

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**July 29, 2010**

**IN RE:**

**JOINT PETITION OF MEGAPATH, INC., DSLNET  
COMMUNICATIONS, LLC AND CCGI HOLDING  
CORPORATION FOR APPROVAL OF THE  
INDIRECT TRANSFER OF CONTROL OF DSLNET  
COMMUNICATIONS, LLC**

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**DOCKET NO.  
10-00089**

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**ORDER APPROVING *JOINT PETITION***

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This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Mary W. Freeman of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on June 21, 2010 for consideration of the *Joint Petition* filed on May 7, 2010 by MegaPath Inc. (“MegaPath”), its wholly-owned direct subsidiary, DSLnet Communications, LLC (“DSLnet”), and CCGI Holding Corporation (“CCGI”) (collectively, “Petitioners”) requesting approval to consummate a transaction between CCGI and MegaPath through which CCGI will acquire indirect control of DSLnet.

MegaPath is a Delaware corporation and the parent company of DSLnet. MegaPath is a provider of a variety of managed Internet Protocol (“IP”) services, including cable and satellite system broadband Internet access, mobility services such as digital certificates, global remote access, personal firewalls, remote access virtual private networks (“VPN”) and security services. MegaPath does not currently offer any regulated telecommunications services and, therefore,

does not hold any telecommunications authorizations from the Federal Communications Commission (“FCC”) or any state regulatory authority.

DSLnet is a Delaware limited liability company that provides high-speed access to Internet services and is authorized to provide intrastate telecommunications services in forty-seven states and the District of Columbia. In Tennessee, DSLnet currently has no employees, approximately one wholesale customer with forty-seven lines, and is authorized as a competing telecommunications service provider pursuant to Authority Order issued in Docket No. 99-00092 on July 29, 1999. DSLnet is also authorized by the FCC to provide international and domestic interstate telecommunications services as a non-dominant carrier.

CCGI is a Delaware corporation and parent company of Covad Communications Group, Inc. (“Covad”), a Delaware corporation that owns both Covad Communications Company, a California corporation, and DIECA Communications, Inc., a Virginia corporation. Covad is a nationwide provider of integrated voice and data communications. In Tennessee, Covad is authorized to provide intrastate telecommunications services pursuant to Authority Order issued in Docket No. 99-00823 on May 22, 2000. Covad is also authorized by the FCC to provide international and domestic interstate telecommunications services as a non-dominant carrier.

CCGI is ultimately controlled by Platinum Equity LLC (“Platinum”). Neither CCGI nor Platinum offer any regulated telecommunications services. Platinum is a privately held Delaware limited liability company and is a global firm specializing in the merger, acquisition and operation of companies that provide services and solutions to customers in a broad range of business markets, including information technology, telecommunications, logistics, manufacturing and entertainment distribution. Platinum indirectly controls several other telecommunications carriers.

## **THE JOINT PETITION**

CCGI and MegaPath entered into an Agreement and Plan of Merger (the “Agreement”) on March 26, 2010. Pursuant to the Agreement, a subsidiary of CCGI created specifically for this transaction, TMAC Merger Corporation, will merge with MegaPath, with MegaPath surviving. As a result, MegaPath will become a wholly-owned, direct subsidiary of CCGI, and CCGI will acquire indirect control of DSLnet. The outcome of the transaction will be the indirect transfer of control of DSLnet to CCGI and ultimately to Platinum.

Following the consummation of the proposed transaction, DSLnet’s customers will continue to receive service under the same rates, terms and conditions of service as before. The proposed transaction will not involve a change in DSLnet’s operating authority in Tennessee, and DSLnet’s tariffs will remain in effect. The proposed transaction will be seamless and virtually transparent to Tennessee consumers.

## **FINDINGS AND CONCLUSIONS**

Tenn. Code Ann. § 65-4-113(a) (2004) requires a public utility to obtain TRA approval to transfer its authority to provide utility services and 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, which in pertinent part, states 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.


Based on the entire record, the panel found the proposed transaction will serve the public interest, as it will increase competition in the Tennessee telecommunications market by reinforcing the status of DSLnet as a viable competitor. Further, the panel found that following the consummation of the proposed transaction, DSLnet's customers will continue to receive service under the same rates, terms and conditions of service as before. Thereafter, the panel voted unanimously to approve the *Joint Petition* pursuant to Tenn. Code Ann. § 65-4-113(b) (2004), contingent upon approval by the FCC.

**IT IS THEREFORE ORDERED THAT:**

The *Joint Petition* filed by MegaPath Inc., DSLnet Communications, LLC and CCGI Holding Corporation is approved, contingent upon approval by the Federal Communications Commission. The Applicants shall file with the Tennessee Regulatory Authority any documentation from the Federal Communications Commission regarding subsequent action on the transfer.

  
Sara Kyle, Chairman

  
Eddie Roberson, Director

  
Mary W. Freeman, Director