

southeasterly on S. Bloomington Trail to its intersection with a road locally known as W. Leota Road at Leota; then

(21) Proceed southeasterly in a straight line to the intersection of Interstate 65 and the Scott-Clark counties boundary line at Underwood; then

(22) Proceed south-southwesterly in a straight line, crossing to the Louisville map, to the intersection of State Road 60 and a road known locally as Carwood Road at Carwood in Clark County; then

(23) Proceed southeasterly on State Road 60 to its intersection with State Road 111 at Bennettsville; then

(24) Proceed southerly on State Road 111 for approximately 1.8 miles to its intersection with a road locally known as W. St. Joe Road at St. Joseph; then

(25) Proceed south-southwesterly in a straight line to the 266-meter elevation point on Bald Knob, then continue south-southwesterly in a straight line to the 276-meter elevation point on Lost Knob; then

(26) Proceed southerly in a straight line to the confluence of French Creek with the Ohio River in eastern Franklin Township, Floyd County; then

(27) Proceed (downstream) along the Indiana shoreline of the Ohio River, crossing back and forth between the Tell City and Jasper maps, returning to the beginning point.

Signed: June 1, 2012.

**John J. Manfreda,**  
Administrator.

[FR Doc. 2012-13865 Filed 6-7-12; 8:45 am]

**BILLING CODE 4810-31-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 11

[EB Docket No. 04-296; DA 12-834]

#### **Petition Filed by American Cable Association for Partial Reconsideration of the Commission's Emergency Alert System Fifth Report and Order; Announces Schedule for Pleading Cycle**

**AGENCY:** Federal Communications Commission.

**ACTION:** Petition for partial reconsideration.

**SUMMARY:** In this document, the Federal Communication Commission's (Commission) Public Safety and Homeland Security Bureau (Bureau) gives notice that the American Cable Association (ACA) has filed a petition for partial reconsideration of the Commission's Emergency Alert System

(EAS) *Fifth Report and Order*, and announces a schedule for the pleading cycle.

**DATES:** Oppositions/Comments are due on or before June 25, 2012 and replies are due on or before July 3, 2012.

**ADDRESSES:** You may submit comments, identified by EB Docket No. 04-296 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- *People with Disabilities:* Contact the Commission to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington DC 20554.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

#### **FOR FURTHER INFORMATION CONTACT:**

Gregory M. Cooke, Associate Chief, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-2351, or by email at [gregory.cooke@fcc.gov](mailto:gregory.cooke@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Public Notice in EB Docket No. 04-296, DA 12-834, released on May 25, 2012. This document is available to the public at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2012/db0525/DA-12-834A1.doc](http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0525/DA-12-834A1.doc).

## Synopsis of the Public Notice

1. On April 23, 2012, the Commission received a petition filed by the ACA for partial reconsideration of that portion of the Commission's *EAS Fifth Report and Order* (77 FR 16688, March 22, 2012) "requiring operators of cable systems lacking physical \* \* \* broadband Internet connections to seek waivers under the Commission's standard procedures." ACA proposes that the Commission establish a streamlined waiver process for cable systems that serve less than 501 subscribers, subject to a showing of compliance with specified conditions, and that waivers obtained through this process last at least one year. By the Public Notice, the Commission establishes a pleading cycle for oppositions and replies in response to the petition as indicated above. In addition, the Commission invites comment on a number of specific questions related to the petition as described below.

## Background

2. The *Fifth Report and Order* will require all EAS Participants to convert EAS messages formatted in the Common Alerting Protocol (CAP) into messages that comply with EAS Protocol requirements, and to monitor the Federal Emergency Management Agency's Integrated Public Alert and Warning System (IPAWS) for federal CAP-formatted alert messages using whatever interface technology is appropriate. The Commission noted that "the primary method of distributing CAP messages will be via a broadband Internet connection." Accordingly, the Commission also decided in the *Fifth Report and Order* that "the physical unavailability of a broadband Internet service offers a presumption in favor of a waiver." The Commission noted that this presumption would primarily benefit smaller EAS Participants, for whom obtaining CAP capable EAS equipment would be a relatively larger financial commitment. However, the Commission also determined that such a waiver "likely would not exceed six months," with an option of renewal, given that broadband Internet access "may become available at some point after a waiver has been granted, and that alternate means of distributing CAP alert messages, such as satellite delivery, may also become available."

3. In its Petition, ACA argues that the Commission's foregoing presumption would "not provide meaningful relief for \* \* \* small operators" due to the "need to devote significant administrative resources to preparing waiver requests." ACA argues that to

ameliorate this concern the Commission should implement a streamlined waiver process for systems serving fewer than 501 subscribers, requiring a “waiver request certification \* \* \* signed by a company representative or officer responsible for its truthfulness, [which] should include the following: \* \* \*

- A statement that the cable operator currently does not have physical access to a wireline broadband connection at the system head-end.

- A statement that obtaining physical access to a wireline broadband connection would require costs in excess of a provider’s normal installation drop fee (i.e. special construction costs or line extension fees).”

ACA argues that “[w]aivers granted pursuant to this process should be granted for at least a period of one year, with renewal years available, or until the operator: (i) Obtains broadband Internet service at the system headend; or (ii) can obtain broadband Internet service without incurring additional construction or set-up fees, such as line extension charges.”

#### Discussion

4. The Commission seeks comment on ACA’s Petition. It also seeks comment on several specific issues. First, it notes that the its *Fifth Report and Order* nowhere states that a *wireline* broadband connection is necessary to comply with the Commission’s requirement that EAS Participants be able to receive CAP-formatted alerts by June 30, 2012. Accordingly, it seeks comment whether any presumption in favor of granting a waiver based on lack of physical access to broadband should be limited to an EAS Participant’s lack of physical access to a wireline broadband connection, as ACA requests. Stated differently, would an EAS Participant’s physical access to, for example, a wireless or satellite broadband connection provide sufficient bandwidth for purposes of complying with the relevant requirements of the *Fifth Report and Order*?

5. The Commission also seeks comment on ACA’s suggestion that the Commission should, at least in part, consider the costs to EAS Participants of obtaining broadband Internet access service when assessing whether to grant waiver relief. If so, how should the Commission weigh such cost in this assessment? For example, ACA requests that the Commission waive CAP compliance for cable systems serving fewer than 501 subscribers if the cost of broadband access is “in excess of a

provider’s normal installation drop fee (i.e. special construction costs or line extension fees).” Is this the proper criterion for such an assessment? If not, what specific costs should the Commission consider to make such an assessment? Should such an assessment be dependent on the financial condition of the petitioner? If so, what standard should the Commission use for assessing whether a waiver is warranted based on financial condition? How much and what kind of information about a petitioner’s financial condition should be submitted in support of a waiver request? Should information as to where the waiver applicant is in its EAS equipment replacement cycle be a factor in the Commission’s analysis? Should factual statements in the waiver request be certified by a corporate officer, rather than some other representative? Does the proposed one-year period for waivers, terminable once broadband access becomes available without “additional construction or set-up fees,” adequately address the Commission’s concerns about changing circumstances? Would a six-month reporting condition, attesting to the continuing compliance with the original conditions, be a better way of addressing those concerns without adding unnecessary costs?

6. Finally, in its petition, ACA proposes that those filing a waiver certification include “[a]n affirmation that the operator understands it must continue to operate its legacy EAS equipment.” Is this criterion sufficient to ensure that subscribers remain able to receive timely and accurate EAS alerts? Should the Commission, for example, require that the waiver certification include an affirmation that the cable operator continues to operate legacy EAS equipment that is capable of receiving and transmitting the Emergency Action Notification?

#### Procedural Matters

##### A. Ex Parte Presentations

7. This matter is subject to the “permit-but-disclose” provisions of the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2)

summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b) of the Commission’s rules. In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

##### B. Comment Filing Procedures

8. Interested parties may file oppositions and other comments and reply comments on or before the dates indicated on the first page of this document. All pleadings must reference EB Docket No. 04–296. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the

Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

9. People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

10. Address all filings to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street SW., Room TW-A325, Washington, DC 20554. Parties should also send a copy of their filings to Gregory Cooke, Policy and Licensing Division, Public Safety and Homeland Security Bureau, Federal Communications Commission, Room 7-A744, 445 12th Street SW., Washington, DC 20554, or by email to [Gregory.Cooke@fcc.gov](mailto:Gregory.Cooke@fcc.gov). Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street SW., Room CY-B402, Washington, DC 20554, (202) 488-5300, or via email to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

11. Documents in EB Docket No. 04-296 are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW., Room CY-A257, Washington, DC 20554. The documents are available for purchase from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, email [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). These documents are also available for viewing on the Commission's Web site at <http://www.fcc.gov/cgb/ecfs>.

Federal Communications Commission.

**Lisa M. Fowlkes,**

*Deputy Chief, Public Safety and Homeland Security Bureau.*

[FR Doc. 2012-13901 Filed 6-7-12; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 12-130, RM-11662; DA 12-815]

### Television Broadcasting Services; Greenville, NC

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission has before it a petition for rulemaking filed by ION Media Greenville License, Inc. ("ION"), the licensee of station WEPX-TV, channel 51, Greenville, North Carolina, requesting the substitution of channel 26 for channel 51 at Greenville. After the Commission instituted a freeze on the acceptance of rulemaking petitions by full power television stations requesting channel substitutions in May 2011, it later announced that it would lift the freeze to accept petitions for rulemaking filed by full power television stations seeking to relocate from channel 51 pursuant to a voluntary relocation agreement with Lower 700 MHz A Block licensees. ION has entered into a voluntary relocation agreement and further states that the proposed channel 26 facility will increase the net total population served by the station by over 100,000 persons, which will serve the public interest.

**DATES:** Comments must be filed on or before July 9, 2012, and reply comments on or before July 23, 2012.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: John R. Feore, Jr., Esq., Dow Lohnes PLLC, 1200 New Hampshire Avenue NW., Suite 800, Washington, DC 20036-6802.

#### FOR FURTHER INFORMATION CONTACT:

Joyce L. Bernstein, [joyce.bernstein@fcc.gov](mailto:joyce.bernstein@fcc.gov), Media Bureau, (202) 418-1647.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 12-130, adopted May 23, 2012, and released May 25, 2012. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street SW., Washington, DC, 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/

or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via email [www.BCPIWEB.com](http://www.BCPIWEB.com). To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see §§ 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

**David J. Brown,**

*Associate Chief, Video Division, Media Bureau.*

#### Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336, and 339.

#### § 73.622 [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under North Carolina is amended by