

**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 Charter Communications (“Charter” or the “Company”) to request temporary waivers for 32 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 The 32 Waiver Systems (*see Appendix A*) are

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*”).

among Charter's smallest, most remote cable headends. Charter respectfully seeks six month waivers for these sites because they lack the broadband Internet access necessary to reliably receive CAP-formatted alerts.

Charter has worked diligently to bring all of its cable headends into compliance with the Commission's new CAP requirements. Indeed, Charter began purchasing CAP-compliant EAS equipment in 2011. Since that time, the Company has invested hundreds of thousands of dollars toward CAP-compliant hardware and software upgrades. Charter 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, more than 99 percent of Charter's subscriber base will have access to CAP-formatted alert messages by the June 30, 2012 deadline. As discussed below, the remaining 32 Waiver Systems are among Charter's most remote cable headends, and do not currently have the broadband Internet access necessary to receive CAP formatted messages. Charter's engineers, however, are working to quickly identify viable solutions to bring them into full compliance with the Commission's new CAP regulations.

I. A Six Month Waiver Will Allow Charter to Continue its Efforts to Bring Broadband Internet Access to Thirty Remote Cable Headends

Charter respectfully requests a temporary six month waiver from Section 11.56 of the Commission's rules for the 32 headends listed in Appendix A. These Waiver Systems currently do not have broadband Internet access, and the Company is seeking a waiver in order to continue its efforts to obtain broadband connectivity at these remote locations.

Pursuant to Section 1.3, the Commission may waive its rules for good cause shown.² 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.³

Charter respectfully submits that there is good cause to grant the temporary relief requested here. In its *EAS Fifth Report and Order*, the Commission identified broadband Internet as the “primary method for distributing CAP messages.”⁴ 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.”⁵ 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.”⁶ Charter satisfies the presumption set forth in the *EAS Fifth Report and Order* because, as noted above, the Waiver Systems currently do not have access to broadband.

Charter is seeking a short-term temporary waiver for these systems because receipt of CAP messages is not possible at this time. Charter has taken steps to obtain broadband Internet at these remote cable systems, but it needs additional time in order to implement an appropriate solution at each site.

² 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.”).

³ 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).

⁴ *EAS Fifth Report and Order* at ¶152.

⁵ *Id.*

⁶ *Id.*

Charter is considering a number of options for obtaining broadband Internet access at each of the Waiver Systems, however, none of these methods provides an immediate solution that would enable Charter to meet the June 30, 2012 CAP deadline. The waiver systems in Nevada, Oregon, Washington and Northern California are exploring the capability of satellite options provide CAP reception, but the installation timeline is uncertain. The Waiver Systems in Michigan, Missouri, Wisconsin and North Carolina are considering DSL as a solution, but Charter's engineers are still testing to confirm DSL's capability to reliably receive CAP messages. At least one location—Kenesaw, Nebraska—is considering building a fiber connection, but Charter's engineers estimate that construction will take at least 7 months at a cost of \$165,000. The grant of a temporary waiver would enable Charter to continue its efforts to identify and implement a solution to the lack of broadband at the Waiver Sites.

II. Charter's Subscribers at the Waiver Systems Have Access to Emergency Alerts Through Legacy EAS Equipment

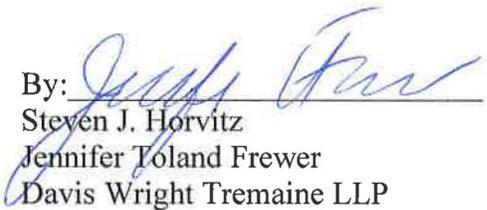
In its *EAS Fifth Report and Order*, the Commission underscores that to the extent that waivers are granted, the subject systems “would be required to continue to operate its legacy EAS equipment.”⁷ Charter is wholly prepared to comply with the Commission's direction. Each of the Waiver Systems already has legacy EAS equipment that is installed and fully operational. As such, the very small percentage of Charter's subscribers served by the Waiver Systems will continue to have access to timely and effective emergency warnings. Moreover, Charter will immediately notify the Commission once CAP compliance is possible and the enhanced emergency warning messages may be received.

⁷ *EAS Fifth Report and Order* at ¶ 152.

III. Conclusion

Charter submits that it has shown good cause to grant waivers to 32 of its smallest and most remote cable systems, which combined serve less than 1% of its subscribers. Charter is currently pursuing several options to obtain broadband Internet access at the Waiver Sites and bring them into compliance with the requirement to receive CAP-formatted messages. These locations have access to emergency warnings through legacy EAS equipment. The granting of a waiver would enable Charter to continue its efforts to bring broadband Internet access to all of its cable headends, and to ensure that all of its systems are compliant with the new CAP technology.

Respectfully submitted,

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June 21, 2012

CERTIFICATION

I, Saconna Blair, VP of Technical Operations, 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 "Saconna Blair". The signature is written in dark ink and is positioned above a horizontal line.

Saconna Blair
VP of Technical Operations
Charter Communications

June 21, 2012

Appendix A

(Charter Systems Seeking 6 Month Waivers)

Appendix A

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

PSID	System	State
005507	Alturas	California
003171	Greenfield	California
003172	King City	California
020188	Monterey County (Mt Toro)	California
008541	Soledad	California
001303	Thousand Oaks	California
016521	Yucaipa	California
009286	Burnsville	North Carolina
005964	Troy	North Carolina
012776	Billings	Michigan
014744	Broomfield	Michigan
012634	Butman	Michigan
014246	Chester	Michigan
013543	Custer	Michigan
015839	Hill	Michigan
012423	Lakeview	Michigan
001527	Newberry	Michigan
011667	Plainfield	Michigan
012944	Sage	Michigan
012426	Seville (Riverdale)	Michigan
013568	Weidman (Nottawa)	Michigan
011077	Louisiana	Missouri
009404	Kenesaw	Nebraska
008362	Hawthorne	Nevada
004673	Yerington	Nevada
008377	Burns	Oregon
000419	Elmer City	Washington
014027	Loon Lake	Washington
001608	Oroville	Washington
006016	Adams	Wisconsin
000622	Lancaster	Wisconsin
004201	Montello	Wisconsin