

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Joint Application of )  
DSLnet Communications, LLC, and DIECA ) DOCKET NO. 11-2275-01  
Communications, Inc. for Authority to )  
Complete Certain *Pro Forma* Intra-Corporate )  
Transactions )  
)  
In the Matter of the Joint Application of ) DOCKET NO. 11-2277-01  
DSLnet Communications, LLC, and DIECA )  
Communications, Inc. for Authority to )  
Complete Certain *Pro Forma* Intra-Corporate )  
Transactions ) REPORT AND ORDER  
)  
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ISSUED: December 5, 2011

By The Commission:

This matter is before the Commission on the Joint Application of DSLnet Communications, LLC (“DSLnet”) and DIECA Communications, Inc. (“DIECA”), (collectively, “Applicants”) for Commission approval to combine, merge, or consolidate DSLnet into DIECA. Applicants filed a joint application on September 22, 2011 and requested expedited review and action. The application contains all the information required by Utah Admin. Code R746-349-7(A)(1).

On October 19, 2011, the Division of Public Utilities (the “Division”) submitted a recommendation to approve the application. Pursuant to Utah Admin. Code 746-349-7(A)(2), the Commission issued a public notice of the application on October 26, 2011, allowing for the submission of comments within 14 days by an interested party regarding the application. No comments or objections were received.

Pursuant to Utah Admin Code R746-349-7(A)(2), the administrative law judge for the Commission held a hearing on November 22, 2011. No one appeared at the hearing

objecting to the application. Jeffrey Strenkowski appeared telephonically on behalf of the Applicants, and was accompanied by Katherine Mudge. Dahnelle Burton-Lee, Assistant Attorney General, appeared for the Division, and was accompanied by Ron Slusher, utility technical consultant for the Division.

The ALJ took administrative notice of both the application and recommendation filed by the Division recommending approval. No reference was made during the hearing of Applicants' expedited request; however, the application requests expedited review to allow the Applicants to consummate their transaction in the fourth quarter 2011.

Under Utah Admin. Code R746-349-7, "[i]f no objection to the proposed transaction is submitted in any filed comments or reply comments, the Commission will presume that approval of the transaction is in the public interest and use the information contained in the application and accompanying documents as evidence to support a Commission order." Utah Admin. Code R746-349-7(A)(3). Because there is no objection to the granting of the application, the Commission presumes the application for approval of transfer of indirect control is in the public interest. Moreover, the Division's memorandum provides additional support for approval of the application.

#### ORDER

For the foregoing reasons, the Commission approves the application to combine, merge, or consolidate DSLnet into DIECA.

DATED at Salt Lake City, Utah, this 5<sup>th</sup> day of December, 2011.

/s/ Melanie A. Reif  
Administrative Law Judge

Approved and confirmed this 5<sup>th</sup> day of December, 2011, as the Report and Order issued by the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
D#212015

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5<sup>th</sup> day of December, 2011, a true and correct copy of the foregoing REPORT AND ORDER, was delivered upon the following as indicated below:

By Electronic-Mail:

Bingham McCutchen LLP  
Attention: Russell M. Blau ([russell.blau@bingham.com](mailto:russell.blau@bingham.com))  
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Administrative Assistant