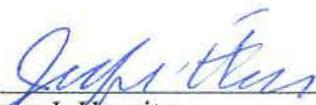
III. Conclusion

Suddenlink submits that it has shown good cause to grant waivers to 62 of its cable systems. Fifty-seven of these systems are nearly compliant already, and need only a brief additional period to complete installation and testing. Suddenlink also continues to evaluate how best to bring the 5 additional remote systems into compliance with the requirement to receive

⁹ Suddenlink focused initially on securing *landline* connections for these sites, which it believed to be consistent with the Commission's instructions regarding the "physical availability of broadband Internet access." *See EAS Fifth Report and Order*, ¶ 152. *See also* Federal Communications Commission Receives Petition Filed by American Cable Association for Partial Reconsideration of the Commission's Emergency Alert System Fifth Report and Order; Announces Schedule for Pleading Cycle, *Public Notice*, 2012 FCC LEXIS 2232 (2012) ("Fifth Report & Order Public Notice"). Although it might be theoretically possible to secure DSL connections at some of the remaining Waiver Systems in the future, Suddenlink fears that doing so will be cost prohibitive, because special construction and line extensions of *at least* 1500 feet would be required for each facility. Suddenlink's engineers do not believe that wireless Internet access is sufficiently reliable for EAS purposes, given the location of the Waiver Systems and technical limitations of wireless service. Suddenlink's engineers initially concluded that satellite delivery is similarly unworkable, due to signal latency and rain attenuation issues typically associated with satellite delivery. Suddenlink is, however, still in the process of determining whether some form of satellite or other delivery mechanism will prove to be a viable means in the future for providing reliable CAP-reception capabilities at the Waiver Systems.

CAP-formatted messages, but broadband Internet access is currently not available at these locations. These locations do, however, all have access to emergency warnings through legacy EAS equipment.

Respectfully submitted,

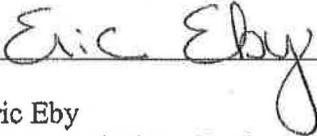
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June 19, 2012

CERTIFICATION

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

A handwritten signature in cursive script that reads "Eric Eby". The signature is written over a solid horizontal line.

Eric Eby
Director of Video Engineering
Suddenlink Communications

June 19, 2012

Appendix A

(Suddenlink Systems Seeking 90-Day Waivers)

Appendix A

Suddenlink Systems Seeking 90 Day Waivers From CAP Compliance (Until September 30, 2012)

Atkins, AR
Charleston, AR
Dover, AR
DeWitt, AR
Hazen, AR
Hughes, AR
Mt Ida, AR
Nashville, AR
Waldron, AR
St. Maries, ID
Argenta, IL
Odon, IN
Rockville, IN
Anthony, KS
Fort Scott, KS
St Joseph, LA
Ville Platte, LA
Fayette, MO
Jefferson City (Cole County), MO
Fairview, OK
Heavener, OK
Hugo, OK
Idabel, OK
Poteau, OK
Sallisaw, OK
Spiro, OK
Albany, TX
Anson, TX
Big Lake, TX

Brady, TX
Breckenridge, TX
Caldwell, TX
Canadian, TX
Clarendon, TX
Crane, TX
Dimmitt, TX
Electra, TX
Grapeland, TX
Hamlin, TX
Hawkins, TX
Hawkins, TX (Wood County)
Henrietta, TX
Kermit, TX
Lampasas, TX
Lost Pines, TX
Monahans, TX
Navasota City, TX
Nocona, TX
Olney, TX
Paducah, TX
Pecos, TX
Quanah, TX
Rotan, TX
Seymour, TX
Shamrock, TX
Sonora, TX
Trinity, TX

Appendix B

(Suddenlink Systems Seeking 6 Month Waivers)

Appendix B

**Suddenlink Systems Seeking 6 Month Waivers From CAP Compliance
(Until December 31, 2012)**

Shaver Lake, CA
Teaken Butte, ID
Adairville, KY
Bloomingdale, OH
Knoxville, OH