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July 1, 2008

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Office of Marketing Director
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-B204
Washington, D.C. 20554

Attn: Media Bureau

**Re: Broadband Visions Petition for Waiver of
47 C.F.R. § 76.1204(a)(1); Implementation of Section 304 of the
Telecommunications Act of 1996; Commercial Availability of Navigation
Devices – CS Docket No. 97-80**

Dear Ms. Dortch:

Please accept for filing the above-referenced Petition of the Broadband Visions (“BBV”) for Waiver of 47 C.F.R. § 76.1204(a)(1). Please contact the undersigned with any questions or concerns.

Respectfully submitted,

/s/ Terri Parrilla

Terri Parrilla
Manager
John Staurulakis, Inc.

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

In the Matter of)	
)	
Broadband Visions)	CSR - [_____]
Group Petition for Waiver of)	
47 C.F.R. § 76.1204(b))	
)	
Implementation of Section 304 of the)	CS Docket No. 97-80
Telecommunications Act of 1996;)	
Commercial Availability of Navigation)	
Devices)	
)	
Petition for Waiver)	

**THE BROADBAND VISIONS'S PETITION FOR WAIVER
OF 47 C.F.R. § 76.1204 (a)(1)**

July 1, 2008

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

In the Matter of)
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Broadband Visions) CSR - [_____])
Group Petition for Waiver of)
47 C.F.R. § 76.1204(b))
)
Implementation of Section 304 of the) CS Docket No. 97-80
Telecommunications Act of 1996;)
Commercial Availability of Navigation)
Devices)
)
Petition for Permanent Relief)

**THE BROADBAND VISIONS'S PETITION FOR WAIVER OF 47 C.F.R. §
76.1204(a)**

PETITION FOR PERMANENT WAIVER

Pursuant to section 629(c) of the Communications Act of 1934, as amended (“Act”),¹ and sections 1.3, 76.7 and 76.1207 of the Commission’s rules,² the member companies of the Broadband Visions (“BBV”) Group (“Petitioners”)³ respectfully requests the Commission to grant a waiver of the integration ban set forth in section 76.1204(a)(1) of the Commission’s rules

¹ 47 U.S.C. § 549 (c).

² 47 C.F.R. § § 1.3, 76.7 & 76.1207.

³ The Broadband Visions (“BBV”) Group is a group of the twelve multichannel video programming distributors listed in Exhibit A, each of which uses Motorola MSAP technology to provide digital video services. Each member of the BBV Group participated as a signatory on the *Rural ATM Digital Video Providers Groups’ Petition for Permanent Waiver of the Open Interface Requirement*, 48 C.F.R. § 76.1204(b), Docket No. 97-80 (April 9, 2007) (*RADVP Waiver Petition*), and was subsequently granted a waiver under the Commission’s *Consolidated Requests for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, Memorandum Opinion and Order, Docket No. 97-80 (rel. June 29, 2007) (*All-Digital Waiver*). Each member of the BBV Group is a small cable operator, as that term is defined in section 76.901(e) of the Commission’s rules, serving subscribers of video services in rural communities.

until such time as the Petitioners replace their current Motorola Multi-Service Access Platform (MSAP)⁴ systems with compliant systems following the End-of-Life⁵ of the MSAP system in June 2009. A waiver would allow Petitioners to continue to order and deploy high-definition (“HD”) boxes in Petitioners’ Motorola MSAP systems for the provision of seamless digital, non-integrated video services to Petitioners’ subscribers after July 1, 2008. Such waiver would be in addition to the permanent waiver for basic-feature devices granted to Petitioners’ on June 29, 2007, based upon the Petitioners’ already all-digital networks.⁶

The Petitioners are utilizing the Motorola MSAP video platform to provision video services over broadband networks to subscribers in several small and rural markets. The Motorola MSAP equipment is a digital video solution delivered over a high-speed connection. Each of the Petitioners is an affiliate or division of a local exchange carrier or is utilizing existing small local exchange carrier infrastructure for the provision of video services. The Motorola MSAP system revolutionized the rural video marketplace by enabling telephone companies to compete with cable TV and DBS broadcasters. Through the Motorola MSAP system, which was designed to allow telephone companies to take advantage of existing telecommunications infrastructure, including the core fiber optic network and twisted copper pairs to subscriber premises, Petitioners are able to deliver broadband services like video and high-speed internet. The Motorola MSAP solution accelerated the availability of broadband services to rural markets

Each authorized representative for the BBV Group member companies has signed an endorsement to this petition, under penalty of perjury, attesting to the truth and accuracy of the facts stated herein.

⁴ The Motorola Multi-Service Access Platform (MSAP) was developed by Next Level and ultimately purchased by Motorola. In the Petitioners’ *RADVP Waiver Petition*, the system was referred to as the Motorola Next Level platform. Motorola has since dropped the Next Level name and calls the system the Motorola MSAP system. Accordingly, for purposes of this waiver petition, Petitioners refer to the system by the same name.

⁵ Motorola has provided notice to the Petitioners that the End-of-Life date for its MSAP system is June 2009. *See* Letter from Kevin Keefe, Vice President - Access Network Solutions, Motorola, Inc. to Customers, February 7, 2008 (Motorola Letter) attached as Exhibit B to this Petition.

⁶ *See generally All-Digital Waiver.*

because companies were able to spread the costs of building out their broadband networks over two income sources, namely, video and high-speed data.

Although Petitioners' are now seeking an extension of the waiver granted to the Petitioners by the FCC pursuant to 47 C.F.R. § 1204 (a)(1)⁷ for their HD devices, the Petitioners maintain and have always maintained that they are in compliance with this integration ban.⁸ The Motorola MSAP equipment was early to implement conditional access functions that were separated from the set-top boxes at the customer's premise. Unlike a traditional CATV system, which sends 100% of the video channels to the house, xDSL-capable twisted copper pairs like the ones in the MSAP system are typically limited to a capacity of 24 Mbps to 30 Mbps and are incapable of simultaneously receiving 100% of the video channels. Thus, in order to reduce the bandwidth requirements, Motorola MSAP moved the conditional access from the set-top box, the Residential Gateway (RG), to the core network to achieve entitlement rights to each channel. The View-2 software system validates a customer's authorization to view a channel every time the channel is changed. Once the authorization is received, the BDT switches the channel to the customer line. Since there is no conditional access within the RG, the Petitioners maintain that the Motorola MSAP system is compliant with the Commission's integration ban set forth in section 76.1204(a)(1).

To the extent that the FCC has granted a waiver to the Petitioners until July 1, 2008 for ordering and deployment of HD devices in their Motorola MSAP video systems, however, the Petitioners now seek an extension of that waiver until such time as the Petitioners are able to replace their systems once the MSAP system has reached its End-of-Life. On approximately

⁷ 47 C.F.R. § 1204(a)(1).

⁸ See *RADVP Waiver Petition*, pp. 8-9 With the instant petition, the Petitioners do not change their position that the Motorola MSAP system is compliant with section 1204(a)(1) of the Commission's rules and do not waive their right to hold this position in this and other proceedings before the FCC.

February 7, 2008, each of the Petitioners received a notice from Motorola indicating that, “due to the Telco industry’s shift towards IP based, IPTV video delivery systems,” Motorola will end the life of its MSAP platform by June 2009 (“End-of-Life” or “EOL”).⁹ Thus, based on the EOL schedule provided by Motorola, the Petitioners will only be permitted to place new orders for MSAP products, including HD boxes, through March 31, 2009 in order to ensure delivery of all ordered products by the EOL date of June 2009. Thereafter, Motorola will provide only limited repair and support services for the five years following any given product shipment date.¹⁰

Based on this EOL event for the Motorola MSAP platform, the Petitioners will be forced to begin phasing out the MSAP video system or conduct a stop-dead replacement of their systems after June 2009. It is in the public interest, therefore, that the Petitioners are able to continue ordering and deploying HD boxes in conjunction with and on the same EOL schedule as basic function boxes, so that the Petitioners will be able to provide seamless video services in rural Minnesota video markets until such time as the Petitioners replace their entire MSAP systems with new compliant systems. If the FCC does not grant a waiver to extend the date on which the Petitioners must cease the ordering and deployment of new HD devices, however, the Petitioners will have to discontinue their HD offerings to new and existing subscribers and risk losing such subscribers to competing video service providers. This would not make much sense and would be unfortunate given that as of March 2009, the Petitioners must cease all MSAP product orders, including orders for basic function boxes, pursuant to Motorola’s EOL schedule.¹¹ If the FCC grants a waiver, the Petitioners will be able to retire new basic service functions and HD services together under the MSAP platform’s EOL schedule, without an interruption to new HD services and offerings.

⁹ See Motorola Letter, Exhibit B.

¹⁰ See *id.*

Furthermore, if the FCC extends the waiver for Petitioners' HD boxes, it will be in the public interest because Petitioners will have a sustained ability to accommodate normal churn to compete against satellite and traditional wireline based MVPDs, such as Charter, Direct TV, ComCast and Mediacom, in rural Minnesota markets because they will not have to interrupt HD services during the period between the EOL date and the system replacement date. The Petitioners' will be able to provide continuous basic and HD services through June 2009 and until such time as the full replacement of the MSAP system has occurred. Upon replacement of the MSAP system with a new compliant video system, the Petitioners will be able to continue the provision of basic and HD services uninterrupted under the new compliant system. If Petitioners are forced to cease offering new HD services immediately as of July 1, 2008, however, the Petitioners would face a decline in their customer base due to the inability to handle churn. Such pressures could also force Petitioners out of the video market place as a result of lost revenues needed to go toward the costs of replacing their systems after June 2009, thus eliminating competitors and competitive services. Accordingly, the public interest would be served by a grant of this waiver to Petitioners by affording new and existing subscribers in Petitioners' respective rural markets, the seamless offering of advanced digital cable services over broadband facilities.

In addition, grant of waiver to the Petitioners would not be contrary to the policy objective of section 76.1204(a)(1) of the Commission's rules because it will have a negligible impact on the overall transition of MVPD providers' transition to systems utilizing non-integrated security components. On average, each member of the BBV Group has less than 2,700 total boxes deployed in its respective market. Less than 5% of the total number of boxes - or under 150 - are HD boxes deployed in each of the Petitioners' systems.

¹¹ See *id.*

Each of the Petitioners also individually qualifies as a “small cable company” as that term is defined for purposes of section 76.901(e).¹² Under this section a small cable company is one serving 400,000 subscribers or less. Even in total, Petitioners do not exceed the threshold for a small cable company, as they are collectively serving less than 400,000 subscribers. Thus, Petitioners give special emphasis to the small impact a waiver would have on the overall transition of MVPDs to non-integrated security in video systems.

In granting previous waivers of its navigation rules, the FCC has focused on Commission policy, as well as the Act’s objectives.¹³ In the *2004 BellSouth MO&O*,¹⁴ the Commission granted BellSouth a permanent waiver from the technical standards of sections 76.602 and 76.640 of the Commission’s rules associated with non-integrated security.¹⁵ In granting a waiver to BellSouth, the Commission considered BellSouth’s status as a “small cable company,” serving a very small percentage of the MVPD market.¹⁶ The Commission also found that waiver was in the public interest because “grant of a waiver will allow BellSouth to continue to deliver digital services to its subscribers and remain a viable competitor in the MVPD marketplace.”¹⁷ Just as with BellSouth, the FCC should consider the Petitioners’ status as small cable companies and allow Petitioners to continue to deliver uninterrupted digital video services as viable competitors in their rural markets.

For these reasons stated herein this petition, the Petitioners seek an extension of the waiver granted by the FCC on June 29, 2007 of the integration ban on HD boxes until such time as the

¹² 47 C.F.R. § 76.901(e); *See also* 2005 *Second Report and Order*, App. C & fn 185.

¹³ *See generally*, 2004 *BellSouth MO&O*; *Bend Cable Communications, LLC d/b/a BendBroadband*, Memorandum Opinion and Order, CSR-7057-Z (rel. Jan 10, 2007)(“2007 *BendBroadband MO&O*”); *Cablevision Systems Corporation’s Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, Memorandum Opinion and Order, CSR-7078-Z (rel. Jan. 10, 2007)(“2007 *Cablevision MO&O*”).

¹⁴ *BellSouth Interactive Media Services, LLC and BellSouth Entertainment, LLC*, Memorandum Opinion and Order, DA 04-2544 (rel. Aug. 18, 2004).

¹⁵ *See* 2007 *BellSouth MO&O*, ¶ 8.

¹⁶ *See id.*, ¶ 5.

Petitioners are able to replace their MSAP systems with new compliant systems following the EOL of the current system.

III. CONCLUSION

WHEREFORE, for the reasons stated herein, Petitioners request that the Commission grant this Petition for Waiver of the integration ban set forth in section 76.1204(a)(1) of the Commission's rules.

Respectfully submitted,

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Its Consultant

Member Companies of the
BROADBAND VISIONS GROUP

BEVCOMM, Inc.

By: /s/ William Eckles

William Eckles

President/CEO

EN-TEL Communications, LLC

By: /s/ Gene South

Gene South

President

Halstad Telephone Company

By: /s/ Ronald Laqua

Ronald Laqua

CEO

Hutchinson Telecommunications Inc.

By: /s/ Barbara Bornhoft

Barbara Bornhoft

COO/Vice President

Hutchinson Telephone Company

By: /s/ Barbara Bornhoft

Barbara Bornhoft

COO/Vice President

July 1, 2008

Lakedale Communications, LLC

¹⁷ See *id.*, ¶ 8.

By: /s/ Gene South
Gene South
Chief Executive Officer & General Manager

New Ulm Telecom, Inc.
By: /s/ Barbara Bornhoft
Barbara Bornhoft
COO/Vice President

Paul Bunyan Rural Telephone Cooperative
By: /s/ Paul Freude
Paul Freude
Chief Executive Officer & General Manager

Pine Island Telephone Company
By: /s/ William Eckles
William Eckles
Vice-President

Sherburne Cable-Com, Inc.
By: /s/ G. George Wallin
G. George Wallin
Vice-President/COO

Sleepy Eye Telephone Company
By: /s/ Barbara Bornhoft
Barbara Bornhoft
General Manager

Western Telephone Company
By: /s/ Barbara Bornhoft
Barbara Bornhoft
COO/Vice President

EXHIBIT A

EXHIBIT A

**The Broadband Visions Group
Petitioners**

BEVCOMM, Inc.

EN-TEL Communications, LLC

Halstad Telephone Company

Hutchinson Telecommunications Inc

Hutchinson Telephone Company

Lakedale Communications, LLC

New Ulm Telecom, Inc.

Paul Bunyan Rural Telephone Cooperative

Pine Island Telephone Company

Sherburne Cable-Com, Inc.

Sleepy Eye Telephone Company

Western Telephone Company

EXHIBIT B



February 7, 2008

Dear Customer,

This letter provides notification to you regarding the Multi-Service Access Platform (MSAP), Residential Gateway set-top and ETHERset solutions Motorola intends to end-of-life (EOL) in June, 2009. These video-over-DSL products offered by Motorola are undergoing an EOL process due to the Telco industry's shift towards IP based, IPTV video delivery systems. Please refer to the "EOL Schedule and Support" material on page two of this notification for additional details and order information.

Motorola is today a leader in the development of IP video solutions targeted at the IPTV market and is proud of its heritage and leadership position in the North American Telco TV market – the forerunner to IPTV. The MSAP product line has supported the Telco TV market for over 10 years and was the first scaled digital video-over-DSL solution deployed in North America. During this time, Motorola continued to align its IPTV portfolio with the evolving market and has developed a world-class IP set top portfolio and incorporated best-in-class DSL gateways, fiber-to-the-premises, time-shifted TV and MPEG-2 and 4 encoding solutions into its growing IPTV solution set. In addition, the Motorola IP Exchange (MIPX) is designed to help service providers migrate from ATM to IP based video delivery architectures and is available to those customers looking to extend the lifecycle of their existing MSAP investment as they evolve to all IP based video delivery architectures.

Consistent with Motorola policy, product support will continue with repair services and appropriate levels of technical support being provided to current Motorola MSAP customers for up to *five years from product ship date. Motorola Sales Engineers are available to you and can be called upon to assist with final expansion or migration planning needed to ensure maximum benefit from your existing MSAP investment.

For support and questions please contact your Motorola Sales representative.

Regards,

Kevin Keefe
Vice President, Access Networks Solutions
Motorola, Inc.

* See complete details on page 2



EOL Schedule and Support

To facilitate the Motorola MSAP platform, Residential Gateway set-top and ETHERset solutions EOL process the following time lines will be in effect:

- All orders for Cabinets and SSE enclosures must be received prior to December 31, 2008.
- All orders for BDT, USAM, and BSAM shelves must be received by Jan 30, 2009.
- All orders for equipped racks must be received by Jan 30, 2009.
- All other orders must be received prior to March 31, 2009 for delivery prior to June 2009.

All orders submitted and accepted after December 30, 2008 are final and orders may not be cancelled or equipment returned after December 30, 2008.

Support after June, 2009

- Hardware:
 - Motorola will continue to offer repair services for 5 years after last ship date.
 - Some items may become non reparable due to component obsolescence.
 - Normal repair charges will apply and are subject to change.
 - Hardware NSP may continue to be available.
- CNRC:
 - Motorola will continue to have CNRC support available for up to 5 years.
 - An NSP will be required to access CNRC but pricing will be adjusted to account for limited offering.
- Software upgrades:
 - ~~Due to the maturity of the software at the time of sunset we do not envision~~ any further upgrades or releases.
 - Motorola will only investigate P1 bugs (this level requires significant end customer impact).