

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 6, 2010**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF DIECA COMMUNICATIONS, INC.</b>	)	<b>DOCKET NO.</b>
<b>D/B/A COVAD COMMUNICATIONS COMPANY</b>	)	<b>10-00117</b>
<b>AND DSLNET COMMUNICATIONS, LLC FOR</b>	)	
<b>APPROVAL TO PARTICIPATE IN CERTAIN</b>	)	
<b>FINANCING ARRANGEMENTS</b>	)	

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**ORDER APPROVING FINANCING ARRANGEMENTS**

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This matter came before Chairman Mary W. Freeman, Director Eddie Roberson, and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 26, 2010 for consideration of the *Joint Petition* filed on June 10, 2010 by DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad") and DSLnet Communications, LLC ("DSLnet" and together with Covad, "Petitioners") for approval to participate in certain financing arrangements.

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

CCGI Holding, CCGI's parent company and Covad's ultimate parent, is controlled by Platinum Equity LLC ("Platinum"). Neither CCGI Holding nor Platinum offer any regulated telecommunications services. Platinum is a privately held Delaware limited liability company and 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.

DSLnet is a Delaware limited liability company and subsidiary of MegaPath Inc. 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 is authorized as a competing telecommunications service provider pursuant to Authority Order issued in Docket No. 99-00092 on June 4, 1999. DSLnet is also authorized by the FCC to provide international and domestic interstate telecommunications services as a non-dominant carrier.

#### **THE JOINT PETITION**

CCGI Holding and MegaPath Inc. entered into an Agreement and Plan of Merger dated as of March 26, 2010 (the "Agreement"). As a result of that transaction, MegaPath Inc. will become a wholly owned, direct subsidiary of CCGI Holding, and CCGI Holding will acquire indirect control of DSLnet. Upon the consummation of that transaction, CCGI Holding intends to enter into the proposed financing arrangements that will consist of: (1) senior and/or subordinated loan facilities in an aggregate principal amount expected to be collectively up to \$265,000,000 (collectively, "Note Facilities"), to be determined based upon market conditions; and (2) a secured revolving credit facility in an aggregate principal amount of up to \$35,000,000 ("Revolving Facility" and, together with the Note Facilities, the "Financing Facilities"), to be determined based upon market conditions. The proceeds of the Note Facilities will be used by

CCGI Holding, on the date of the initial borrowing (the “Closing Date”), to refinance the existing debt of the Petitioners, to fund strategic acquisitions and for other permitted purposes, including providing working capital, financing capital expenditures, and other general corporate purposes. The proceeds of the loans under the Revolving Facility will be used by CCGI Holding from time to time for general corporate purposes.

The *Joint Petition* asserts that the Note Facilities are expected to mature on or after the fourth anniversary of the Closing Date for the Financing Facilities, subject to certain exemptions to be determined. All obligations of CCGI Holding and its subsidiaries under the Financing Facilities are expected to be guaranteed by CCGI Holding, CCGI, Megapath Inc., Covad Communications Company, DIECA Communications, Inc., DSLnet, and any current or future affiliates, subject to certain exemptions to be determined. The *Joint Petition* states further that the Financing Facilities are expected to be secured by substantially all of the assets of CCGI Holding, CCGI, Megapath Inc., Covad Communications Company, DIECA Communications, Inc., DSLnet, and any current or future affiliates, subject to certain exemptions to be determined.

#### **FINDINGS AND CONCLUSIONS**

Tenn. Code Ann. § 65-4-109 (2004) provides:

No public utility shall issue any stocks, stock certificates, bonds, debentures, or other evidences of indebtedness payable in more than one (1) year from the date thereof, until it shall have first obtained authority from the authority for such proposed issue. It shall be the duty of the authority after hearing to approve any such proposed issue maturing more than one (1) year from the date thereof upon being satisfied that the proposed issue, sale and delivery is to be made in accordance with law and the purpose of such be approved by the authority.

At a regularly scheduled Authority Conference held on July 26, 2010, the panel voted unanimously to approve the *Joint Petition* and made the following findings:

1. The proposed financing arrangements are subject to Authority approval pursuant to Tenn. Code Ann. § 65-4-109 (2004).

2. The proposed financing arrangements are being made in accordance with laws enforceable by this agency.

3. The proposed financing arrangements are in the public interest because they will strengthen both Covad's and DSLnet's financial position through access to greater financial resources and thereby promote competition among telecommunications carriers.

**IT IS THEREFORE ORDERED THAT:**

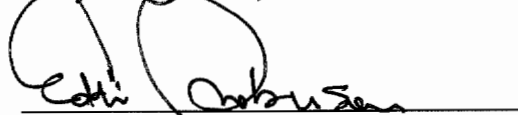
1. DIECA Communications, Inc. d/b/a Covad Communications Company and DSLnet Communications, LLC are authorized to enter into the financing arrangements described in the *Joint Petition*.

2. The authorization and approval given hereby shall not be used by any party, including but not limited to any lending party, for the purpose of inferring an analysis or assessment of the risks involved.

3. This decision is not intended to create any liability on the part of the Tennessee Regulatory Authority, the State of Tennessee or any political subdivision thereof.



Mary W. Freeman, Chairman



Eddie Roberson, Director



Sara Kyle, Director