

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

Review of the Emergency Alert System;)	EB Docket No. 04-296
)	
Southern Communication Volunteers)	
Licensee of NCE FM Station)	
WEVL-FM)	
Memphis, Tennessee)	

Request for waiver of Section 11.56 of the FCC’s rules
Concerning deployment of Emergency Alert System
Common Alerting Protocol deployment deadline

Request for Waiver

Southern Communication Volunteers, Inc. (“SCV”), licensee of the non-commercial, educational FM Station, WEVL-FM, serving Memphis, Tennessee, pursuant to Section 1.3 of the FCC’s rules, 47 C.F.R. § 1.3, requests a waiver of the deadline for compliance with Section 11.56 of the Commission’s rules, 47 C.F.R. § 11.56 (the “EAS rules”).¹ SCV has ordered the equipment required for compliance with Section 11.56, but learned recently that it is back-ordered. SCV requests a waiver of the deadline because of the delay in delivery of the equipment.

I. SCV

SCV is an almost all-volunteer organization. SCV has only three paid staff members. Even so, it broadcasts daily starting at 6 AM. It offers a wide variety of music and information presented by community-based volunteer programmers who each independently prepares his or her show and who know his or her area of interest well. SCV operates by the community for the community. It also operates on a minimal budget.

¹ Compliance with the EAS rules was mandated by Saturday, June 30, 2012. Because today is the first business day following the Saturday deadline, this request for waiver is timely filed.

Despite its meager resources, SCV raised the money and ordered the equipment for compliance with the EAS rules from Broadcast Supply Worldwide (“BSW”) in May, 2012. SCV expects to have the equipment by July 6, 2012. SCV will notify the Commission when the equipment has been deployed and it has begun using its CAP-compatible equipment.

II. Criteria for Waiver

The Commission’s criteria for waiver date back to *WAIT Radio v. F.C.C.*² The Commission’s waiver process acts as a “safety valve” for consideration of an application for exemption based on special circumstances.³ To obtain a waiver of the Commission’s rules, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be undermined and that a grant of the waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative. SCV meets not just one, but both elements of this test. Grant of SCV’s request for waiver is in the public interest.

III. Grant is Consistent with Past Practice.

In the transition to E911 standards, the Commission recognized the challenges faced by smaller carriers. In testimony before the Subcommittee on Communications, Committee on Commerce, Science, and Transportation, then-Chief of the Wireless Telecommunications Bureau Thomas Sugrue testified:

We know that smaller and rural carriers may face special challenges in deploying Phase II location technology. We have received many waiver requests from smaller wireless carriers, and it is likely that others of the 1000 or so local and regional carriers face similar questions and difficulties.⁴

² 418 F. 2d 1153 (D.C. Cir. 1969).

³ 418 F.2d 1157.

⁴ Testimony of Thomas J. Sugrue, Hearing on Wireless E911, Before the Subcommittee on Communications, Committee on Commerce, Science, and Transportation, United States Senate, October 16, 2001. Available at: <http://transition.fcc.gov/Speeches/misc/statements/sugrue101601.pdf> Accessed on July 2, 2012.

SCV has faced problems with its manufacturer similar to the problems faced by smaller and rural carriers in deploying E911 capabilities, noted by Mr. Sugrue. Manufacturers serve their larger customers first and smaller customers last. SCV, as the smallest of the small, is at the bottom of the priority list for its manufacturer.

SCV is not asking to be let off the hook for EAS compliance. To the contrary, SCV has ordered and paid for the equipment. It merely asks to be relieved of responsibility for accomplishing the impossible – installing equipment that has not been delivered.

SCV's compliance with Section 11.56 of the rules will not be complicated. SCV will install it and certify compliance at the earliest possible time.

In light of the foregoing, SCV asks that the Commission find that it has met the criteria for a waiver and that grant of its request is in the public interest. SCV asks that its request for waiver be granted.

Respectfully submitted,
SOUTHERN COMMUNICATION VOLUNTEERS, INC.
LICENSEE OF WEVL-FM, MEMPHIS, TENNESSEE

By: 

Timothy Taylor, President
Board of Directors
Southern Communication Volunteers, Inc.

Southern Communication Volunteers, Inc.
P.O. Box 40952
Memphis, Tennessee 38174
(901) 528-0560
prmmgr@wevl.org
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