

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

In the Matter of)	
)	
Review of the Emergency Alert System;)	EB Docket No. 04-296
)	
Independent Spanish Broadcasters Association,)	
the Office of Communication of the United)	
Church of Christ, Inc., and the Minority Media)	
and Telecommunications Council, Petition for)	
Immediate Relief;)	
)	
Randy Gehman Petition for Rulemaking)	

ORDER

Adopted: May 2, 2013

Released: May 2, 2013

By the Chief, Public Safety and Homeland Security Bureau:

I. Introduction

1. In this Order we address fifteen petitions submitted on behalf of various radio and television broadcaster and cable Emergency Alert System (EAS) Participants seeking to withdraw previously filed requests for waiver of Section 11.56 of the Commission’s rules,¹ which requires EAS Participants to have installed operational equipment that can receive and process EAS alerts in the Common Alerting Protocol (CAP) by June 30, 2012.² For the reasons set out herein, we grant the petitions to withdraw the waiver requests, and dismiss the underlying waiver petitions.

II. Background

2. In its 2007 EAS *Second Report and Order*, the Commission, among other things, mandated that EAS Participants be able to receive a CAP-formatted EAS alert message issued by the Federal Emergency Management Agency (FEMA) no later than 180 days after FEMA adopted technical standards for CAP.³ On September 30, 2010, FEMA published the technical standards and requirements

¹ 47 C.F.R. § 11.56.

² The EAS is a hierarchical alert message distribution system that delivers alerts initiated by federal, state and local alerting authorities utilizing the transmission facilities of radio and television broadcast stations, cable operators, satellite radio and television service providers, and wireline video service providers, collectively referred to as “EAS Participants.” *See* 47 C.F.R. § 11.2(c). CAP is an open, interoperable XML-based standard that allows an alert initiator to deliver information-rich alerts to multiple devices. *See* Review of the Emergency Alert System; Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief; Randy Gehman Petition for Rulemaking, EB Docket 04-296, *Fifth Report and Order*, 27 FCC Rcd 642, 648 ¶ 10 (2012) (*Fifth Report and Order*).

³ *See* Review of the Emergency Alert System; Independent Spanish Broadcasters Association, The Office of

for CAP-formatted EAS alerts, triggering the 180-day clock for EAS Participants to be able to receive CAP-formatted alerts.⁴ On November 18, 2010, the Commission adopted the *Waiver Order*, which extended the 180-day deadline for EAS Participants to meet the CAP-related obligations it adopted in the *Second Report and Order* until September 30, 2011.⁵ Finally, on September 16, 2011 the Commission extended the deadline one last time, amending section 11.56 of the Commission's EAS rules to require EAS Participants to be able to receive CAP-formatted EAS alerts as required by Part 11 no later than June 30, 2012.⁶

3. Opus Broadcasting Systems, Inc. (Opus), Valley Public Television, Inc. (Valley), Uno Radio Group (Uno), Windstream Lakedale, Inc., (Windstream), Venite Adroemus, Inc. (Venite), Pene Broadcasting Co., Inc. (Pene), Americus Communications, LLC and RLM Communications, Inc. (jointly Americus), Port St. Lucie Broadcasters, Inc. (Port St. Lucie), West Central Minnesota Educational TV Corp. (Pioneer), Baja Broadband Operating Company, LLC (Baja), Southern Communications Volunteers, Inc. (SCV), and Applegate Media, Inc. (Applegate) filed petitions seeking temporary waiver of section 11.56 on the basis that they could not meet the June 30 deadline due to vendor delay.⁷ ION Media Wassau License, Inc. (ION) filed a petition for temporary waiver of section 11.56, claiming that it could not obtain broadband connections necessary to comply with the CAP requirement.⁸ Blanchard

Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief, ET Docket No. 04-296, *Second Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 13275, 13,275 ¶ 26 (2007) (*Second Report and Order*).

⁴ See Review of the Emergency Alert System; Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief; Randy Gehman Petition for Rulemaking, EB Docket 04-296, *Fourth Report and Order*, 26 FCC Rcd 13,710, 13,713 ¶ 4 (2011) (*Fourth Report and Order*).

⁵ See Review of the Emergency Alert System, Order, EB Docket No. 04-296, 25 FCC Rcd 16376 ¶ 1 (2010) (*Waiver Order*).

⁶ See *Fourth Report and Order*, 26 FCC Rcd at 13711-12 ¶¶ 1 (2011).

⁷ See Opus Broadcasting Systems, Inc. CAP to EAS Converter, EB Docket 04-296 (filed June 29, 2012) (Opus Waiver Petition); Valley Public Television, Inc. Petition for Waiver of CAP Obligations, EB Docket 04-296 (filed June 28, 2012) (Valley Waiver Petition); Uno Radio Group Petition for Temporary Waiver of 47 C.F.R. § 11.56 (CAP Obligations), EB Docket 04-296 (filed June 19, 2012) (Uno Waiver Petition); Windstream Lakedale, Inc. Petition for Temporary Waiver of CAP Obligations, EB Docket 04-296 (filed June 14, 2012) (Windstream Waiver Petition); Blanchard Cable, Inc. Request for Waiver of CAP Obligations, EB Docket 04-296 (filed June 27, 2012) (Blanchard Waiver Petition); Venite Adoremus, Inc. Request for Temporary Waiver of EAS Rules, EB Docket No. 04-296 (filed July 3, 2012) (Venite Waiver Petition); Pene Broadcasting Co., Inc. Request for Temporary Waiver of EAS Rules, EB Docket No. 04-296 (filed June 22, 2012) (Pene Waiver Petition); Americus Communications, LLC and RLM Communications, Inc. Request for Temporary Waiver of EAS Rules, EB Docket No. 04-296 (filed June 22, 2012) (Americus Waiver Petition); Port St. Lucie Broadcasters, Inc. Request for Temporary Waiver of Installation of CAP-compliant EAS Equipment, EB Docket 04-296 (filed June 29, 2012) (Port St. Lucie Waiver Petition); West Central Minnesota Educational TV Corp. Temporary Waiver Request, EB Docket 04-296 (filed June 29, 2012) (Pioneer Waiver Petition). Baja Broadband Operating Company, LLC Petition for Waiver of CAP Compliance Obligations, EB Docket 04-296 (filed June 27, 2012) (Baja Petition); Petitions for waiver of section 11.56 filed by Southern Communications Volunteers, Inc. (SCV), and Applegate Media, Inc. (Applegate) will be addressed in subsequent orders.

⁸ ION Media Wassau License, Inc. Request for Waiver of CAP Obligation, EB Docket 04-296 (filed June 26, 2012) (ION Waiver Petition).

Cable, Inc. (Blanchard) filed a request for temporary waiver of section 11.56 on the basis that compliance would be cost-prohibitive.⁹ MetroCast Communications of Mississippi, LLC (MetroCast) filed a petition for temporary waiver of section 11.56 on the basis that it was interconnecting two affected systems into a CAP-compliant system and this would not take place before the June 30 deadline.¹⁰ Caballero Acquisition, Inc. (Caballero) sought temporary waiver of section 11.56 on the basis that its newly purchased, CAP-compliant equipment had been stolen prior to installation.¹¹ Rainbow Communications, Inc. (Rainbow) sought temporary waiver of section 11.56 on the basis that it planned to shut down the systems at issue by the end of 2012.¹² Subsequently, Opus, Valley, Uno, Windstream, Venite, Pene, Americus, Port St. Lucie, Pioneer, Baja, ION, Blanchard, MetroCast, Caballero, and Rainbow filed requests seeking to withdraw their waiver petitions.¹³

III. Discussion

⁹ Blanchard Cable, Inc. Request for Waiver of 47 C.F.R. 11, EB Docket 04-296 (filed June 28, 2012) (Blanchard Waiver Petition).

¹⁰ MetroCast Communications of Mississippi, LLC, Motion to Petition for a Limited Waiver of the CAP Compliance Obligations, EB Docket No. 04-296 (filed June 28, 2012) (MetroCast Waiver Petition).

¹¹ Caballero Acquisition, Inc. Petition for Waiver, EB Docket No. 04-296 (filed June 29, 2012) (Caballero Waiver Petition).

¹² Rainbow Communications, Inc. Petition for Limited Waiver of the CAP-Compliance Obligation, EB Docket No 04-296 (June 27, 2012) (Rainbow Waiver Petition).

¹³ See Opus Withdrawal Petition, EB Docket 04-296 (filed April 12, 2013) (Opus Withdrawal Petition); Valley Public Television, Inc. Petition for Withdrawal of Waiver Petition of Valley Public Television, Inc., EB-Docket 04-296 (filed April 8, 2013) (Valley Withdrawal Petition); Letter, Anthony T. Lepore, Esq., to Gregory M. Cooke, Associate Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau, EB Docket No. 04-296 (filed August 29, 2012) (Uno Withdrawal Petition); Windstream Lakedale, Inc. Withdrawal of Petition, EB Docket No. 04-296 (filed September 6, 2012) (Windstream Withdrawal Petition); Venite Adoremus, Inc, Amendment to Petition for Withdrawal of EAS Waiver Request, EB Docket No. 04-296 (filed April 17, 2013) (Venite Amended Withdrawal Petition) and Petition for Withdrawal of EAS Waiver Request, EB Docket No 04-296 (filed April 2, 2013) (Venite Withdrawal Petition); Pene Broadcasting Co. Amendment to Petition for Withdrawal of EAS Waiver Request, EB Docket No. 04-296 (filed April 17, 2013) (Pene Amended Withdrawal Petition) and Petition for Withdrawal of EAS Waiver Request, EB Docket No 04-296 (filed April 2, 2013) (Pene Withdrawal Petition); Americus Communications, LLC Amendment to Petition for Withdrawal of EAS Waiver Request, EB Docket No. 04-296 (filed April 17, 2013) (Americus Amended Withdrawal Petition) and Petition for Withdrawal of EAS Waiver Request, EB Docket No 04-296 (filed April 2, 2013) (Americus Withdrawal Petition); Port St. Lucie Broadcasters, Inc. Petition for Withdrawal of Request for Temporary Waiver of Installation of CAP-compliant EAS Equipment, EB Docket 04-296 (filed April 8, 2012) (Port St. Lucie Withdrawal Petition); West Central Minnesota Educational TV Corp. Dismissal of Temporary Waiver Request, EB Docket 04-296 (filed July 26, 2012) (Pioneer Withdrawal Petition); Baja Broadband Operating Company, LLC Withdrawal of Petition for Waiver of CAP the Compliance Obligations, EB Docket 04-296 (filed April 26, 2013) (Baja Withdrawal Petition); Letter, John R. Feore, Jr., to David S. Turetsky, Chief, Public Safety and Homeland Security Bureau, EB Docket No. 04-296 (filed September 7, 2012) (ION Withdrawal Petition); Blanchard Cable, Inc. Withdrawal of Petition for Waiver of 47 C.F.R. Section 11 (filed November 6, 2012) (Blanchard Withdrawal Petition); MetroCast Communications of Mississippi, LLC, Motion to Withdraw Petition for a Limited Waiver of the CAP Compliance Obligations, EB Docket No. 04-296 (filed January 4, 2013) (MetroCast Withdrawal Petition); Caballero Acquisition, Inc. Petition for Withdrawal, EB Docket No. 04-296 (filed April 4, 2013) (Caballero Withdrawal Petition); Rainbow Communications, Inc Withdrawal of Petition for Waiver of CAP Compliance Obligations, EB Docket 04-296 (filed April 26, 2013) (Rainbow Withdrawal Petition).

4. These fifteen petitioners all state that they are now either in compliance with section 11.56 of the Commission's rules or are no longer in operation.¹⁴ We find no reason to deny their withdrawal petitions and, accordingly, grant them. In granting these requests, we do not address the merits of any of the substantive issues raised in these EAS Participants' original requests for waiver.

IV. Ordering Clauses

5. Accordingly, IT IS ORDERED that pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 1.3 and 1.8 of the Commission's Rules, 47 C.F.R. §§ 1.3, 1.8, the Withdrawal Petitions and Amended Withdrawal Petitions of Opus Broadcasting Systems, Inc.; Valley Public Television, Inc.; Uno Radio Group; Windstream Lakedale, Inc.; Venite Adoremus, Inc.; Pene Broadcasting Co., Inc.; Americus Communications, LLC; RLM Communications, Inc.; Port St. Lucie Broadcasters, Inc.; West Central Minnesota Educational TV Corp.; Baja Broadband Operating Company, LLC; ION Media Wassau License, Inc.; Blanchard Cable, Inc.; MetroCast Communications of Mississippi, LLC; Caballero Acquisition, Inc.; and Rainbow Communications, Inc., ARE GRANTED; and,

6. IT IS FURTHER ORDERED that the Petitions for Waiver of section 47 CFR § 11.56 filed by Opus Broadcasting Systems, Inc.; Valley Public Television, Inc.; Uno Radio Group; Windstream Lakedale, Inc.; Venite Adoremus, Inc.; Pene Broadcasting Co., Inc.; Americus Communications, LLC; RLM Communications, Inc.; Port St. Lucie Broadcasters, Inc.; West Central Minnesota Educational TV Corp.; Baja Broadband Operating Company, LLC; ION Media Wassau License, Inc.; Blanchard Cable, Inc.; MetroCast Communications of Mississippi, LLC; Caballero Acquisition, Inc.; and Rainbow Communications, Inc., ARE DISMISSED.

7. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

David Turetsky
Chief
Public Safety and Homeland Security Bureau

¹⁴ *Id.*