

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Yelcot Video Group, Inc.)	
)	
Petition for a Limited Waiver of the CAP)	EB Docket No. 04-296
Compliance Obligations Contained in Part 11)	
of the Commission's Rules)	
)	
To: Chief, Public Safety and Homeland)	
Security Bureau)	

**PETITION FOR EXTENSION OF A LIMITED WAIVER OF THE
CAP COMPLIANCE OBLIGATIONS**

I. Introduction and Summary

On behalf of Yelcot Video Group, Inc. ("Yelcot"), pursuant to Sections 1.3 and 11.52(d)(4) of the Commission's rules,¹ we submit this request for an additional six-month waiver of the Common Alerting Protocol compliance deadline in 47 C.F.R. § 11.56(a). On June 29, 2012, Yelcot filed a request for a six-month waiver of the Commission's CAP-compliance rules until it completed a planned interconnection of six analog systems with its digital headend in Gassville, Arkansas.² Yelcot has installed CAP-compliant equipment at its Gassville headend.³

Yelcot has completed laying fiber from its Gassville headend to each analog system. However, Yelcot has had encountered technical issues with the interconnection. These technical issues require Yelcot to continue to use its analog

¹ 47 C.F.R. § 1.3 (providing for the waiver of the Commission's rules "for good cause shown"), § 11.52(d)(4) (indicating that where an EAS message source cannot be received a waiver of the CAP compliance rules may be obtained by written request to the Chief, Public Safety and Homeland Security Bureau).

² See *Exhibit B*, Yelcot Systems.

³ See *id.*, the Gassville headend is associated with PSID 021510.

systems as reception sites as Yelcot diligently works to bring more channels online through the Gassville headend. Accordingly, Yelcot requests an additional six-month waiver of the Commission's CAP-compliance rules until it completes its interconnection project.

We organize this Petition as follows:

- Background information on Yelcot
- Justification for the Requested Waiver
- Conclusion

III. Background

Yelcot provides cable TV services to 12 remote, rural communities in northern Arkansas. Headquartered in the town of Mountain Home, Arkansas – 152 miles north of Little Rock – Yelcot is an independent telecommunications company providing local telephone, Internet, and video service. At this time, Yelcot operates seven separate cable systems.⁴

To upgrade its systems and provide customers with more competitive services, Yelcot is converting all of its systems to digital.⁵ Once complete, Yelcot will serve its customers from a single headend located in Gassville, Arkansas. At this time, all Yelcot systems have been interconnected with the Gassville headend, but technical issues have necessitated the continued operation of Yelcot's analog systems.⁶ Due to these technical issues, Yelcot now expects its upgrade, interconnection, and consolidation to be complete on or before June 30, 2013.

⁴ Yelcot has entered into an agreement to sell its Diamond City system, and expects that transaction to close in January.

⁵ See *Exhibit A*, Declaration of Clint Czeschin, ¶ 2 (“*Czeschin Declaration*”).

⁶ *Id.*, ¶ 3.

IV. Justification for Requested Waiver

The Commission may waive its rules for good cause shown.⁷ 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.⁸ Good cause exists for granting Yelcot's request because granting the waiver will not undermine the policy served by the CAP compliance rules, while strict enforcement of the compliance deadline would result in unnecessary and unjustified economic waste.

a. Grant of the waiver will not undermine the policy served by the EAS CAP compliance rules.

In the *EAS Fifth Report and Order*, the Commission continued its on-going process of modernizing the Part 11 Emergency Alert System ("EAS") rules with the stated goal of making them more flexible and robust, to accommodate a wide array of modern digital communications media, and to integrate EAS with other public alert and warning systems.⁹ To accomplish these goals, the Commission revised its EAS rules to specify the manner in which EAS Participants must receive CAP-formatted alert messages while continuing to distribute those messages in the legacy EAS format over the current broadcast-based EAS.¹⁰ The Commission noted its belief that the new CAP rules will make public alerts disseminated through the EAS more effective and informative.¹¹

⁷ 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.").

⁸ 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).

⁹ *In the Matter of Review of the Emergency Alert System, Fifth Report and Order*, 27 FCC Rcd 642, ¶2 (2012) ("*EAS Fifth Report and Order*").

¹⁰ *Id.*, ¶ 3.

¹¹ *Id.*, ¶ 5.

Granting Yelcot's waiver request will not undermine these policy goals. Yelcot continues to work on its interconnection and consolidation of all systems into the Gassville headend.¹² In the interim, the non-complaint systems will continue to receive and transmit EAS messages as before.¹³ As a result, the impact on consumers will be negligible and for a limited time. Furthermore, because subscribers have been interconnecting into the Gassville system incrementally, any impact will continue to decrease over time as Yelcot routes more channels through the Gassville headend.

In addition, granting the waiver extension has an insignificant impact on the EAS system as a whole. The Yelcot systems provide services to only 2,039 of subscribers. This number represents a negligible percentage of the total consumers served by all EAS Participants. As such, grant of this waiver does not undermine the Commission's goal of modernizing the EAS system and integrating it with other alert systems. Achievement of these policy objectives will continue unabated.

b. Failure to grant a waiver to Yelcot will result in economic waste.

Strict compliance with the new CAP compliance standards for systems that Yelcot has been working on diligently interconnecting will require Yelcot to incur upgrade expenses that will be unrecoverable with the systems being interconnected. In the *EAS Fifth Report and Order*, the Commission acknowledged that there are 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.¹⁴ Granting Yelcot's waiver extension request is consistent with the

¹² *Czeschin Declaration*, ¶ 3.

¹³ *Id.*, ¶ 4.

¹⁴ *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").

Commission's efforts to avoid unnecessary and unjustified costs associated with CAP compliance.

c. Commission precedent supports a waiver under these facts.

In 2003, the Media Bureau granted an EAS waiver under almost identical facts. At that time, Mediacom requested a waiver of the EAS requirements while it "embarked on a capital expenditure to upgrade, interconnect and consolidate its cable systems."¹⁵ Like Yelcot, Mediacom argued that strict compliance would require it to incur costs that would be quickly lost due to planned system upgrades.¹⁶ Here, Yelcot would suffer economic waste if is it required to upgrade its systems that it are now interconnected. The Commission should avoid this unnecessary economic loss and grant Yelcot's limited waiver request.

V. Conclusion

Yelcot has demonstrated good cause for the Commission to waive its EAS CAP-compliance requirements for the six systems, now scheduled for interconnection by the end of June 2013. Granting this waiver does not undermine the purpose or policy behind the CAP compliance requirements, will not harm consumers, and will avoid unnecessary and unjustified costs consistent with the *EAS Fifth Report and Order* and Commission precedent.

¹⁵ *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 (2003) (granting a 12-month waiver of the October 1, 2002 EAS implementation deadline because requiring strict compliance would result in economic waste).

¹⁶ *Id.*

Respectfully submitted,



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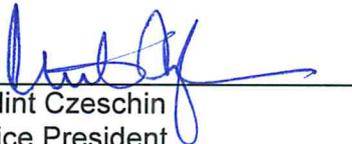
Attorneys for Yelcot Video Group,
Inc.

December 30, 2012

EXHIBIT A

DECLARATION OF CLINT CZESCHIN

1. My name is Clint Czeschin and I am Vice President of Yelcot Video Group, Inc.
2. Yelcot is in the process of upgrading its systems from analog to digital. As a result, Yelcot has interconnected its systems into its headend at Gassville, AR.
3. Unfortunately, Yelcot has encountered technical issues resulting from the interconnection. To mitigate these issues, Yelcot continues to operate its analog headends while it works to bring all channels online through the Gassville headend. This requires an additional six months, through June 2012, before completion.
4. Yelcot will continue to operate legacy EAS equipment in the systems until it completes the interconnection.
5. I have read the foregoing "Petition for an Extension of Limited Waiver of the CAP Compliance Obligations" (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.



Clint Czeschin
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December 28, 2012.