

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 12, 2012

IN RE:

**JOINT PETITION OF DSLNET COMMUNICATIONS, LCC
AND DIECA COMMUNICATIONS, INC. FOR AUTHORITY
TO COMPLETE CERTAIN PRO FORMA INTRA-
CORPORATE TRANSACTIONS**

**DOCKET NO.
11-00166**

ORDER APPROVING *JOINT PETITION*

This matter came before the Tennessee Regulatory Authority (the "Authority" or "TRA") at a regularly scheduled Authority Conference held on December 12, 2011 for consideration of the *Joint Petition* filed on September 29, 2011 by DSLnet Communications, LLC ("DSLnet") and DIECA Communications, Inc. ("DIECA") (DSLnet and DEICA collectively, "Petitioners").

DSLnet is a wholly-owned subsidiary of MegaPath, Inc. MegaPath 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 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 is a Delaware limited liability company that provides high-speed Internet access services. DSLnet is authorized to provide intrastate telecommunications services in 47 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 July 29, 1999. DSLnet is also authorized by the FCC to provide international and domestic interstate telecommunications services as a non-dominant carrier.

Covad Communications Group, Inc. (“Covad”) is a Delaware corporation that owns Covad Communications Company (“CCC”), a California corporation, and DIECA, a Virginia corporation. Covad 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, TI, 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, valued-added resellers, telecommunications carriers and affinity groups to small and medium-sized business and home users. Covad’s broadband services are currently available across the nation in 44 states and 235 Metropolitan Statistical Areas (“MSAs”).

In Tennessee, DIECA is authorized to provide intrastate telecommunications services pursuant to Authority Order in Docket No. 99-00823 issued on May 22, 2000. DIECA is also authorized by the FCC to provide international and domestic 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.

THE JOINT PETITION

According to the *Joint Petition*, all the entities involved in the transaction 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 merger transactions through which DIECA will acquire the assets of MegaPath, DSLnet, DSLnet Communications VA, Inc. and CCC, including their respective customer bases and substantially all of their assets used in the provision of telecommunications services. Upon consummation of the

proposed transactions, DSLnet will surrender its authorization. As a result of the proposed transactions, DIECA will replace DSLnet as the service provider in Tennessee. Accordingly DSLnet's request for cancellation of its certification will be effective upon the date of consummation of the merger as notified by the Authority.

The transaction is an internal *pro forma* reorganization of the companies into DIECA in order to streamline operations under a single branded company by combining the individual operations of the various affiliated entities. Following the consummation of the proposed transaction, MegaPath's, CCC's and DSLnet's customers will continue to receive uninterrupted service from DIECA under the same rates, terms and conditions of service as before. No customers will be affected by the proposed transaction. The proposed *pro forma* transaction will not involve a change in either company's operating authority in Tennessee or their tariffs, which will remain in effect. The proposed transaction will be seamless and virtually transparent to Tennessee consumers.

FINDINGS AND CONCLUSIONS

Tenn. Code Ann. § 65-4-112 (2004) applies to the transaction described in the *Joint Petition* because it results in the merger of certain assets from one Tennessee certificated carrier to another. Regarding the transfer of authority, Tenn. Code Ann. § 65-4-112(a) (2004) states:

No lease of its property, rights, or franchises, by any such public utility, and no merger or consolidation of its property, rights and franchises by any such public utility with the property, rights and franchises of any other such public utility of like character shall be valid until approved by the authority, even though power to take such action has been conferred on such public utility by the state of Tennessee or by any political subdivision of the state.

Because the transaction involves a transfer of customers, TRA Rule 1220-4-2-.56(2)(d) additionally applies to the transaction. The rule provides:

1. The acquiring telecommunications service provider shall provide the Authority a copy of the self-certification letter it shall file with the Federal Communications Commission ("FCC"), as required in CC Docket No. 00257, certifying that the customer transfer is in compliance with all FCC regulations governing such transactions.

2. A notification letter, pre-approved by the Authority, shall be mailed by U.S. First Class Postage by the telecommunications service provider being acquired to its customers describing the customer transfer and explaining that the customers' local or long distance service will be transferred to the acquiring telecommunications service provider by a certain date unless the customer selects another telecommunications service provider. This customer notification shall be mailed to the customers no less than thirty (30) days prior to the actual customer transfer. The notification letter required by the FCC may be used for the notification purposes of this part. The Authority may waive the thirty (30) day notice requirement of this part for good cause shown.
3. The acquiring telecommunications service provider agrees to pay any fees charged to the customer associated with changing service to the acquiring telecommunications service provider. The notification letter required in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.
4. The acquiring telecommunications service provider agrees to provide to the affected customers a thirty (30) day written notice of any rate increase that may affect their service up to ninety (90) days from the date of the transfer of customers. The notification letter mentioned in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.

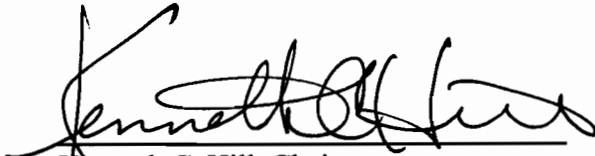
The panel found that the proposed *pro forma* merger is in the public interest it will streamline the operations of the companies and thereby create operational efficiencies and approved the intra-corporate reorganization, as described in the joint petition pursuant to Tenn. Code Ann. § 65-4-112 (2004). The panel also found that the customer notification letter provided as Attachment B of the October 20, 2011 Data Response constitutes sufficient notice under TRA Rule 1220-4-2-.56(2)(d), after waiver of the pre-approval requirement found in TRA Rule 1220-4-2-.56(2)(d)(2). Further, the panel waived TRA Rule 1220-4-2-.56(2)(d)(1) requiring filing of the FCC self-certification letter because the Petitioners stated that FCC rules do not require filing of such a letter and cancelled DSLnet's authorization to provide telecommunications service upon notification to the TRA that all of DSLnet's customers have been transferred to DIECA.

IT IS THEREFORE ORDERED THAT:

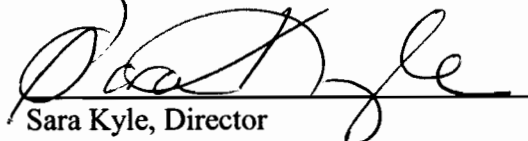
1. The *pro forma* merger of DSLnet Communications, LLC into DIECA Communications, Inc. as described in the *Joint Petition of DSLnet Communications, LLC and DIECA Communications, Inc. for Authority to Complete Certain Pro Forma Intra-Corporate Transactions* and discussed herein is approved.

2. The customer notification letter filed on October 20, 2011 is approved.

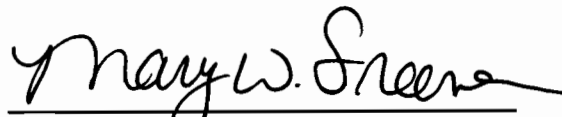
3. DSLnet Communications, LLC's Certificate of Public Convenience and Necessity is cancelled effective upon notice to the Tennessee Regulatory Authority that the transaction has been completed and that all of DSLnet's customers have been transferred.



Kenneth C. Hill, Chairman



Sara Kyle, Director



Mary W. Freeman, Director