

Jean L. Kiddoo, Esq.  
Russell M. Blau, Esq.  
Brett P. Ferenchak, Esq.  
Jeffrey R. Strenkowski, Esq.  
Bingham McCutchen LLP  
2020 K Street, N.W.  
Washington, DC 20006  
202-373-6000 (Tel)  
202-373-6001 (Fax)  
jean.kiddoo@bingham.com  
russell.blau@bingham.com  
brett.ferenchak@bingham.com  
jeffrey.strenkowski@bingham.com

Counsel for Applicants

---

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF UTAH**

---

Joint Application of

**Megapath Inc.,  
DSLnet Communications, LLC  
and  
CCGI Holding Corporation**

For Approval of an Indirect Change of Control  
of DSLnet Communications, LLC

JOINT APPLICATION

Docket No. \_\_\_\_\_

MegaPath Inc. (“MegaPath”), its wholly owned direct subsidiary DSLnet Communications, LLC (“DSLnet”), and CCGI Holding Corporation (“CCGI”) (MegaPath, DSLnet and CCGI collectively, “Applicants”), through their undersigned counsel and pursuant to Utah Code Ann. §§ 54-4-28 & 54-4-29 and the rules of the Public Service Commission of Utah (“Commission”), including R746-349-7, request approval or such authority as may be necessary or required to enable the parties to consummate a transaction between CCGI and MegaPath through which CCGI will acquire indirect control of DSLnet Communications, LLC, a wholly owned direct subsidiary of MegaPath Inc.

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

In support of their Application, the Applicants state as follows:

**I. DESCRIPTION OF THE APPLICANTS**

**A. MegaPath Inc. and DSLnet Communications, LLC**

MegaPath Inc. (“MegaPath”) is a Delaware corporation with its principal office located at 555 Anton Boulevard, Suite 200, Costa Mesa, CA 92626. Megapath is the parent company of DSLnet Communications, LLC. 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.

DSLnet Communications, LLC is a Delaware limited liability company with principal offices located at 50 Barnes Park North, Suite 104, Wallingford, Connecticut 06492. DSLnet provides highspeed access to the Internet 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 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.

**B. CCGI Holding Corporation**

CCGI Holding Corporation (“CCGI”) is a Delaware corporation with offices located at 360 North Crescent Drive, Beverly Hills, California 90210. CCGI is the parent company of Covad Communications Group, Inc. (“Covad”), a Delaware corporation that owns Covad Communications Company (“CCC”), a California corporation, and DIECA Communications, Inc. (“DIECA”), a Virginia corporation. Covad is a leading nationwide provider of integrated voice and data communications. Through its operating companies, 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. DIECA, Covad’s certificated subsidiary in Utah, is authorized to provide local intraexchange and interexchange services in the state. Covad is also authorized by the Federal Communications

Commission (“FCC”) to provide international and domestic interstate telecommunications services as a non-dominant carrier.

CCGI is ultimately controlled by Platinum Equity LLC (“Platinum”). Neither CCGI nor Platinum offer any regulated telecommunications services. Platinum is a privately held Delaware limited liability company with offices located at 360 North Crescent Drive, Beverly Hills, California 90210. Platinum is 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.

Platinum indirectly controls several other telecommunications carriers: Matrix Telecom, Inc. (“Matrix”); and Americatel Corporation (“Americatel”). Matrix provides integrated communications services including local, 1+ long distance and toll-free voice services plus a wide range of data services, such as dedicated Internet access, frame relay and point-to-point transmission services, chiefly to enterprise customers. Americatel provides international and domestic facilities-based and resold long distance services, including “dial around” casual calling (i.e., 1010XXX) service and presubscribed 1+ calling services, in each of the 48 contiguous states, with a particular emphasis on serving the needs of United States customers with connections to Latin America and the Caribbean. Through the ownership of these companies, Platinum has demonstrated its qualifications to obtain control of DSLnet.

## **II. CONTACT INFORMATION**

Questions or inquiries concerning this Application may be directed to:

For Applicants:

Jean L. Kiddoo, Esq.  
Russell M. Blau, Esq.  
Brett P. Ferenchak, Esq.  
Jeffrey R. Strenkowski, Esq.  
Bingham McCutchen LLP  
2020 K Street, N.W.  
Washington, DC 20006  
202-373-6000 (Tel)  
202-373-6001 (Fax)  
jean.kiddoo@bingham.com  
russell.blau@bingham.com  
brett.ferenchak@bingham.com  
jeffrey.strenkowski@bingham.com

For CCGI:

Eva Kalawski, Esq.  
Executive Vice President, General  
Counsel and Secretary  
Platinum Equity, LLC  
360 North Crescent Drive, South  
Building  
Beverly Hills, CA 90210  
310-712-1850 (Tel)  
310-712-1863 (Fax)  
ekalawski@platinumequity.com

and:

Jason Wakefield  
Vice President, Governmental and  
External Affairs  
Covad Communications Company  
2220 O'Toole Avenue  
San Jose, CA 95131  
408-952-7440 (Tel)  
408-952-7539 (Fax)  
jason.wakefield@covad.com

For MegaPath and DSLnet:

Steven B. Chisholm, Esq.  
MegaPath Inc.  
555 Anton Boulevard, Suite 200  
Costa Mesa, California 92626  
714-327-2041 (Fax)  
Steve.Chisholm@megapath.com

and:

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

### **III. DESCRIPTION OF THE TRANSACTION**

CCGI and MegaPath entered into an Agreement and Plan of Merger dated as of March 26, 2010 (the “Agreement”). Pursuant the Agreement, a subsidiary of CCGI created specifically for this transaction, TMAC Merger Corporation, will merge with Megapath, with MegaPath surviving. As a result, MegaPath will become a wholly owned, direct subsidiary of CCGI and CCGI will acquire indirect control of DSLnet. Applicants therefore request authority to transfer indirect control of DSLnet to CCGI, and ultimately to Platinum. For the Commission’s convenience, pre- and post-transaction corporate organizational structure charts are provided as Exhibit A.

Following the consummation of the proposed transaction, 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 tariffs will remain in effect. Thus, the proposed transaction will be seamless and virtually transparent to Utah consumers. Further, DSLnet’s management will remain with the company following completion of the transaction and be supplemented by the management team of CCGI and Covad.

### **IV. INFORMATION REQUIRED BY R746-394-7**

Pursuant to R746-394-7, Applicants provide the following information:

**a. identification that it is not an ILEC,**

Applicants confirm that none of the Applicants or their affiliates are an ILEC.

**b. identification that it seeks approval of the application pursuant to this rule,**

Applicants confirm that they seek approval of the application pursuant to the information adjudication process set forth in this rule.

- c. a reasonably detailed description of the transaction for which approval is sought,**

A detailed description of the transaction is provided in Section III, above.

- d. a copy of any filings required by the Federal Communications Commission or any other state utility regulatory agency in connection with the transaction, and**

Applicants will file a combined Domestic and International Section 214 Application with the FCC. A copy of that Application will be filed with this Commission after it is submitted. In connection with this transaction, Applicants also expect to request approval from the utility regulatory agencies (“PUCs”) in the following states: California, Delaware, Georgia, Hawaii, Indiana, Louisiana, Maryland, Minnesota, Mississippi, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, Virginia and West Virginia. Due to the voluminous nature of the state filing, most of which contain the same information, Applicants have only attached as Exhibit B a copy of the New York filing requesting approval. Applicants are also required to provide notice to the PUCs in the following jurisdictions: Alabama, Colorado, Connecticut, the District of Columbia, Idaho, Kentucky, Maine, Massachusetts, Montana, Nevada, New Hampshire, New Mexico, North Carolina, South Dakota Vermont, Washington, and Wisconsin. Applicants are providing an informational notice to the PUCs in the following states: Arizona, Arkansas, Florida, Illinois, Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota, Oklahoma, Oregon, South Carolina, and Wyoming. Due to the voluminous and repetitive nature of the notices to be sent to the PUC, Applicants have not included copies of the notice filings. Applicants will provide any additional filings at the request of the Commission.

- e. **copies of any notices, correspondence or orders from any federal agency or any other state utility regulatory agency reviewing the transaction which is the subject of the application.**

Applicants have not yet received any notices, correspondence or orders from any federal agency or PUC reviewing the transaction. To the extent requested by the Commission, Applicants will forward any orders or similar actions approving or denying approval of the transaction.

**V. PUBLIC INTEREST CONSIDERATIONS**

Applicants respectfully submit that the proposed transaction serves the public interest. In particular, Applicants submit that: (1) the proposed transaction will increase competition in the Utah telecommunications market by reinforcing the status of DSLnet as a viable competitor and (2) the proposed transaction will be virtually transparent to Utah consumers.

Immediately following the consummation of the proposed transaction, 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 virtually transparent to consumers in Utah.



**VI. CONCLUSION**

For the reasons stated above, Applicants respectfully submit that the public interest will be furthered by a grant of this Application. Accordingly, Applicants respectfully request expedited treatment pursuant to R746-349-7 to permit Applicants to complete the proposed transaction as soon as possible.

Respectfully submitted,

By: \_\_\_\_\_  
Jean L. Kiddoo  
Russell M. Blau  
Brett P. Ferenchak  
Jeffrey R. Strenkowski  
BINGHAM MCCUTCHEN LLP  
2020 K Street, NW  
Washington, D.C. 20006  
Tel: (202) 373-6000  
Fax: (202) 373-6001  
jean.kiddoo@bingham.com  
russell.blau@bingham.com  
brett.ferenchak@bingham.com  
jeffrey.strenkowski@bingham.com

COUNSEL FOR APPLICANTS

Dated: April 30, 2010

**LIST OF EXHIBITS**

Exhibit A	Pre- and Post-Transaction Corporate Organizational Structure
Exhibit B	Copy of New York PUC Filing
Verifications	

**EXHIBIT A**

**Pre- and Post-Transaction Corporate Organizational Structure**

**EXHIBIT B**

**Copy of New York PUC Filing**

## **Verifications**