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June 28, 2012

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

In the Matter of )  
 )  
Review of the Emergency Alert System ) EB Docket No. 12-296

**PETITION FOR WAIVER**

West River Cable Television, Inc. ("West River") hereby requests waiver of the requirement in Section 11.46 of the Commission's Rules that all Emergency Alert System ("EAS") participants must be able to receive Common Alerting Protocol ("CAP")-formatted EAS alerts no later than June 30, 2012. West River cannot afford to acquire and install the new equipment required to receive and forward CAP-formatted EAS alerts on four of the small cable television systems that it owns and operates. In the absence of a waiver, its only rational economic alternative is to discontinue operation of the four cable systems as soon as possible.

West River is a wholly-owned subsidiary of West River Cooperative Telephone Company ("WRCTC"), a rural telephone company that is headquartered in Bison, South Dakota. West River's predecessor has been providing cable television service in the Town of Bison, within WRCTC's local exchange telephone service area since 1982. In 2004, West River was incorporated in its present form and purchased cable systems from Midcontinent

Communications in the towns of Buffalo, Faith, McIntosh, McLaughlin, Lemmon, and Timber Lake, South Dakota and in Selfridge, North Dakota.

The Faith, McLaughlin, Timber Lake and Selfridge cable systems are located outside WRCTC's local exchange service area, and are very small systems that have long been unprofitable. The Faith cable system (CUID No. SD0104, PSID No. 009759) currently has only 50 subscribers. The McLaughlin cable system (CUID No. SD0162, PSID No. 003848), which is located on the Standing Rock Indian Reservation, currently has only 126 subscribers. The Timber Lake cable system (CUID No. SD0091, PSID No. 008951), which is located on the Cheyenne River Indian Reservation, currently has only 69 subscribers. The Selfridge cable system (CUID No. ND0228, PSID No. 015304), which is located on the Standing Rock Indian Reservation, currently has only 24 subscribers.

All four cable systems were purchased as stand-alone cable systems, and are still operated in that manner. West River has investigated alternatives for connecting one or more of the four systems with its one or more of the cable systems within WRCTC's local exchange service areas, but the costs of the requisite investments have not been feasible.

As a consequence of their stand-alone nature, West River is required to purchase separate EAS equipment capable of receiving and forwarding CAP-formatted EAS alerts for each of the four systems. It has obtained vendor estimates for this equipment, and determined that the equipment alone for each cable system will cost approximately \$5,150.00, plus installation and testing costs and monthly Internet access charges.

These new EAS equipment, installation and operating costs constitute the "straw that breaks the camel's back" for the Faith, McLaughlin, Timber Lake and Selfridge cable systems. They are too small to generate or realize economies of scale or to acquire programming content

at prices that permit a profit, and have been losing money consistently since West River acquired them almost eight years ago. There is little or no prospect of any of the four systems becoming profitable during the foreseeable future. Hence, it makes no economic sense for West River to invest over \$20,600 in new EAS equipment during a time of recession when increasing video content prices and decreasing consumer ability to pay mean continuing losses and inability to recover the new investment. Therefore, unless the Commission sees fit to waive its new CAP-formatted EAS alert requirements, West River will notify its Faith, McLaughlin, Timber Lake and Selfridge cable subscribers that it will be terminating service on the systems as soon as lawfully possible and feasible.

Section 1.3 of the Rules permits the Commission's rules to be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In addition, the Commission may take into account considerations of hardship, equity, and the effective implementation of public policy on an individual basis. WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

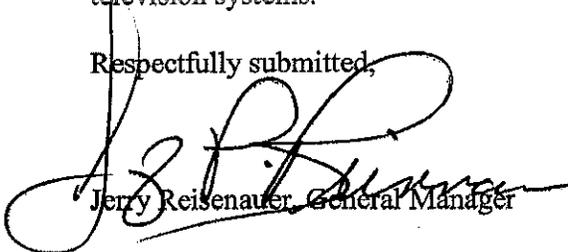
In the present case, the small size, lack of profitability and economies of scale, and stand-alone nature of the four cable systems makes it economically unreasonable for West River to make a more than \$20,600 investment in new EAS equipment for them. Whereas West River has been willing to accommodate its Faith, McLaughlin, Timber Lake and Selfridge cable subscribers for at least a while longer, it cannot justify new investments for small cable systems outside the WRCTC cooperative service area that are unlikely to ever become profitable. Whereas West River is sorry that it cannot provide its Faith, McLaughlin, Timber Lake and

Selfridge cable subscribers with CAP-formatted EAS alerts, it has been providing them with cable television service for almost eight years at a loss to itself.

To the extent that the Commission is able to determine that continuation of West River's existing cable service in the four communities for at least the next twelve months without CAP-formatted EAS alerts serves the public interest more than termination of cable service entirely, West River will accept a waiver subject to a 12-month service continuation condition. In contrast, if the Commission determines to deny the present waiver request, West River will notify its Faith, McLaughlin, Timber Lake and Selfridge cable subscribers that it is terminating service within thirty days, or whatever longer or shorter period the Commission and local franchising authorities require.

WHEREFORE, the above premises considered, West River respectfully requests that the Commission waive the requirement in Section 11.46 of the Rules that all EAS participants must be able to receive CAP-formatted EAS alerts no later than June 30, 2012, with respect to West River's Faith, McLaughlin and Timber Lake, South Dakota, and Selfridge, North Dakota cable television systems.

Respectfully submitted,

  
Jerry Reisenauer, General Manager

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