CINNAMON MUELLER

SCOTT C. FRIEDMAN
Admitted in Illinois & Wisconsin
sfriedman@CinnamonMueller.com

CHICAGO
307 N. Michigan Ave
Suite 1020
Chicago, IL 60601

phone: 312-372-3930
fax: 312-372-3939

WASHINGTON, DC
1333 New Hampshire Ave, NW
Floor 2
Washington, D.C. 20036

ST. LOUIS
1714 Deer Tracks Trail
Suite 215
St. Louis, MO 63131

June 30, 2013

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

Re: James Cable, LLC ("James Cable"); Request for Temporary Waiver of 47 C.F.R. § 11.56; EB Docket No. 04-296

Dear Mr. Turetsky:

On behalf of James Cable, pursuant to 47 C.F.R. § 11.52(d)(4), we submit this request for an additional six-month waiver of the Common Alerting Protocol ("CAP")-compliance deadline in 47 C.F.R. § 11.56(a) for three small cable systems.

First, James Cable's Huntington, Texas system continues to lack physical access to broadband Internet service. Accordingly, James Cable is entitled to a presumption in favor of a waiver.[1] Second, it continues to not be financially feasible for James Cable to install CAP-compliant equipment in its Hanna and Encampment/Riverside, Wyoming systems.

We also attach the declaration of Gil Nichols, James Cable's Chief Operating Officer, as Exhibit A.

I. James Cable Company and System Background

A. The Company

James Cable is organized as a Delaware limited liability company with its principal office in Braintree, MA. James Cable's business consists of owning and operating 47 cable systems with 19 headends in Colorado, Georgia, Louisiana, Oklahoma, Tennessee, Texas, and Wyoming. Most of these systems serve small, rural communities. Altogether, the 19 headends and 47 systems currently serve about 39,000 basic subscribers, with 14 headends each serving fewer than 1,000 subscribers. This includes the Systems, as detailed below.

While preparing for the EAS CAP-compliance deadline, James Cable determined that its Huntington, Texas system did not have access to the broadband Internet connectivity necessary for its headend to receive CAP-formatted emergency alert messages, and that it was not financially feasible to install CAP-compliant equipment in its Hanna and Encampment/Riverside, Wyoming

[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*").

systems. Accordingly, James Cable filed a request for waiver on June 29, 2012.[2] James Cable later renewed its waiver request for these three systems on December 28, 2012.

Excluding the Hanna and Encampment/Riverside, Wyoming systems, James Cable's other systems are CAP-compliant.[3]

B. The Systems

The following James Cable system continues to lack broadband Internet access:

Name of System	PSID	CUIDs	Number of Subscribers
Huntington	005270	TX1410	67

In addition, it continues to not be financially feasible for James Cable to install CAP-compliant equipment in these two systems:

Name of System	PSID	CUIDs	Number of Subscribers as of December , 2012
Hanna	008481	WY0083	33
Encampment/Riverside	001497	WY0141, WY0124	17

II. Justification and 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."[4] 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.[5] James Cable is entitled to this presumption in favor of a waiver because broadband Internet service is physically unavailable at the Huntington, Texas system headend.[6]

Moreover, the Commission may waive its rules for good cause shown,[7] and exercise its waiver authority where grant of the waiver does not undermine the policy served by the rule, and

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[2] In its June 29, 2012 waiver request, James Cable originally sought waiver for three systems that lacked broadband Internet access. On August 30, 2012, James Cable sold the other two systems subject to its initial waiver request.

[3] Declaration of Gil Nichols, attached as *Exhibit A*, ¶ 7 ("*Nichols Declaration*").

[4] *EAS Fifth Report and Order*, ¶ 152 ("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.").

[5] *Id.*

[6] *Nichols Declaration*, ¶ 2.

[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."); *See WAIT Radio v. FCC,* 4 18

where particular facts make strict compliance inconsistent with the public interest.[8] Here, grant of the waiver will serve the public interest, by allowing James Cable to continue operating these two systems, which provide service to remote communities of Wyoming.

III. Availability of EAS Information if Waiver Request is Granted

James Cable will continue to operate its legacy EAS equipment in the Systems, and will continue to monitor the marketplace for the availability of broadband Internet service at the Huntington, Texas system.[9]

IV. Conclusion and Requested Relief

As set forth above, the Huntington, Texas system lacks physical access to broadband Internet service. Accordingly, James Cable requests an additional six-month waiver of the CAP-compliance deadline in 47 C.F.R. § 11.56(a). Moreover, James Cable requests a waiver for two systems where it continues to not be financially feasible for James Cable to install CAP-compliant equipment. For these reasons, James Cable requests that the Commission waive its CAP-compliance deadline as described above.

Sincerely,

Scott C. Friedman

Cinnamon Mueller
307 N. Michigan Avenue, Suite 1020
Chicago, Illinois 60601
(312) 372-3930 (voice)
(312) 372-3939 (fax)

Attorneys for James Cable, LLC

June 30, 2013

F.2d 1153, 1159 (D.C. Cir. 1969), *aff'd,* 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied,* 409 U.S. I027 (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.).

[8] *See WAIT Radio v. FCC,* 4 18 F.2d 1153, 1159 (D.C. Cir. 1969), *aff'd,* 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied,* 409 U.S. I027 (1972).

[9] *Nichols Declaration*, ¶¶ 3-4.

EXHIBIT A

DECLARATION OF GIL NICHOLS

1. My name is Gil Nichols and I am Chief Operating Officer for James Cable, LLC ("James Cable").

2. James Cable 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
Huntington	005270	TX1410	67

3. James Cable will continue to operate its legacy EAS equipment in the Huntington system.

4. James Cable will continue to monitor the marketplace for the availability of broadband Internet service at the Huntington system headend and will come into full compliance when it becomes available.

5. It continues to not be financially feasible for James Cable to install CAP-compliant equipment in the following two systems:

Name of System	PSID	CUIDs	Number of Subscribers
Hanna	008481	WY0083	33
Encampment/Riverside	001497	WY0141, WY0124	17

6. Unless the Commission grants this "Request for Temporary Waiver of 47 C.F.R. § 11.56" (the "Waiver Request"), James Cable will be forced to shut down the Hanna and Encampment/Riverside systems.

7. James Cable's 16 other headends, encompassing 43 cable systems, have CAP-compliant equipment installed.

8. I have read the foregoing Waiver Request and I am familiar with its contents.

9. 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.

Gil Nichols
Chief Operating Officer
James Cable, LLC

June 30, 2013.