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May 3, 2007

Federal Communications Commission
Media Bureau
P O Box 358205
Pittsburgh, PA 15251-5205

Re: Volcano Vision, Inc.
Request for Waiver of 47 C.F.R. §76.1204(a)(1)
CS Docket No 97-80

Dear Sir or Madam:

On behalf of Volcano Vision, Inc., a provider of cable television services, transmitted herewith is an original and four (4) copies of the above-referenced Request for Waiver. Also enclosed is FCC Form 159 with a check payable to the FCC in the amount of \$1,250 for the required filing fee. A copy of this Request for Waiver is also being submitted electronically in CS Docket No 97-80.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Pamela L. Gist

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Volcano Vision, Inc.) CSR-
)
Request for Waiver of Section 76.1204(a)(1))
of the Commission's Rules)
)
Implementation of Section 304 of the) CS Docket No. 97-80
Telecommunications Act of 1996)
)
Commercial Availability of)
Navigation Devices)

To: Chief, Media Bureau

REQUEST FOR WAIVER
OF THE SET-TOP BOX INTEGRATION BAN

Volcano Vision, Inc. (Volcano Vision), by its attorneys and pursuant to Section 706 of the Telecommunications Act of 1996, 47 U.S.C. §157 and Sections 1.3 and 76.7 of the Rules of the Federal Communications Commission ("FCC"), 47 C.F.R. Sections 1.3 and 76.7, hereby respectfully requests a limited waiver of Section 76.1204(a)(1) of the Commission's rules regarding the "integration ban," 47 C.F.R. §76.1204(a)(1), which prohibits multichannel video programming distributors ("MVPDs") from placing in service after July 1, 2007 new navigation devices that perform both conditional access and other functions in a single integrated device. Grant of this request will permit Volcano Vision to execute its plan to convert its small, rural cable television to an all-digital network by early 2008, thereby providing its customers with expanded, high quality programming services and broadband internet access

I. Background

Volcano Vision is a small cable television operator serving about 5,000 subscribers in the communities of Pine Grove, Pioneer, West Point, Ione and Kirkwood, as well as unincorporated areas of Amador County. The communities are located in the foothills of the Sierra Nevada mountain range of northwest California. Ione is on the edge of the valley floor, and by contrast Kirkwood is a ski resort at 8,000 feet above sea level. The territory includes rocky terrain and large parcels. The cable television service area contains an average of 153.7 homes per square mile., About 58 homes per square mile are served by Volcano Vision. The company has been providing cable television services to subscribers since 1983.

II. Volcano Vision is Converting to an All-Digital Network and Has Enough Set-Top Boxes to Accommodate the Conversion

In July 2005 Volcano Vision's management committed to upgrade the fiber/coaxial cable television system to an all-digital network, choosing to do so with familiar Motorola equipment. Engineering of the re-design commenced in October 2005, funds were authorized by the Board of Directors in November 2005, and in December 2005 orders were placed for outside plant upgrades at thirty-seven Power Service Areas (PSAs). Although some PSAs required additions of fiber node equipment and modification of the powering network, all PSA upgrades were completed by November 30, 2006, Negotiations for programming were begun and by the end of 2006 headend upgrades had been designed and engineered by Motorola, Cisco and other vendors to accommodate the programming. At the same time headend equipment necessary to deliver 100% digital signals was ordered, and the digital headend equipment began to be installed

Volcano Vision's plan was to complete the conversion to an all-digital network well ahead of

July 1, 2007, the date of deployment of non-integrated set-top boxes. In September 2006 Volcano Vision ordered Motorola set-top boxes based on existing delivery windows and production runs, Motorola informed Volcano Vision that as of December 2006 it would no longer accept orders for boxes until Motorola completed a re-tool to supply FCC compliant, non-integrated boxes, That month Volcano Vision began to accept shipment of a total of 9,550 Motorola set-top boxes. Receipt of shipments continued through February 1, 2007, and now all 9,550 set-top boxes are in stock.

The 9,550 set-top boxes, along with about 2,500 digital boxes presently deployed in subscribers' homes, plus another 2.30digital boxes presently in inventory, total 12,280 set-top boxes. This is the number calculated to be necessary to ensure that all of Volcano Vision's subscribers will be able to view digital cable programming on analog television sets following Volcano Vision's migration to an all-digital network.

Although challenges have emerged since the plan to go all-digital was adopted in July 2005, Volcano Vision has proceeded with the conversion. In January 2007 the analog portion of the headend equipment was removed to temporary quarters, the new digital equipment was put into place and vendor testing began. The next step will be to complete all programming contracts and to fully integrate all digital headend functionalities.

By June 2007 Volcano Vision expects to begin to deploy all-digital network services to subscribers using a combination of (1) Motorola digital set-top boxes already installed on subscriber premises for receipt of digital programming, (2) Motorola digital set-top boxes DCT 2000/2500 and DCT 6200/6412 which were already on hand and in stock prior to the September 2006 order, and (3) Motorola digital set-top box models DCT700, DCT6200 and DCT3412, which were ordered in September 2006 and now reside in stock at a cost of \$75, \$289 and \$4.30 per unit, respectively. A

total of 12,280 digital set-top boxes are installed or on hand to ensure that all of Volcano Vision's subscribers will be able to view digital cable programming on analog television sets upon Volcano Vision's migration to the all-digital network

Volcano Vision expects that by the end of 2007 it will have deployed digital services to all subscribers. Deactivation of the old analog system is projected to occur on January 22, 2008.

IV. Volcano Vision Has Demonstrated Good Faith in Complying with FCC Requirements and Has Prepared Customers for the All-Digital Conversion

Volcano Vision has a history of compliance with the FCC's rules and policies. Its present objective is to substantially upgrade services by expanding bandwidth to provide high definition television signals, improved sound quality, greater channel selection, video on demand and high speed Internet access services. Volcano Vision has already begun to inform its customers of the digital conversion. Attached hereto are copies of notices that began to be distributed in the fall of 2006 in the form of bill inserts, advertisements and door hangers. Also attached is a sample notice included on bills mailed to all subscribers on April 23, 2007, informing them of the conversion and the need for installation of television set-top boxes to accommodate receipt of the digital signal. Direct customer contact and additional door hangers will be utilized when a given area is being scheduled for set-top box installation.

Conversion to an all-digital network will be assisted by FCC grant of a limited waiver of the requirement to deploy non-integrated set-top boxes beginning July 1, 2007. In support of this request attached hereto is the sworn declaration of Sharon Lundgren, President of Volcano Vision, confirming to the Commission that:

- (1) Volcano Vision will move to an all-digital network by 2008,
- (2) Volcano Vision has provided notification to all of its analog customers of its plans to go all digital at least six months in advance of that event, and
- (3) Volcano Vision has in its inventory, more than six months prior to its migration to all digital, enough set-top boxes to ensure that each of its customers can continue to view Volcano Vision's video programming on their television sets

Volcano Vision requests the limited waiver to permit conversion to an all-digital network as proposed herein. The proposal is submitted in accordance with findings and conclusions set forth by the Commission in the *Memorandum Opinion and Order in the matter of Bend Cable Communications, LLC d/b/a BendBroadband*, 22 FCC Rcd. 209 (2007).

II. The Public Interest Will Be Served by a Limited Waiver of the Non-Integrated Set-Top Box Deadline

Grant of the waiver requested by Volcano Vision will serve the public interest by advancing the Commission's goal of promoting the digital transition, as stated in the *200.5 Deferral Order*:

It is critical to the DTV transition that consumers have access to inexpensive digital set-top boxes that will permit the viewing of digital programming on analog television sets both during and after the transition. The availability of low-cost boxes will further the cable industry's migration to all-digital networks, thereby freeing up spectrum and increasing service offerings such as high-definition television. Accordingly, as cable systems migrate to all-digital networks, we will also consider whether low-cost, limited capability boxes should be subject to the integration ban or whether cable operators should be permitted to offer such low-cost, limited capability boxes on an integrated basis.¹

¹ *Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices*, 20 FCC Rcd 6794, 6802-03, 1/37 (2005) ("*200.5 Deferral Order*"), *pet. for review denied*, *Charter Communications, Inc. v FCC*, 460 F3d 31 (DC Cir 2006).

The requested waiver will facilitate Volcano Vision's rapid transition to an all-digital network by 2008. Volcano Vision's customers will benefit from having completed the migration to an all-digital network prior to the end of analog, over-the-air broadcasts by full-power television stations on February 17, 2009, Subscribers will be able to view the digital broadcast signals after the DTV transition, and Volcano Vision will be able to provide additional high definition content, which should give customers incentive to acquire digital television sets. This plan is in keeping with the goals expressed by the Commission in its *Second Further Notice of Proposed Rulemaking*, MB Docket No. 98-120, FCC 07-71, adopted April 25, 2007, for all customers of all-digital systems to have the necessary equipment to view must-carry television stations and other broadcast content after the DTV transition

Grant of a limited waiver to Volcano Vision would also further the objectives of Section 706 of the Telecommunications Act of 1996 by encouraging the deployment of advanced telecommunications services.² Section 706 defines advanced telecommunications capabilities as high-speed broadband capabilities that enable users to send and receive voice, data, graphics and video,³ Volcano Vision's migration to an all-digital system by 2008 will allow it to reclaim a considerable amount of spectrum within a defined timeframe, enabling it to provide consumers with advanced telecommunication capabilities, thereby furthering the goals of Section 706. Accordingly, it is appropriate to find that Volcano Vision has met the standard for waiver under Sections 1.3 and 76.7 of the Commission's rules, and that a limited waiver of the integration ban is justified.

² Pub. L. No. 104-104, Title VII, 5706, Feb. 8, 1996, 110 Stat. 53, reproduced in the notes under 47 U.S.C. §157(a).

³ Pub. L. No. 104-104, Title VII, 5706, Feb. 8, 1996, 110 Stat. 53, reproduced in the notes under 47 U.S.C. §157(c).

Conclusion

The foregoing reasons justify grant of a limited waiver of the integration ban to Volcano Vision. Grant of Volcano Vision's request for a limited waiver of the requirement to deploy non-integrated set-top navigation devices will produce clear, non-speculative public benefits in conformance with the provisions of Section 706 of the Telecommunications Act of 1996, 47 U.S.C. §157nt, and Sections 1.3 and 76.7 of FCC Rules, 47 C.F.R. §§ 1.3 and 76.7. Therefore Volcano Vision requests that a limited waiver of Section 76.1204(a)(1) of FCC Rules, 47 C.F.R. §76.1204(a)(1) be granted as proposed

Respectfully submitted,

Volcano Vision, Inc.



Pamela L. Gist
Its Attorney

Lukas, Nace, Gutierrez & Sachs, Chartered
1650 Tysons Boulevard, Suite 1500
McLean, Virginia 22102
(703) 584-8678

May 3, 2007

NOTICE OF SYSTEM UPGRADE

Volcano work crews will be upgrading your cable system over the next few months. These improvements will allow us to provide you with better quality, selection and advanced services.

As our technicians move from area to area, door hangers will be posted to let you know of possible service interruptions during business hours.

**We're Building a state of the
Art Information &**

Entertainment service

Featuring:

All Digital Signal

**The Finest Picture
a sound Quality**

Expanded Channel Selection

More Hi Definition Channels

Hi Speed Internet

**Bill Insert
October and November
2006**





**NOTICE OF SYSTEM UPGRADE AND
PLANNED SERVICE INTERRUPTION**

We are upgrading the cable system in your neighborhood. You may see Volcano workers and trucks over the next few days.

Cable TV service could be interrupted during working hours over the next few days and one brief follow up interruption within the next 90 days.

**We're Building a State of the
Art Information &
Entertainment Service**

Featuring:

**The Finest Picture
& Sound Quality**

All Digital Signal

Expanded Channel Selection

More Hi Definition Channels

Hi Speed Internet

Doorhanger
February through November 2006
as each of 37 Power Service
Areas were upgraded





Our Vision is Digital

Soon, you'll be seeing a lot more quality and choice on your television as VolcanoVision Cable TV upgrades to ALL Digital technology. Expect brilliant consistent colors and crisp digital picture reception.

VolcanoVision is your local cable company with local employees providing dollars which flow back into our community and we're proud to compete with the Giant Satellite companies.

Look at the future of home entertainment with us, your friends at VolcanoVision.



Phone: 274-2660 • Up Country: 296-2288

Newspaper Ad
circulated frequently
during 2007

VOLCANO VISION, INC
P O BOX 890
PINE GROVE, CA 95665

003-003375

05/10/2007

209-296-2288

Thank you, your business is appreciated. Please remember service calls are free. For reception problems, please call 296-2280.

Billing Date 4/20/2007

Payments through: 04/19/07

PINE GROVE CA 95665

Previous balance \$50.29
(-) Payments \$0.00
(=) After Payments \$50.29

209-296-2288

Our upgrade to an all-digital network will be completed in the coming months. We are excited about our increased capacity, 2-way capability and the ability to transmit 100% digital signals. What this means for you is more channels in your current package, better picture quality and more HDTV channels.

Your regular programming costs will not increase at this time. In fact, we're decreasing the monthly rate of our standard set top box from \$4.95 to \$2.99. However, you will need a set top box for each TV to continue to receive programming. We will be contacting you in the coming months to schedule an appointment to install the set top box(es).

5/1/2001	ADD'L DIGITAL CONVERTER	5/1..5/31	\$4.95
5/1/2007	ADDITIONAL OUTLET	5/1..5/31	\$4.00
5/1/2007	Fee - FCC Regulatory	5/1..5/31	\$0.06
5/1/2001	Fee - Retransmission	5/1..5/31	\$0.30
5/1/2007	SELECT PACK	5/1..5/31	\$44.99
	Amador County Franch Fee (2%)		\$1.09
	Total Current chargee		\$55.39
	Total Due		9105.68



Billing
Notice

Live on Pay Per View, Saturday May 5th. The whole world will be watching as Oscar De La Hoya will meet Floyd Mayweather in the ring. This promises to be one of the biggest boxing events of this generation. Call 296-7550 to order.

PINE GROVE CA 95665

05/10/2007 003-003375 \$50.29 \$0.00 \$55.39 \$105.68

VOLCANO VISION, INC
P O BOX 890
PINE GROVE, CA 95665

PINE GROVE, CA 95665

VOLCANO VISION, INC
P O BOX 890
PINE GROVE, CA 95665



DECLARATION

I, Sharon Lundgren, hereby state and declare.

1 I am president of Volcano Vision, Inc a small cable television operator and Petitioner herein

2 Volcano Vision, Inc has begun converting to an all-digital network and will complete the transition by 2008

3 Volcano Vision, Inc has provided notification to all of its analog customers **of** its plans to go all digital at least six months in advance **of** that event

4 Volcano Vision, Inc has in its inventory, more than six months prior to its migration to all digital, enough set-top boxes to ensure that each **of** its customers can continue to view Volcano Vision, Inc 's video programming on their television sets

5 I am familiar with these and other facts contained in the foregoing "Request **For** Waiver Of The Set-Top Box Integration Ban" and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission

I declare under penalty of perjury that the foregoing is true and correct

Executed on this 1st day of May, 2007



Sharon Lundgren
President
Volcano Vision, Inc