

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**January 23, 2007**

**IN RE:**

**JOINT PETITION OF DSLNET COMMUNICATIONS, LLC  
AND MDS ACQUISITION, INC FOR APPROVAL OF  
TRANSFER OF CONTROL**

**DOCKET NO.  
06-00234**

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**ORDER APPROVING TRANSFER OF AUTHORITY**

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This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on November 6, 2006 for consideration of the *Joint Petition* for approval of the transfer of control of DSLNet Communications, LLC ("DSLNet") to MDS Acquisition, Inc. ("MDSAI") filed on September 14, 2006 by DSLNet and MDSAI (together "Petitioners").

**The Joint Petition**

DSLNet was granted certification by Authority Order in Docket No. 99-00092 on July 29, 1999. DSLNet's parent company is DSL.net, Inc. ("Parent"). Parent is not certificated by any state commission but is authorized to provide services by the Federal Communications Commission ("FCC"). MDSAI is a wholly owned subsidiary of MegaPath, Inc. ("MegaPath"). Neither MegaPath nor MDSAI offer regulated telecommunications services and thus do not hold certificates from the FCC or state commissions.

Per the Purchase Agreement dated August 22, 2006, the proposed transaction is a stock transaction that ultimately transfers control of DSLNet to MDSAI. To accomplish the transfer, MDSAI purchased convertible promissory notes (“Convertible Notes”) issued by Parent. The Convertible Notes, which can only be converted after regulatory and shareholder approval, can be converted into common stock of Parent. After conversion, MDSAI will hold 92.4% of the voting power in Parent. After conversion, MegaPath intends to merge Parent into MDSAI with MDSAI being the surviving entity. As a result of the conversions, the Tennessee certificated entity, DSLNet, will be under direct control of MDSAI and will be a wholly-owned indirect subsidiary of MegaPath. According to a letter filed with the Authority on September 21, 2006, DSLNet does not have any intrastate, wholesale or retail customers in Tennessee. Although the Petitioners submitted the request for approval under Tenn. Code Ann. § 65-4-112, since the transaction involves transfer of authority of a certificated public utility to a non-certificated entity, Tenn. Code Ann. § 65-4-113 applies.

MDSAI and MegaPath are providers of IP communications services and represent that they have sufficient technical, managerial and financial qualifications to acquire DSLNet. Given that MegaPath provides IP communications services, the Petitioners state that the proposed transaction will enable them to provide “more advanced services to a broader customer base in Tennessee”. The Petitioners also state that the transaction will allow for expanded product offerings and strengthen its competitive positions in the market, which is in the public interest. The *Joint Petition* asserts that the transaction will not have a negative impact on Tennessee consumers or company employment levels in Tennessee.

According to the Data Response filed by the Petitioners on October 2, 2006, the Petitioners have filed an application for change of control with the FCC, but the FCC has not concluded its review of the transaction.

**November 6, 2006 Authority Conference**

Tenn. Code Ann. § 65-4-113 (2004) requires a public utility to obtain TRA approval to transfer its authority to provide utility services. Tenn. Code Ann. § 65-4-113(a) (2004) provides:

No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) (2004) provides the standards by which the TRA shall consider an application for transfer of authority, in pertinent part, as follows:

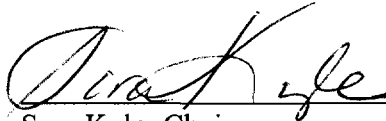
Upon application for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. The authority shall approve the transfer after consideration of all relevant factors and upon finding that such transfer furthers the public interest.

At the regularly scheduled Authority Conference held on November 6, 2006, the voting panel assigned to this docket considered the transfer of authority requested in the *Joint Application* and voted unanimously to approve the transfer pursuant to Tenn. Code Ann. § 65-4-113, contingent upon FCC approval.

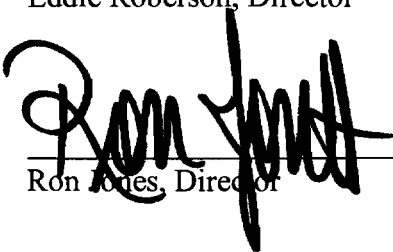
**IT IS THEREFORE ORDERED THAT:**

1. The transfer of authority of DSLNet Communications, LLC to MDS Acquisition, Inc. as described in the *Joint Petition* and discussed herein is approved, contingent upon approval by the Federal Communications Commission.

2. The Petitioners shall file with the Authority any documentation from the Federal Communications Commission regarding subsequent action on the transfer.

  
Sara Kyle, Chairman

  
Eddie Roberson, Director

  
Ron Jones, Director