

**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, and December 31, 2012, Yelcot requested (and renewed its request for) six-month waivers of the Commission's CAP-compliance rules until it completed a planned interconnection of six analog systems with its digital, CAP-compliant headend in Gassville, Arkansas that would permit Yelcot to be CAP compliant for the affected systems.²

Yelcot has completed laying fiber from its Gassville headend to each analog system. However, as described in Yelcot's December 31, 2012 waiver request, Yelcot

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 Yelcot sold its Diamond City system in January, and now operates five analog systems in addition to its digital Gassville system.

encountered technical issues with the interconnection, which required Yelcot to continue to use its analog systems as reception sites. These technical issues have not yet abated, and have required Yelcot to further delay the process of converting subscribers on each analog system to the new digital master system.³ Accordingly, Yelcot requests an additional six-month waiver of the Commission's CAP-compliance rules, through December 31, 2013, so that Yelcot can bring all subscribers online through the CAP-compliant Gassville headend. If Yelcot completes the interconnection before the expiration of the additional six-month period requested, it will notify the Commission.

III. Background

Yelcot provides cable service to ten 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 that provides local telephone, Internet, and video service. At this time, Yelcot operates six separate cable systems.⁴

As described in the two previous waiver requests, Yelcot is converting all of its systems to digital in order to provide customers with more competitive services.⁵ Once complete, Yelcot will serve its customers from a single headend located in Gassville, Arkansas. Yelcot has interconnected its systems 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 December 31, 2013.

³ Since May 2013, Yelcot has been converting customers on its Yellville system over to the Gassville headend.

⁴ See *Exhibit B*, Yelcot Systems.

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 has diligently worked on its interconnection and consolidation of all systems into the Gassville headend over the past two years, at a total cost of more than \$190,000, with a further \$250,000 budgeted for completion.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 Yelcot continues to interconnect subscribers into the Gassville system incrementally, any impact will decrease over time as Yelcot routes connections for more subscribers through the Gassville headend.

In addition, granting the waiver extension will have an insignificant impact on the EAS system as a whole. The Yelcot systems provide services to only 1,794 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 worked to diligently interconnect 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

¹² *Czeschin Declaration*, ¶ 5.

¹³ *Id.*, ¶ 4.

CAP compliance.¹⁴ Granting Yelcot's waiver extension request is consistent with the 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 it is 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 five systems, now scheduled for interconnection by the end of December 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.

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").

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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June 28, 2013

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. Yelcot continues to encounter technical issues resulting from the interconnection. To mitigate these issues, Yelcot continues to operate its analog headends, and is only slowly converting subscribers over to Gassville headend. This requires an additional six months, through December 2013, before completion.
4. Yelcot will continue to operate legacy EAS equipment in the systems until it completes the interconnection.
5. Yelcot has diligently worked on its interconnection and consolidation of all systems into the Gassville headend over the past two years, at a total cost of more than \$190,000, with a further \$250,000 budgeted for completion.
6. 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.
7. 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
Vice President
Yelcot Video Group, Inc.
P.O. Box 1970
Mountain Home, AR 72654

June 26, 2013.

EXHIBIT B

YELCOT SYSTEMS

System Name	FCC CUIDs	PSID	Number of Subscribers
Yellville	AR0059, AR0113	001835	352
Melbourne	AR0377	002561	318
Pineville	AR0368, AR0371	002562	231
Mount Pleasant	AR0152	007750	29
Mountain View	AR0139	009011	863
Gassville	AR0725, AR0726, AR0727	021510	1