

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

In the matter of
Pinpoint Communications, Inc.
Operator of Cable Systems in:
Alma, Nebraska
Beaver City, Nebraska
Cuyllbertson, Nebraska
Franklin, Nebraska
Orleans, Nebraska
Oxford, Nebraska
Red Cloud, Nebraska
Request for Waiver of Section 11.11(a) of the
Commission's Rules

File No. EB-04-HS-0013

ORDER

Adopted: June 28, 2004

Released: June 30, 2004

By the Director, Office of Homeland Security, Enforcement Bureau:

1. In this Order, we grant Pinpoint Communications, Inc. (Pinpoint) temporary waivers of section 11.11(a) of the Federal Communications Commission's (Commission) rules (Rules) 1 for the seven above-captioned cable television systems. Section 11.11(a) of the Rules requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System (EAS) messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.2

2. The Cable Act of 1992 added new section 624(g) to the Communications Act of 1934, as amended3 (Act), and required that cable systems be capable of providing EAS alerts to their subscribers.4

1 47 C.F.R. § 11.11(a).

2 Id.

3 The Communications Act of 1934 was amended by the Telecommunications Act of 1996. Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act).

4 Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations" 47 U.S.C. § 544(g).

In 1994, the Commission adopted rules requiring cable systems to participate in EAS.⁵ In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.⁶ The Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).⁷ However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁸ In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.⁹

3. On February 15, 2004, Pinpoint filed a request for temporary waivers of the EAS requirements for the above captioned cable television systems which it recently acquired from Classic Communications, Inc.¹⁰ In support of its waiver requests, Pinpoint reports that these are small, rural cable systems which serve between 100 and 300 subscribers. Based on price quotes provided by EAS equipment vendors, Pinpoint estimates that it would cost approximately \$59,500 to purchase and install EAS equipment at the subject cable systems. Pinpoint asserts that this cost will impose a substantial financial hardship on it and provides its financial statements for 2002 and 2003 in support of this assertion. In addition, Pinpoint submits that its subscribers will continue to have ready access to national EAS information from other sources, many of which are carried on Pinpoint's systems. In this regard, Pinpoint notes that its subscribers currently have access to national EAS messages on at least 50 percent of all programmed channels. Finally, Pinpoint states that its subscribers will have access to state and local EAS information through over-the-air reception of broadcast television and radio stations.

4. Based upon our review of the financial data and other information submitted by Pinpoint, we conclude that temporary waivers of section 11.11(a) of the rules for the above-captioned cable television systems, is warranted. In particular, we find that the estimated \$59,500 cost to purchase and install EAS equipment at these recently acquired cable television systems could impose a financial hardship on Pinpoint.

5. Accordingly, **IT IS ORDERED** that, pursuant to sections 0.111, 0.204(b) and 0.311 of the rules,¹¹ Pinpoint Communications, Inc.'s request for temporary waivers of section 11.11(a) of the rules is **GRANTED** until October 1, 2005, for the seven captioned cable television systems.¹²

⁵ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Report and Order and Further Notice of Proposed Rule Making, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) (*First Report and Order*), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

⁶ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Second Report and Order, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) (*Second Report and Order*).

⁷ *Id.* at 15512-13.

⁸ *Id.* at 15516-15518.

⁹ *Id.* at 15513.

¹⁰ On October 1, 2002, Classic was granted temporary waivers, until October 1, 2005, for the subject systems. See, *Classic Communication, Inc.*, Order, 17 FCC Rcd 19350 (2002) (Chief, Spectrum Enforcement Division, Enforcement Bureau).

¹¹ 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

¹² We clarify that these waivers also encompass the EAS testing and monitoring requirements.

6. **IT IS FURTHER ORDERED** that Pinpoint Communications, Inc. place a copy of this waiver in its system files.

7. **IT IS FURTHER ORDER** that a copy of this Order shall be sent by Certified Mail Return Receipt Requested to Roger Hoffman, Executive Vice President, Pinpoint Communications, Inc., 611 Patterson, Box 490, Cambridge, Nebraska 69022.

FEDERAL COMMUNICATIONS COMMISSION

James A. Dailey
Director, Office of Homeland Security
Enforcement Bureau