

**Before the Missouri
Public Service Commission**

**APPLICATION FOR APPROVAL OF
THE TRANSFER OF CONTROL OF
DSLNET COMMUNICATIONS, LLC TO
MDS ACQUISITION, INC.**

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) **Case No.** _____
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September 28, 2006

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CERTIFICATE OF SERVICE

AFFIDAVIT OF STEVEN B. CHISHOLM

AFFIDAVIT OF DAVID F. STRUWAS

EXHIBIT 1:	DSLnet Communications, LLC Business Authorization
EXHIBIT 2:	Purchase Agreement
EXHIBIT 3:	Pre- and Post-Transaction Ownership Charts
EXHIBIT 4:	Certified Resolutions of the Board of Directors of MDS Acquisition, Inc.

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Although the following are not making formal entries of appearance as counsel in this proceeding, please direct copies of all correspondence, pleadings, and orders in the proceeding to:

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II. DESCRIPTION OF THE APPLICANTS

A. DSLNET COMMUNICATIONS, LLC

DSLnet is a Delaware limited liability company with principal offices at 50 Barnes Park North, Suite 104, Wallingford, Connecticut 06492 and is duly authorized to do business in Missouri as a foreign limited liability company. (See Exhibit 1) DSLnet's

sole member and managing entity is DSLnet, Inc. (“Parent”), a Delaware corporation.² DSLnet is authorized to provide intrastate telecommunications services in forty-seven (47) states and the District of Columbia. DSLnet’s affiliate, DSLnet Communications VA, Inc., is authorized to provide intrastate telecommunications services in Virginia. DSLnet is also authorized by the Federal Communications Commission (“FCC”) to provide international and domestic intrastate telecommunications services as a non-dominant carrier.

In Missouri, DSLnet is authorized to provide nonswitched local exchange services and interexchange services pursuant to its certificate issued by the Commission June 8, 1999, in Case No. TA-99-395. DSLnet does not serve any residential customers in Missouri. None of DSLnet’s annual report or assessment fees in Missouri are overdue. Further, DSLnet is not aware of any pending action or final judgment or decision against it from any state or federal agency or court which involves customer service or rates.

Further information concerning DSLnet’s legal, technical, managerial and financial qualifications to provide service was submitted with its application for certification with the Commission as noted above and is, therefore, a matter of public record. DSLnet respectfully requests that the Commission take official notice of that information and incorporate it herein by reference.

B. MDS ACQUISITION, INC.

MDSAI is a privately held Delaware corporation with principal offices at 555 Anton Boulevard, Suite 200, Costa Mesa, California 92626. MDSAI is a wholly owned subsidiary of MegaPath Inc. (“MegaPath”) that has been formed for the purpose of acquiring Parent and its subsidiaries. MDSAI and MegaPath do not, and will not after

² Parent holds no regulatory licenses from this or any other regulatory authority.

consummation of the transactions described herein, transact business in the state of Missouri in a manner that would require MDSAI or MegaPath to register to do business in Missouri as a foreign corporation pursuant to RSMo. 351.572. Neither MDSAI nor MegaPath has any pending action or final unsatisfied judgment or decision against it from any state or federal agency or court which involves customer service or rates.

Neither MegaPath nor MDSAI is, or will become by virtue of the transactions described herein, subject to the jurisdiction of the Commission as telecommunications companies or otherwise. 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. MDSAI is a holding company formed for the purpose of acquiring and holding the voting securities of Parent and its subsidiaries, including DSLnet. Neither MegaPath nor MDSAI currently offers any regulated telecommunications services; therefore, neither company holds any telecommunications authorizations from the FCC or any state regulatory authority. As a result of the transactions described herein, MegaPath (indirectly) and MDSAI (directly) will become the beneficial owners of all of the voting securities of DSLnet, but neither MegaPath nor MDSAI will provide telecommunications services.

MDSAI and MegaPath have the technical, managerial, and financial qualifications to acquire control of DSLnet. MegaPath is a leading IP communications company, providing managed IP services, including broadband access services, Internet mobility services, and security services. MDSAI and MegaPath are operated by a highly

qualified management team, all of whom have extensive backgrounds in telecommunications and information services.

III. DESCRIPTION OF THE TRANSACTIONS

Pursuant to the Purchase Agreement, dated as of August 22, 2006, by and among Parent, MDSAI and MegaPath, on August 28, 2006, MDSAI purchased certain convertible promissory notes of Parent (the “Convertible Notes”) which, by their terms, will allow MDSAI, subject to the receipt of requisite regulatory and shareholder approvals, to acquire control of DSLnet through the conversion of the Convertible Notes into common stock of Parent.³ Following these conversions, MegaPath intends to merge Parent with and into MDSAI, with MDSAI surviving. A copy of the Purchase Agreement is attached to this Application as Exhibit 2. For the Commission’s convenience, charts of the pre- and post-transaction ownership structure for DSLnet are provided as Exhibit 3. A certified copy of the resolutions of the board of directors of MDSAI authorizing MDSAI to enter into the Purchase Agreement and to consummate the transactions contemplated therein is attached hereto as Exhibit 4.

Specifically, upon conversion of the Convertible Notes into common stock of Parent (which may only be converted after obtaining requisite regulatory and shareholder approvals), MDSAI will hold approximately 92.4% of the aggregate voting power in Parent. At that time, or as soon as practicable thereafter, MegaPath intends to merge

³ In connection with the above-referenced transaction, Parent also has issued a non-convertible note to MDSAI. The issuance of the Convertible Notes and the non-convertible note was completed solely at the Parent company level and did not involve any issuance of securities, encumbrance of assets, pledge of the equity interest of, or guarantee by DSLnet. As a result, Applicants understand that no approval was required for the financing transactions except as may be required for the subsequent transfer of control resulting from the conversion of the debt into common stock that will give MDSAI voting control over DSLnet.

Parent with and into MDSAI with (1) MDSAI surviving and (2) stockholders of Parent other than MDSAI receiving a cash payment for their shares of Parent's stock. As a result of these conversions and the merger, MDSAI will have direct control of DSLnet and DSLnet will become a wholly owned indirect subsidiary of MegaPath.

Applicants emphasize that the transfer of control described herein (namely, the conversion of the Convertible Notes into a controlling voting equity interest in Parent and the subsequent merger of Parent with and into MDSAI) will not involve a change in the name under which DSLnet currently operates nor a change in the manner in which DSLnet currently offers service in Missouri. Immediately following the transfer of control, DSLnet will continue to offer the services it currently offers with no change in the rates or terms and conditions of service. The transfer of control of DSLnet, therefore, will be seamless and transparent to consumers in Missouri. Should Parent or its successor decide to change DSLnet's name in the future, it will make appropriate notices and filings to advise its customers and the Commission.

IV. THE TRANSACTIONS ARE IN THE PUBLIC INTEREST

Applicants submit that the transactions described herein will serve the public interest:

A. THE TRANSACTIONS WILL PROVIDE PUBLIC INTEREST BENEFITS

The transactions are being undertaken to provide critical financial and corporate resources to DSLnet that will allow it to continue to provide high quality services to its customers. In addition to the fact that it is anticipated that substantially all current DSLnet and Parent operational, technical and managerial personnel will remain with the companies or their successors following the conversion of the Convertible Notes and the closing of the merger, it is anticipated that a commercial relationship by and among the

Applicants will allow DSLnet to have access to MegaPath's substantial technical and management expertise and complementary suite of services. These benefits are expected to strengthen the companies' ability to expand DSLnet's offerings and provide more advanced services to a broader customer base in Missouri. The Applicants expect that the transactions will enable the companies to strengthen their competitive positions in Missouri to the benefit of consumers.

Further, the transactions will be conducted in a manner that will be transparent to customers. Following consummation of the proposed transactions, DSLnet will continue to provide high-quality communications services, and no interruption of service or any change in rates, terms or conditions of service to DSLnet's customers will result from these transactions.

The public interest will also be served by expeditious consideration and approval of the transactions. For various important business and financial reasons, Applicants require that the transactions be closed as quickly as possible. Delay in the regulatory approval process would prevent the Applicants from realizing the economic and operational benefits expected from the transactions or delivering expanded services as quickly as they otherwise would. Accordingly, Applicants request that the Commission promptly commence its examination of the proposed transactions so that it can be in a position to approve the transactions as soon as possible.

B. EFFECT ON CUSTOMERS AND OPERATIONS

The transactions will not have any negative effect on Missouri consumers, to whom it will be essentially transparent. Indeed, DSLnet does not have any intrastate customers in Missouri. After consummation of the transactions, DSLnet will continue to offer the same services at the same rates, terms and conditions as at present. No tariff

changes are anticipated to result from the transactions. The operations of DSLnet will continue to be supervised by substantially the same management, technical and customer service supervisors as at present. All services will continue to be provided by DSLnet without interruption; the transactions will not result in discontinuance of the service of any customer in Missouri.

**C. DSLNET’S EXISTING MANAGERIAL, TECHNICAL AND FINANCIAL
RESOURCES WILL BE AUGMENTED AFTER THE TRANSACTIONS**

The proposed transactions will also have no negative impact on the provision of safe, adequate and proper service to Missouri consumers. To the contrary, the proposed transfer of control and related transactions are expected to provide DSLnet with access to additional capital that will enable it not only to ensure that DSLnet will continue to provide quality service on an uninterrupted basis, but to improve the quality of those services going forward.

Additionally, the expertise of MegaPath’s management, marketing and customer service personnel will be available to improve DSLnet’s business services after the transactions are completed. This will enable DSLnet to provide better service and to become a stronger competitor in the Missouri marketplace. The combination of MegaPath’s expertise and resources with DSLnet’s existing resources guarantees that after the transactions DSLnet will have augmented managerial, technical and financial resources that will allow it to provide improved and advanced service in Missouri.

D. IMPACT ON TAX REVENUES

The Applicants do not anticipate that the proposed transactions will have any impact on the tax revenues of the Missouri taxing jurisdictions within which DSLnet provides service.

CONCLUSION

The Commission should find that the proposed transactions are in accordance with law and will serve the public interest in promoting competition among telecommunications carriers in Missouri. Applicants therefore request that the Commission approve the transfer of control of DSLnet expeditiously to permit the Applicants to complete the transactions as soon as possible.

Assuming approval is granted, Applicants will notify the Commission in writing of the completion of the transactions and the associated transfer of control.

Respectfully submitted,



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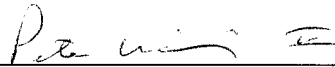
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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by electronic submission or U.S. Mail this 28th day of September, 2006 to:

Mr. Mike Dandino
Office of the Public Counsel
P.O. Box 2230
Jefferson City, Missouri 65102

Mr. Kevin Thompson, General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102



Peter Mirakian III

AFFIDAVIT OF STEVEN B. CHISHOLM

AFFIDAVIT

STATE OF CALIFORNIA

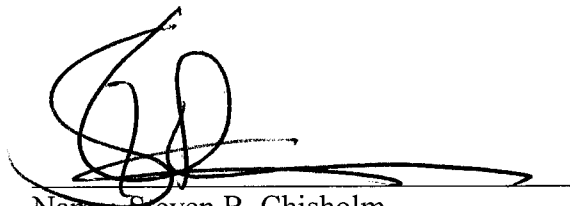
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ORANGE COUNTY

§


I, Steven B. Chisholm, state that I am Senior Vice President and Secretary of MDS Acquisition, Inc., an Applicant in the foregoing Application; that I am authorized to make this Affidavit on behalf of MDS Acquisition, Inc.; that the foregoing Application was prepared under my direction and supervision; that Peter Mirakian III, Esq. and the firm of Spencer Fane Britt & Browne LLP are authorized to execute, file, and prosecute the foregoing Application on behalf of MDS Acquisition, Inc.; and that the statements in the foregoing Application are true and correct to the best of my knowledge, information, and belief.



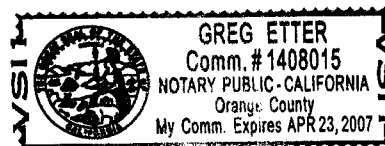
Name: Steven B. Chisholm

Title: Senior Vice President and Secretary
MDS Acquisition, Inc.

SWORN TO AND SUBSCRIBED before me on the 26TH day of September, 2006.


Notary Public:

My commission expires: APRIL 23, 2007



AFFIDAVIT OF DAVID F. STRUWAS

AFFIDAVIT

STATE OF CONNECTICUT

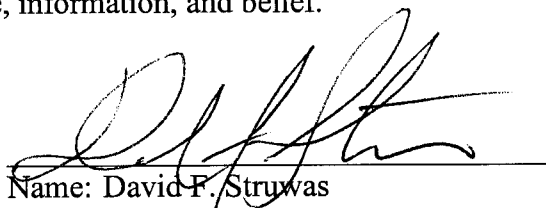
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COUNTY OF NEW HAVEN

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§

I, David F. Struwas, state that I am President of DSL.net, Inc. and DSLnet Communications, LLC, Applicants in the foregoing Application; that I am authorized to make this Affidavit on behalf of DSL.net, Inc. and DSLnet Communications, LLC; that the foregoing Application was prepared under my direction and supervision; that Peter Mirakian III, Esq. and the firm of Spencer Fane Britt & Browne LLP are authorized to execute, file, and prosecute the foregoing Application on behalf of DSL.net, Inc. and DSLnet Communications, LLC; and that the statements in the foregoing Application are true and correct to the best of my knowledge, information, and belief.



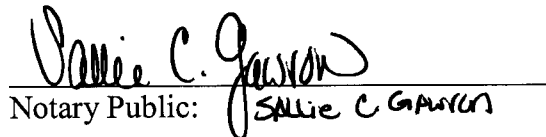
Name: David F. Struwas

Title: President

DSL.net, Inc.

DSLnet Communications, LLC

SWORN TO AND SUBSCRIBED before me on the 25th day of September, 2006.



Notary Public:

My commission expires: 3/21/2010

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- EXHIBIT 2: Purchase Agreement**
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