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June 28, 2012

David S. Turetsky
Chief, Public Safety and Homeland Security Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Maddock Area Development Corporation, d/b/a Maddock Cable TV (“Maddock Cable TV”); Request for Temporary Waiver of 47 C.F.R. § 11.56; EB Docket No. 04-296

Dear Mr. Turetsky:

On behalf of Maddock Cable TV, pursuant to 47 C.F.R. § 11.52(d)(4), we submit this request for a waiver of the Common Alerting Protocol (“CAP”)-compliance deadline in 47 C.F.R. § 11.56(a). Maddock Cable TV requests a six-month waiver for its small cable system serving Maddock, North Dakota (the “System”).

The System lacks physical access to broadband Internet service. Accordingly, Maddock Cable TV is entitled to a presumption in favor of a waiver.¹

In addition, because Maddock Cable TV does not expect the circumstances to change at the expiration of the waiver’s initial six-month period, Maddock Cable TV requests that the Commission grant the waiver request for an additional six-month term. Maddock Cable TV will monitor the marketplace for the availability of broadband Internet service at the System, and will come into full compliance when it becomes available.²

We organize this request as follows:

- Maddock Cable TV company and system background
- Justification and authority supporting the waiver request
- Availability of EAS information if waiver request is granted
- Conclusion and requested relief

We also attach the declaration of Byron Ellingson, Maddock Cable TV’s Manager and Chief Executive Officer, as Exhibit A.

¹ *In the Matter of Review of the Emergency Alert System*, Fifth Report and Order, 27 FCC Rcd 642, ¶ 152 (rel. Jan. 10, 2012) (“*EAS Fifth Report and Order*”).

² See Declaration of Byron Ellingson, attached as *Exhibit A* (“*Ellingson Declaration*”).

I. Maddock Cable TV company and system background

Maddock Cable TV has operated its cable system, serving 140 subscribers, in Maddock, North Dakota since 1983. While preparing for the EAS CAP-compliance deadline, Maddock Cable TV determined that the System does not have access to the broadband Internet connectivity necessary for its headend to receive CAP-formatted emergency alert messages.³

Name of System	PSID	CUID	Number of Subscribers
Maddock, ND	003879	ND0118	140

II. Justification and authority supporting the waivers

A. Requested waivers and justification

Maddock Cable TV requests a six-month waiver of the CAP-compliance deadline in 47 C.F.R. § 11.56(a) because the System lacks physical access to broadband Internet service. Maddock Cable TV further requests an additional six-month waiver.⁴ Maddock Cable TV seeks this additional six-month waiver because it does not expect circumstances to change, especially since the System is remote and unlikely to obtain broadband Internet access in the foreseeable future.

B. Commission authority supporting the waivers

In the *EAS Fifth Report and Order*, the Commission held that “the physical unavailability of broadband Internet service offers a presumption in favor of a waiver.”⁵ The Commission created this presumption in an effort to avoid EAS Participants having to purchase CAP-compliant equipment that could not be utilized due to lack of access to CAP-formatted alerts transmitted over the Internet.⁶ Maddock Cable TV is entitled to this presumption in favor of a waiver because broadband Internet service is physically unavailable at the System headend.⁷

Moreover, the Commission may waive its rules for good cause shown.⁸ Here, grant of the waiver will serve the public interest. Requiring Maddock Cable TV to purchase and install CAP-

³ *Ellingson Declaration*, ¶ 2.

⁴ *EAS Fifth Report and Order*, ¶ 152 (“[W]e believe that any waiver based on the physical unavailability of broadband Internet access likely would not exceed six months, with the option of renewal if circumstances have not changed.”).

⁵ *Id.* (“Because it is important that any of our regulatory requirements, particularly where costs are involved, provide the benefits for which they are designed, we do not believe that it would be appropriate to require EAS Participants to purchase and install equipment that they could not use. Accordingly, we conclude that the physical unavailability of broadband Internet service offers a presumption in favor of a waiver.”).

⁶ *Id.*

⁷ See *Ellingson Declaration*, ¶ 2.

⁸ 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.”); 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) (The Commission may exercise its waiver authority where grant of the waiver does not undermine the policy served by the rule, and where particular facts make strict compliance inconsistent with the public interest.).

compliant equipment that it cannot use would be economically wasteful. In the *EAS Fifth Report and Order*, the Commission acknowledged the costs associated with upgrading and installing the equipment necessary for CAP compliance and crafted its rules to avoid, where possible, any unnecessary and unjustified costs associated with CAP compliance.⁹ The Commission has also granted waivers of EAS rules in other circumstances where strict compliance with EAS rules would lead to similar economic waste.¹⁰ Granting Maddock Cable TV's waiver request is consistent with this Commission precedent.

III. Availability of EAS information if waiver request is granted

Maddock Cable TV will continue to operate its legacy EAS equipment in the System, and will monitor the marketplace for the availability of broadband Internet service.¹¹

IV. Conclusion and requested relief

As set forth above, the System lacks physical access to broadband Internet service. Accordingly, Maddock Cable TV requests a waiver of the CAP-compliance deadline in 47 C.F.R. § 11.56(a). Moreover, because Maddock Cable TV does not expect the circumstances to change after six months, Maddock Cable TV requests that the Commission grant the waiver for 12 months.

Sincerely,



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June 28, 2012

⁹ *EAS Fifth Report and Order*, ¶ 72 (allowing the use of intermediary devices because “imposition of the costs associated with the purchase of replacement EAS equipment is unnecessary and unjustified”).

¹⁰ *In the Matter of Mediacom Communications Corporation; Operator of Cable Systems in the States of: Alabama, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Missouri and Wisconsin; Request for Waiver of Section 11.11(a) of the Commission's Rules*, File No. EB-02-TS-617, 18 FCC Rcd 7656, ¶¶ 3-4 (rel. April 21, 2003) (granting a 12-month waiver of the October 1, 2002 EAS implementation deadline because requiring strict compliance would result in economic waste).

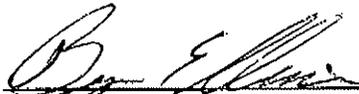
¹¹ *Ellingson Declaration*, ¶ 4.

EXHIBIT A**DECLARATION OF BYRON ELLINGSON**

1. My name is Bryon Ellingson and I am Manager and Chief Executive Officer for Maddock Area Development Corporation, d/b/a Maddock Cable TV ("Maddock Cable TV").
2. Maddock Cable TV does not have access to the broadband Internet connectivity necessary for it to receive CAP-formatted emergency alert messages for the following system:

Name of System	PSID	CUID	Number of Subscribers
Maddock, ND	003879	ND0118	140

3. Maddock Cable TV will continue to operate its legacy EAS equipment in the System.
4. Maddock Cable TV will monitor the marketplace for the availability of broadband Internet service at the System headend and will come into full compliance when it becomes available.
5. I have read the foregoing "Request for Temporary Waiver of 47 C.F.R. § 11.56" (the "Waiver Request") and I am familiar with its contents.
6. I declare under penalty of perjury that the facts contained herein and within the foregoing Waiver Request are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry, that the Waiver Request is well grounded in fact, that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose.



Byron Ellingson
Manager and Chief Executive Officer
Maddock Area Development Corporation

June 27, 2012.