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December 4, 2009

## Via Overnight Delivery

Julie P. Orchard, Secretary  
Public Service Commission of Utah  
Heber M. Weils Building, 4th Floor  
160 East 300 South  
Salt Lake City, Utah 84111

**Re: Notification of MegaPath Inc., [DSL.net](#), Inc. and DSLnet Communications, LLC Regarding a *Pro Forma* Internal Change of Control of DSLnet Communications, LLC**

Dear Ms. Orchard:

MegaPath Inc. ("MegaPath") and its wholly owned subsidiaries [DSL.net](#), Inc ("DSL-Parent") and DSLnet Communications, LLC ("DSLnet") (MegaPath, DSL-Parent and DSLnet collectively, the "Parties"), through their undersigned counsel, notify the Public Service Commission of Utah ("Commission") of a *pro forma* internal change of direct control of DSLnet from DSL-Parent to MegaPath, DSL-Parent's current direct parent company. This change is the result of the merger of DSL-Parent, with and into MegaPath, with MegaPath surviving. The change of direct control is *pro forma* in nature because MegaPath ultimately controls DSLnet both before and after the merger. The Parties must complete the internal merger before December 31, 2009 in order to realize significant financial benefits.

It is the Parties' understanding that Commission approval is not required to complete the transaction described herein. Accordingly, the Parties submit this letter for informational purposes only to ensure the continuing accuracy of the Commission's records. In support, the Parties provide the following information:

### Description of the Parties

MegaPath is a Delaware corporation with its principal office located at 555 Anton Boulevard, Suite 200, Costa Mesa, CA 92626. MegaPath is the direct parent company of DSLnet-Parent and indirect 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, 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 FCC or any state regulatory authority.

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

202.373.6000  
202.373.6001  
[bingham.com](http://bingham.com)

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DSL-Parent is a non-active Delaware corporation with its principal offices located at 50 Barnes Park North, Suite 104, Wallingford, Connecticut 06492. DSL-Parent is a wholly owned direct subsidiary of MegaPath. Effective on or about December 24, 2009, DSL-Parent will merge with and into MegaPath, with MegaPath surviving. As a result of the merger, DSL-Parent's separate corporate existence will cease. DSL-Parent provided a variety of Internet Protocol and data services. DSL-Parent does not offer any regulated telecommunications services and therefore did not hold any telecommunications authorizations from the FCC or any state regulatory authority.

DSLnet is a Delaware limited liability company with principal offices located at 50 Barnes Park North, Suite 104, Wallingford, Connecticut 06492. DSLnet is currently a wholly owned, direct subsidiary of DSL-Parent and a wholly owned, indirect subsidiary of MegaPath. DSLnet primarily provides interstate highspeed access to the internet service. DSLnet, LLC 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 Utah, DSLnet is authorized to provide competitive local exchange service and interexchange service pursuant to a Certificate issued by the Commission in Docket No. 99-2275-01 on July 14, 1999. DSLnet is also authorized by the Federal Communications Commission ("FCC") to provide international and domestic interstate telecommunications services as a non-dominant carrier.

Further information concerning DSLnet's legal, technical, managerial and financial qualifications to provide service was submitted with its application for certification and other documents filed with the Commission 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.

#### **Contact Information**

Questions or inquiries concerning this Notification may be directed to:

Jean L. Kiddoo, Esq.  
Brett P. Ferenchak, Esq.  
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[kimberly.lacey@bingham.com](mailto:kimberly.lacey@bingham.com)

with copies to:

Steven B. Chisholm  
Senior Vice President  
MegaPath Inc.  
555 Anton Boulevard, Suite 200  
Costa Mesa, California 92626  
Fax: (714) 327-2041  
[Steve.Chisholm@megapath.com](mailto:Steve.Chisholm@megapath.com)

and:

Schula Hobbs  
Regulatory Affairs  
DSLnet Communications, LLC  
50 Barnes Park North, Suite # 104  
Wallingford, CT 06492  
Fax: (203) 284-6205  
[shobbs@megapath.com](mailto:shobbs@megapath.com)

#### **Description of the Transaction**

Pursuant to an Agreement and Plan of Merger between MegaPath and DSL-Parent, DSL-Parent will merge with and into MegaPath, with MegaPath surviving. As a result, DSLnet will become a wholly owned, direct subsidiary of MegaPath. Since MegaPath already indirectly wholly owns DSLnet, this change of direct control of DSLnet is *pro forma* in nature. The Parties therefore notify the Commission of the transfer of direct control of DSLnet from DSL-Parent to MegaPath resulting from this *pro forma* internal merger. For the Commission's convenience, pre- and post-transaction corporate organizational structure charts are provided as Exhibit A.

Following the *pro forma* internal merger, 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 Utah and DSLnet's rates will remain in effect. Thus, the proposed transaction will be seamless and transparent to Utah consumers. Further, there will be no change in DSLnet's management as a result of this change of control.

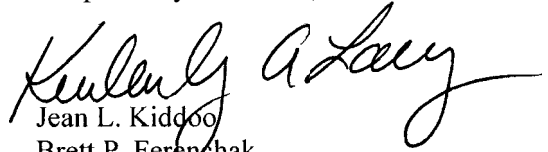
#### **Public Interest Considerations**

The Parties respectfully submit that the proposed transaction serves the public interest. In particular, the Parties submit that the proposed transaction will be transparent to Utah consumers. Immediately following the *pro forma* change of control, DSLnet will continue to offer service with no change in the rates or terms and conditions of service. Further, DSLnet will continue to provide service to its customers under the same name, and will continue to be led by an experienced management team. Therefore, the transfer of control of DSLnet will be seamless and transparent to consumers in Utah.

**Conclusion**

For the reasons stated above, the Parties respectfully submit that the public interest, convenience, and necessity will be served by the proposed transaction. An original and eight (8) copies of this letter are enclosed for filing. Also enclosed is a diskette containing PDF and Word copies of the filing. Please date-stamp the enclosed extra copy and return it in the envelope provided. Should you have any questions regarding this filing, please do not hesitate to contact us.

Respectfully submitted,



Jean L. Kiddoo  
Brett P. Ferencak  
Kimberly A. Lacey

Counsel for the Parties

**LIST OF EXHIBITS**

Exhibit A

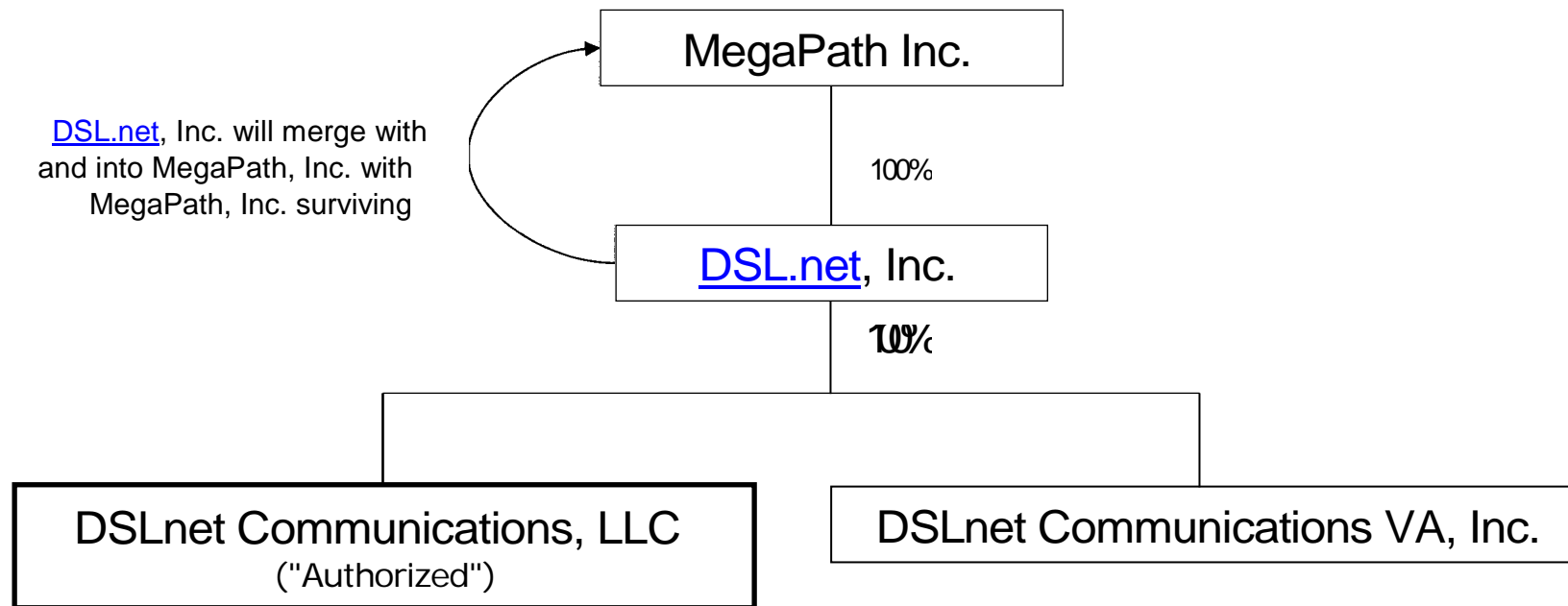
Pre- and Post-Transaction Corporate Organizational Structure

Verification

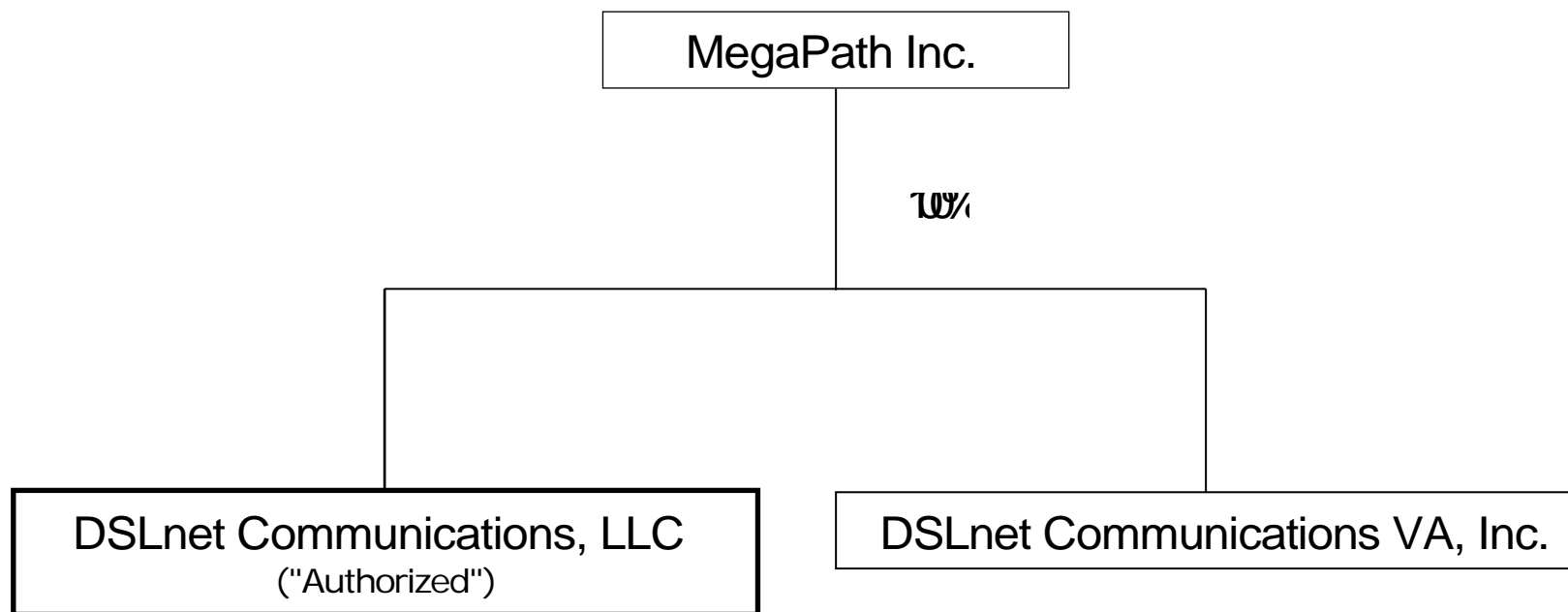
**EXHIBIT A**

Pre- and Post-Transaction Corporate Organizational Structure

Pre- Pro Forma Infra-Corporate Merger



Post- Pro Forma Infra-Corporate Merger



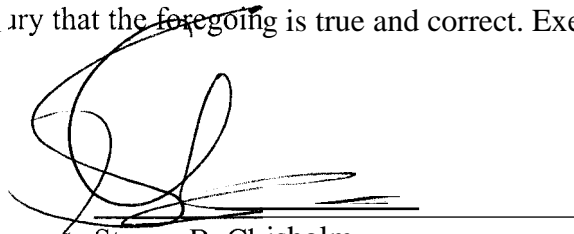


## **Verification**

## VERIFICATION

I, Steven B. Chisholm, state that I am the Senior Vice President, of MegaPath Inc., [DSL.net](#), Inc. and DSLnet Communications, LLC; that I am authorized to make this Verification on behalf of MegaPath Inc., [DSL.net](#), Inc. and DSLnet Communications, LLC; 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.

I declare under penalty of perjury that the foregoing is true and correct. Executed this day of November, 2009.

A handwritten signature in black ink, appearing to read 'S. Chisholm', is written over a horizontal line. The signature is stylized and somewhat cursive.

Steven B. Chisholm  
Senior Vice President  
MegaPath Inc., [DSL.net](#), Inc. and DSLnet  
Communications, LLC