

BINGHAM

Russell M. Blau
Jeffrey R. Strenkowski
russell.blau@bingham.com
jeffrey.strenkowski@bingham.com

September 28, 2011

Via Overnight Delivery

Chairman Eddie Roberson, Ph.D.
c/o Sharla Dillon, Dockets and Record Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

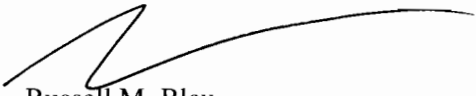
**Re: Joint Petition of DSLnet Communications, LLC and DIECA
Communications, Inc. for Authority to Complete Certain Pro Forma Intra-
Corporate Transactions**

Dear Chairman Roberson:

On behalf of DSLnet Communications, LLC and DIECA Communications, Inc., please find enclosed for filing an original and thirteen (13) copies of the above-referenced Joint Petition. Also enclosed is a check in the amount of \$50.00 to cover the filing fee.

Please date-stamp the enclosed extra copy of this filing and return it in the envelope provided. Should you have any questions, please do not hesitate to contact Jeffrey Strenkowski at (202) 373-6002.

Respectfully submitted,


Russell M. Blau
Jeffrey R. Strenkowski

Counsel for Petitioners

Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Washington

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

T +1.202.373.6000
F +1.202.373.6001
bingham.com

11.00/66

**Before the Tennessee Regulatory Authority
Nashville, Tennessee**

September 28, 2011

Joint Petition of	:	
	:	
DSLnet Communications, LLC,	:	Docket No. _____
and	:	
DIECA Communications, Inc.	:	
	:	
For Authority to Complete Certain <i>Pro</i>	:	
<i>Forma</i> Intra-Corporate Transactions	:	

JOINT PETITION

DSLnet Communications, LLC (“DSLnet”) and DIECA Communications, Inc. d/b/a Covad Communications Company (“DIECA” and together with DSLnet, the “Petitioners”), pursuant to Tenn. Code Ann. § 65-4-112 and the rules of the Tennessee Regulatory Authority (“Authority”), respectfully request authority from the Authority, to the extent required, for DSLnet to merge into DIECA. In the same transaction, the Petitioners’ affiliates MegaPath, Inc. (“MegaPath”), Covad Communications Company (“CCC”) and DSLnet Communications VA, Inc. (“DSLnet-VA”),¹ (DIECA, DSLnet, DSLnet-VA, CCC and MegaPath, collectively, the “MegaPath Group”) will also be merged into DIECA with DIECA surviving (the “Transactions”).² The Transactions are being undertaken merely as an internal *pro forma* reorganization of the companies into DIECA in order to streamline operations under a single “MegaPath”

¹ CCC and DSLnet-VA hold authorizations to provide telecommunications services in other jurisdictions, but do not hold such authorizations in Tennessee. MegaPath does not provide regulated telecommunications services in any jurisdiction.

² While the Petitioners currently expect the transactions described herein to be accomplished through pro forma corporate mergers, given the tax and operational consequences of the proposed Transfer transactions, the Petitioners may alternatively elect to accomplish the transactions through a sale of assets rather than through mergers, or through a combination of both. As such, the Petitioners request authority, to the extent necessary, to undertake the Transfer through either manner.

branded company combining the individual operations of the various affiliated entities.³ As a result of the Transfer, DSLnet's, DSLnet-VA's, MegaPath's, and CCC's customers and the assets to support the provision of services to those customers will be transferred to DIECA, which will become the service provider for those customers. As described below, because the rates, terms or conditions of the services being received by customers will not change as a result of the assignment, the proposed Transactions will be virtually transparent to customers of DSLnet in terms of the services that those customers receive. Since DIECA already holds a certificate of public convenience and necessity ("Certificate"), the Certificate of DSLnet is not being transferred to DIECA and, therefore, DSLnet requests that its Certificate and tariffs be cancelled upon notification by Petitioners that the Transactions were completed.⁴

The Petitioners request that the Authority act expeditiously to grant the authority requested herein as soon as possible, so that the Petitioners can timely consummate the proposed Transactions to meet important business objectives.

In support of this filing, Petitioners provide the following information:

I. DESCRIPTION OF THE PETITIONERS

A. MegaPath, Inc. and DSLnet Communications, LLC

MegaPath Inc. is a Delaware corporation, and is the parent company of DSLnet Communications, LLC. MegaPath Inc. is a wholly-owned subsidiary of CCGI Holding Corporation. 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

³ DIECA expects to undertake a name change to effectuate the "MegaPath" brand name. A separate filing with the Authority will be made with respect to that name change.

⁴ The Parties intend for the Transactions to be completed in the fourth quarter 2011 with an effective date of December 31, 2011 ("Effective Date"), which is the rationale for requesting that the DSLnet certificate not be relinquished until the Parties have notified the Authority after the Transactions are completed. The Parties believe that use of an Effective Date will minimize customer confusion and enable consistent messaging to customers about this *pro forma* event.

certificates, global remote access, personal firewalls, and 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 Communications, LLC is a Delaware limited liability company. DSLnet provides highspeed Internet access services. DSLnet is authorized to provide intrastate telecommunications services in forty-seven (47) states and the District of Columbia, and DSLnet's affiliate DSLnet Communications VA, Inc. is authorized to provide intrastate telecommunications services in Virginia. In Tennessee, DSLnet was granted a Certificate of Convenience and Necessity as a Competing Telecommunications Service Provider pursuant to the Order issued by the Authority 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.

B. Covad Communications Company and DIECA Communications, Inc.

Covad Communications Group, Inc. ("Covad") is a Delaware corporation that owns Covad Communications Company ("CCC"), a California corporation, and DIECA Communications, Inc. ("DIECA"), a Virginia corporation. Covad, in turn, is a wholly-owned subsidiary of CCGI Holding Corporation. Covad is a leading nationwide provider of integrated voice and data communications. Through its operating companies (CCC and DIECA), the company offers DSL, Voice Over IP, T1, Ethernet, Web hosting, managed security, IP and dial-up, wireless broadband, and bundled voice and data services directly through Covad's network and through Internet Service Providers, value-added resellers, telecommunications carriers and affinity groups to small and medium-sized businesses and home users. Covad broadband services are

currently available across the nation in 44 states and 235 Metropolitan Statistical Areas (“MSAs”) and can be purchased by more than 57 million homes and businesses, which represent over 50 percent of all US homes and businesses.

In Tennessee, DIECA is authorized to provide intrastate telecommunications services pursuant to an order of the Authority issued May 22, 2000, in Docket 99-00823. DIECA is also authorized by the FCC to provide international and domestic interstate telecommunications services as a non-dominant carrier. CCC does not currently offer any regulated telecommunications services in Tennessee and therefore does not hold any telecommunications authorizations from the Authority.

II. CONTACTS

Questions or any correspondence, orders, or other materials pertaining to this filing should be directed to the following.

Russell M. Blau, Esq.
Jeffrey R. Strenkowski, Esq.
Bingham McCutchen LLP
2020 K Street, N.W.
Washington, DC 20006
202-373-6000 (Tel)
202-373-6001 (Fax)
russell.blau@bingham.com
jeffrey.strenkowski@bingham.com

and:

Katherine K. Mudge
Director, State Affairs & ILEC Relations
MegaPath, Inc.
2111 W. Braker Ln., Suite 100
Austin, Texas 78758
512-794-6197 (Tel)
512-794-6006 (Fax)
katherine.mudge@megapath.com

III. DESCRIPTION OF THE TRANSACTIONS

All of the entities involved in this Petition are indirect, wholly-owned subsidiaries of CCGI Holding Corporation, and are already operating under a common management structure. Petitioners propose to complete a series of *pro forma* internal restructuring merger transactions through which DIECA will acquire the assets of MegaPath, DSLnet, DSLnet-VA, and CCC, including their respective customer bases and substantially all of their assets used in the provision of telecommunications services.⁵ Upon consummation of the proposed Transactions, DSLnet will surrender its CPCN. For the Authority's convenience, an organizational chart demonstrating the proposed Transactions is attached hereto as Exhibit A. As a result of the proposed Transactions, DIECA will replace DSLnet as the service provider in Tennessee. Subject to receipt of the required regulatory approvals, the Transactions are expected to close in the fourth quarter this year.

Petitioners emphasize that although the proposed Transactions will involve a transfer of customers, immediately following the proposed Transactions, all of those customers will continue to receive service from DIECA under the same rates, terms and conditions as the services currently provided. As a result, the proposed Transactions will be almost seamless and virtually transparent to customers served by MegaPath, CCC, DSLnet and DSLnet-VA in terms of the services that they currently receive. DSLnet does not currently provide intrastate telecommunications services to its Tennessee customers, but rather provides its jurisdictionally interstate services under contract. As such, Petitioners do not believe that the Authority's slamming rules are applicable with respect to the Transactions. Nonetheless, the parties have already begun to inform customers of the pending change pursuant to their contractual

⁵ As discussed above in note 1, the Petitioners request authority, to the extent necessary, to undertake the Transactions through either transfers of assets between parties as discussed herein, mergers of the relevant entities, or both.

notification requirements. Moreover, because DIECA is acquiring all of the assets of MegaPath, DSLnet, DSLnet-VA and CCC necessary to provide service to the transferred customers, DIECA will have all of the assets required to continue to provide high-quality services to the customers it acquires.

DIECA is well-qualified to provide service to MegaPath, DSLnet and CCC customers. DIECA currently provides local and long distances telecommunications services in 47 states and the District of Columbia. DIECA's operations will continue to be overseen by the same well-qualified management team with substantial telecommunications experience and technical expertise.

IV. REQUEST TO CANCEL THE CERTIFICATION OF DSLNET

Following the Transactions, DSLnet will no longer exist as a corporate entity. Therefore, Petitioners request that, upon notification from Petitioners that the Transactions have been completed, the Authority cancel the Certificate of DSLnet.

V. REQUEST FOR EXPEDITED REVIEW

Petitioners are seeking to complete the proposed Transaction as expeditiously as possible in order to minimize customer confusion and realize the benefits of the proposed Transaction. Accordingly, Petitioners respectfully request that the Authority expedite the processing of this Petition and grant the requested authority as soon as possible to permit Petitioners to consummate the Transaction in the fourth quarter 2011.

VI. PUBLIC INTEREST CONSIDERATIONS

The proposed Transactions described above will serve the public interest by ensuring that the assigned customers enjoy continuity of high-quality services. In particular, the assignment of MegaPath's, CCC's, DSLnet's and DSLnet-VA's customers, together with the transfer of other assets required to serve those customers, will ensure that the customers continue to


receive uninterrupted services. The customers will be served by a carrier with significant technical, managerial and financial resources. The Transactions are intended to streamline the operations of the companies, and thereby create operational efficiencies.

Petitioners seek to complete the proposed Transactions as soon as possible. Accordingly, Petitioners respectfully request that the Authority process, consider, and approve this Petition as expeditiously as possible.

VII. CONCLUSION

WHEREFORE, for the reasons set forth above, Petitioners request the Authority grant all authority necessary for the Petitioners to undertake the Transaction as described herein.

Respectfully submitted,



Russell M. Blau
Jeffrey R. Strenkowski
Bingham McCutchen LLP
2020 K Street, N.W.
Washington, DC 20006-1806
202-373-6000 (Tel)
202-373-6001 (Fax)
russell.blau@bingham.com
jeffrey.strenkowski@bingham.com

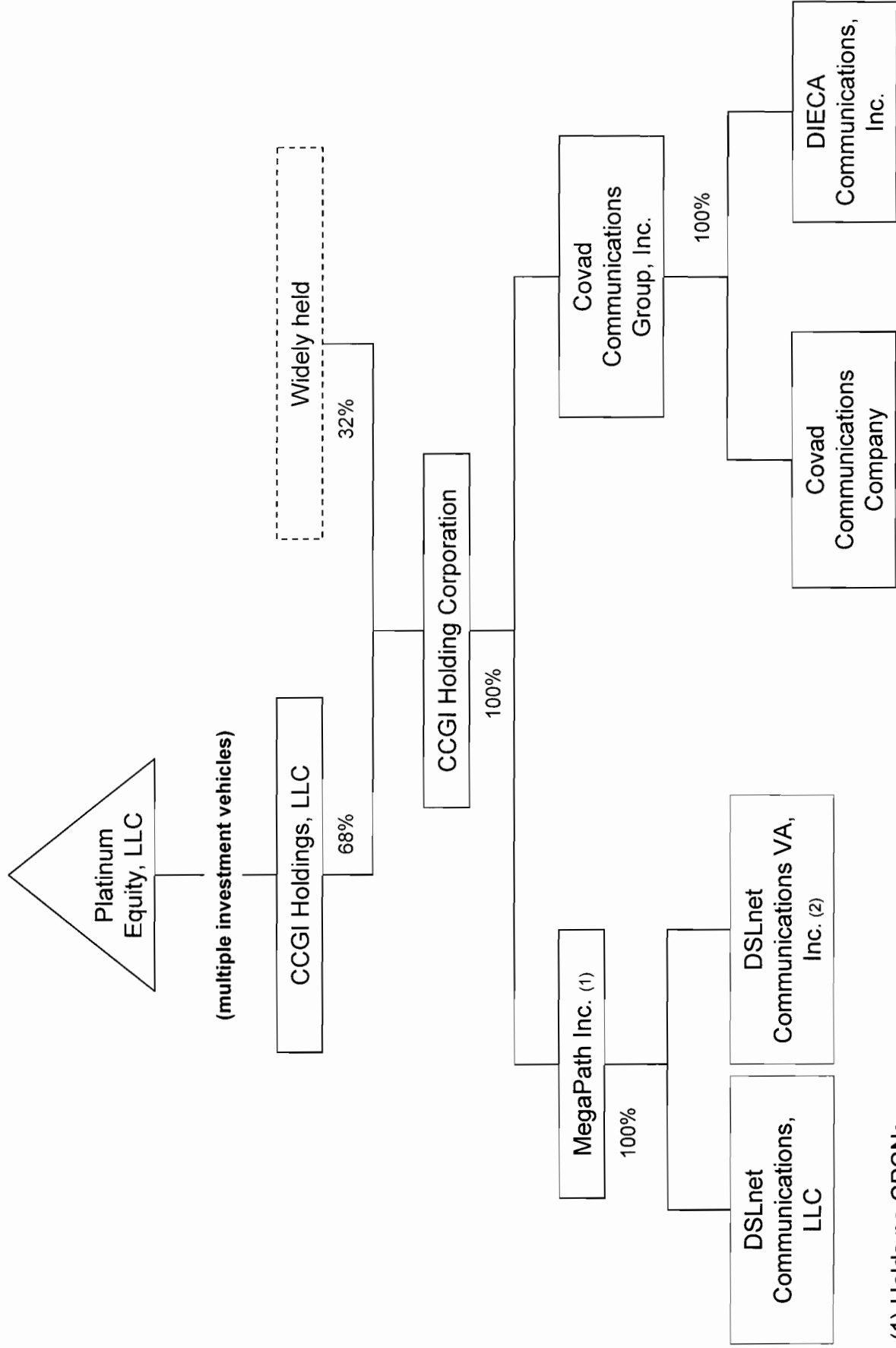
Counsel for Petitioners

Dated: September 28, 2011

EXHIBIT A

Organizational Chart

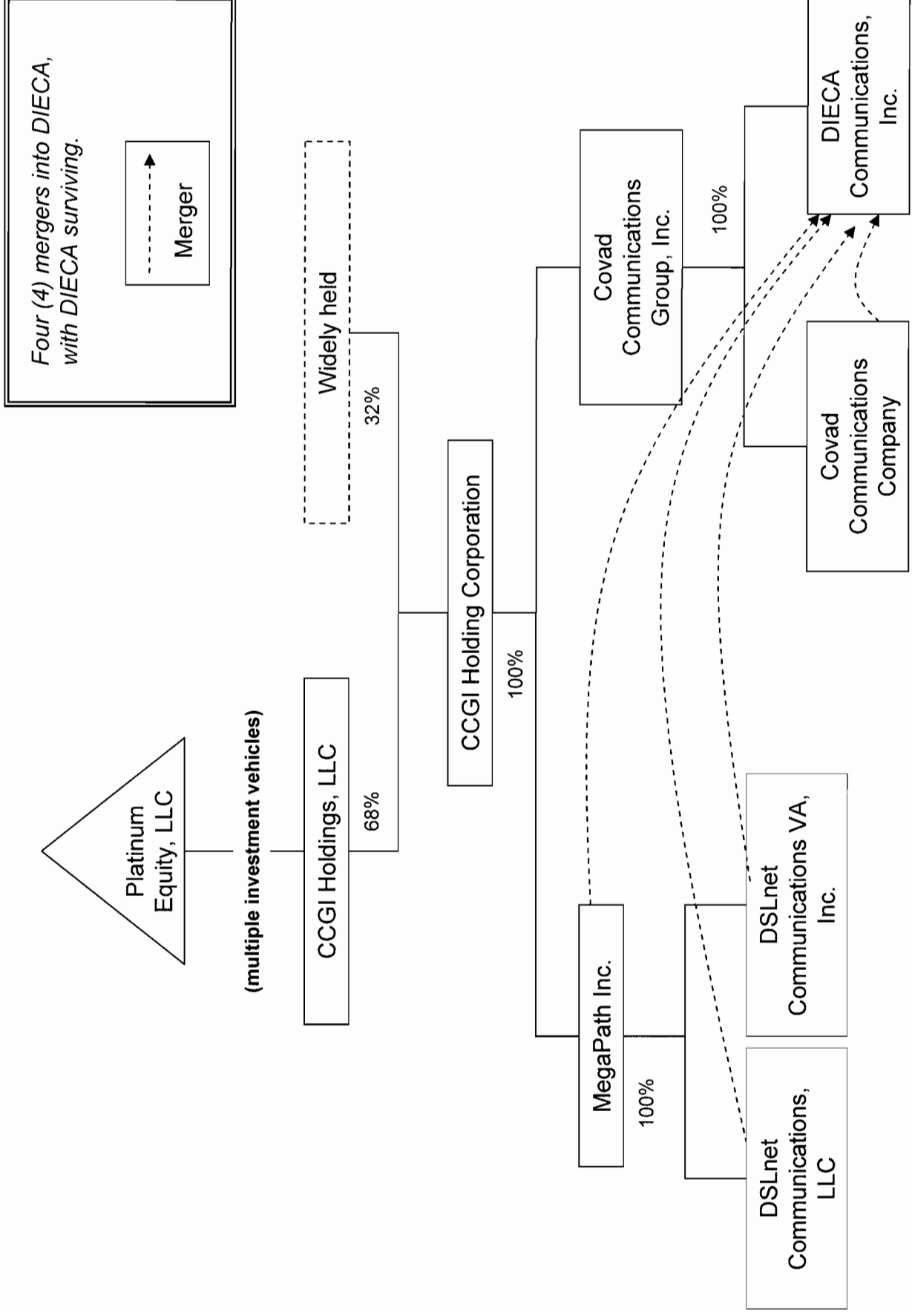
Current Organizational Chart



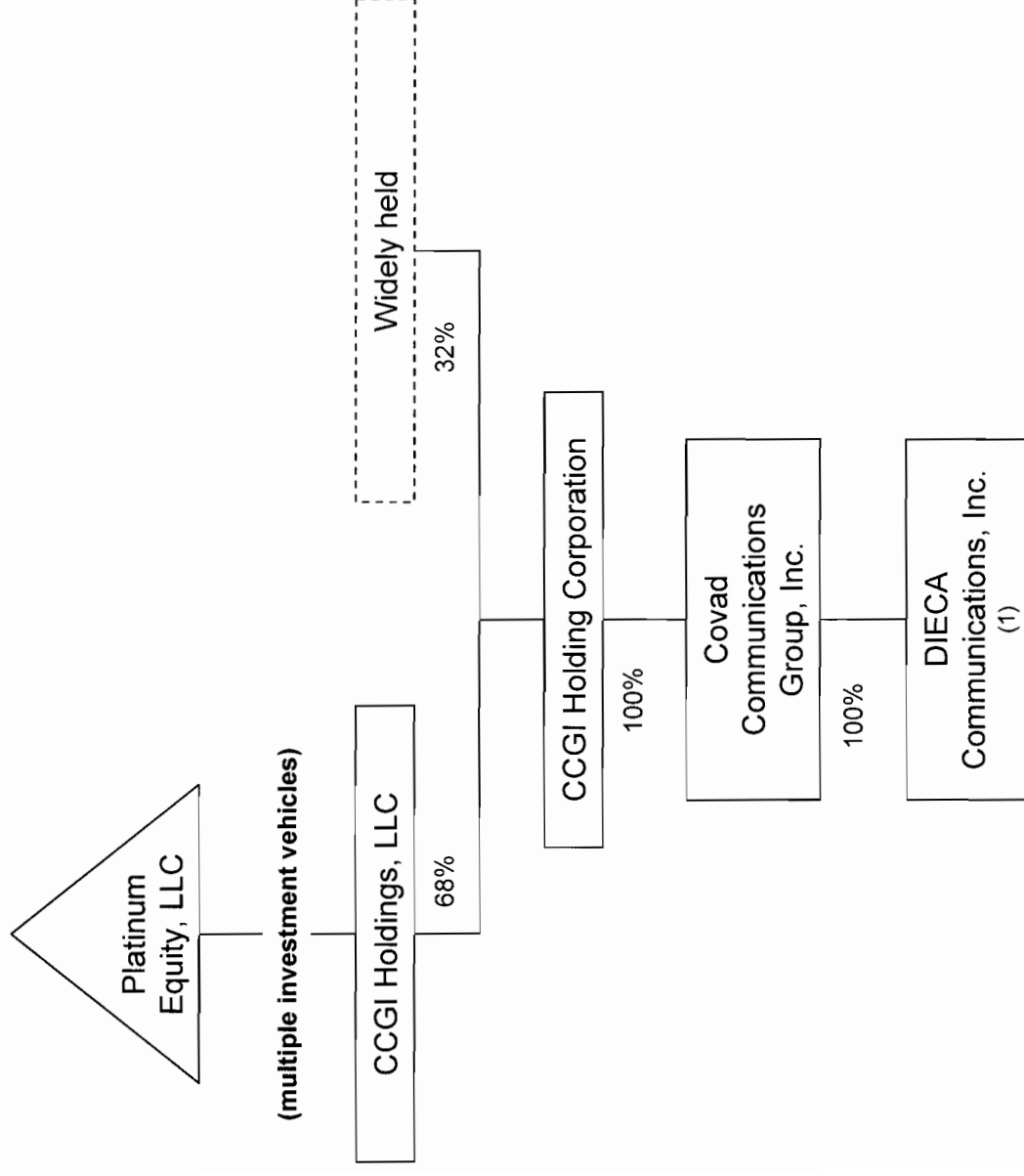
(1) Holds no CPCNs

(2) Holds a CPCN in Virginia only

Depiction of Mergers



Post-Transactions Organizational Chart




(1) Will ultimately change its corporate name or dba to the "MegaPath" brand name

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

§
§
§

VERIFICATION

I, Douglas Carlen, being duly sworn, deposes and say that I am the General Counsel and Secretary of MegaPath Inc., DSLnet Communications, LLC, DSLnet Communications VA, Inc., Covad Communications Company and DIECA Communications, Inc. (collectively, the "Companies"); that I am authorized to make this Verification on behalf of the Companies; that the foregoing filing was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.



Douglas Carlen
General Counsel and Secretary
MegaPath Inc.
DSLnet Communications, LLC
DSLnet Communications VA, Inc.
Covad Communications Company
DIECA Communications, Inc.

Sworn and subscribed before me this 19 day of September, 2011.



Notary Public

My commission expires:

Mar 25 2015

