

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: October 10, 2006	2. BUREAU AGENDA NO. OCT-2006-FUS-1371*
3. BUREAU: Fixed Utility Services	
4. SECTION(S): Finance/Tariff	5. PUBLIC MEETING DATE:
6. APPROVED BY: Director: R. Rosenthal 3-5242 <i>RX</i> Mgr/Spvr: R. Wilson <i>3W</i> 3-6162 Legal Review: <i>AA</i>	October 19, 2006 DOCUMENT FOLDER
7. PERSONS IN CHARGE: Searfoorce 3-6159 Kirkwood 5-4364	9. EFFECTIVE DATE OF FILING: N/A
8. DOCKET NO.: A-310824 F0007	DOCKETED DEC 12 2006

10. (a) **CAPTION** (abbreviate if more than 4 lines)
 (b) **Short summary of history & facts, documents & briefs**
 (c) **Recommendation**

- (a) Joint Application of DSLnet Communications, LLC (DSLnet) and MDS Acquisition, Inc. (MDS) for approval of a transfer of control of DSLnet to MDS.
- (b) On September 7, 2006, the subject joint application was filed. No protests were filed, and no hearings were held. DSLnet will continue as a Pennsylvania utility with no change in name and no change in the rates, terms, or conditions of service provided to Pennsylvania customers.
- (c) The Bureau of Fixed Utility Services recommends that the Commission adopt the proposed Order.

11. **MOTION BY:** Commissioner Chm. Holland

SECONDED: Commissioner Cawley

Commissioner Pizzingrilli - Yes
 Commissioner Fitzpatrick - Yes
 Commissioner

CONTENT OF MOTION: Staff recommendation adopted.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

October 23, 2006

A-310824 F0007

E ASHTON JOHNSTON
JENNIFER L PHURROUGH
LAMPERT AND O'CONNOR PC
1776 K STREET NW
SUITE 700
WASHINGTON DC 20006

DOCUMENT
FOLDER

DOCKETED
SEP 22 2007

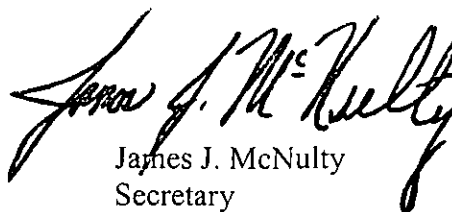
Joint Application of DSLnet Communications, LLC
(DSLnet) and MDS Acquisition, Inc. (MDS) for
approval of a transfer of control of DSLnet to MDS.

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on October 19, 2006 adopted
an Order in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,



James J. McNulty
Secretary

encls
cert. mail
MH

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**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held October 19, 2006

Commissioners Present:

Wendell F. Holland, Chairman
James H. Cawley, Vice Chairman
Kim Pizzingrilli
Terrance J. Fitzpatrick

DOCKETED
SEP 22 2007

Joint Application of DSLnet Communications, LLC
(DSLnet) and MDS Acquisition, Inc. (MDS) for
approval of a transfer of control of DSLnet to MDS.

Docket No.
A-310824 F0007

ORDER

**DOCUMENT
FOLDER**

BY THE COMMISSION:

On September 7, 2006, DSLnet Communications, LLC (DSLnet) and MDS Acquisition, Inc. (MDS) filed the above-captioned joint application pursuant to Chapter 11 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§1101-1103, and our Policy Statement on Utility Stock Transfers, 52 Pa. Code § 69.901. Copies of the joint application were served upon the Office of Consumer Advocate and the Office of Small Business Advocate. Further notice was not required, no protest period was established, and no protests or comments were received.

DSLnet, a Delaware limited liability company, is authorized to provide intrastate telecommunications in 47 states and the District of Columbia. DSLnet is certified in Pennsylvania as an interexchange toll Reseller (IXC), resold and

facilities-based competitive local exchange carrier, facilities-based IXC, and competitive access provider at Docket Numbers A1310824, A-310824 F0002, A-310824 F0003 and A-310824 F0004, respectively. DSLnet's parent company is DSL.net, Inc. (DSLnet Parent), a Delaware corporation based in Connecticut. MDS is a privately held Delaware corporation based in California formed for the purpose of acquiring DSLnet Parent. MDS is a wholly-owned subsidiary of MegaPath, Inc. (MegaPath), which is the leading North American provider of managed Internet Protocol (IP) services including broadband connectivity, virtual private networks (VPN) and voice over Internet protocol (VoIP). MDS and MegaPath do not offer any regulated telecommunications services and do not hold any authorizations from any state. MegaPath is a privately held company backed by several private equity and venture capital firms.

The proposed transfer of control will be executed via a conversion by MDS of convertible promissory notes of DSLnet Parent into common stock, which will result in MDS holding approximately 92.4% of voting power in DSLnet Parent. After the conversion, DSLnet Parent will be merged with and into MDS with MDS surviving. DSLnet will then be a wholly-owned direct subsidiary of MDS and an indirect subsidiary of MegaPath. On August 22, 2006, DSLnet Parent, MegaPath and MDS entered into a purchase agreement whereby MDS would purchase five notes from DSLnet Parent: four convertible notes and one non-convertible note. On August 28, 2006, MDS purchased the notes and the conversion is intended to occur on or shortly after receiving all necessary regulatory and shareholder approvals. The proceeds from the notes will be used for retirement of DSLnet Parent's current outstanding debt, payment of transaction fees and working capital needs.

The applicants aver that the proposed transaction will be transparent to Pennsylvania customers and will not affect the operations, rates or conditions of service provided. DSLnet will continue under the same name, and MDS avers that substantially

all key DSLnet operational, management and technical personnel will remain. DSLnet currently has no Pennsylvania employees or customers. The applicants aver that the proposed change in control will strengthen the competitive position of DSLnet through MegaPath's access to increased capital, technical and management expertise and suite of IP services. The applicants also aver that DSLnet will utilize the new resources to improve DSLnet's business services and make DSLnet a stronger competitor in the Pennsylvania marketplace. DSLnet is current with all annual and Security Planning and Readiness report filing requirements, and there are no outstanding Commission fines or assessments.

Based upon the record and the averments of the applicants, we conclude that there is substantial evidence of affirmative public benefits sufficient to warrant approval of the proposed transaction under *City of York v. Pennsylvania Public Utility Commission*, 295 A.2d 825 (Pa. 1972). Having reviewed the instant joint application, we have determined that the proposed transfer of control is necessary or proper for the service, accommodation, convenience or safety of the public, and that the joint application should be approved; **THEREFORE**,

IT IS ORDERED:

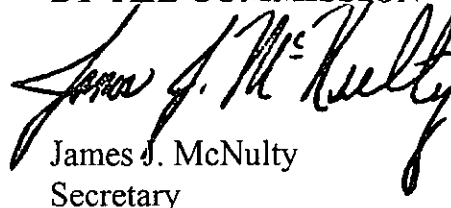
1. That the joint application for the transfer of control of DSLnet Communications, LLC to MDS Acquisition, Inc. is hereby approved and a certificate of public convenience be issued evidencing our approval.

2. That within 60 days of the consummation of the transaction approved in Ordering Paragraph No. 1, above, DSLnet Communications, LLC file with this Commission notice of such consummation.

3. That if the applicants determine that the proposed transaction will not take place, DSLnet Communications, LLC promptly so notify this Commission.

4. That upon filing of the notice mentioned in Ordering Paragraph No. 2 or 3, above, the case be marked closed.

BY THE COMMISSION



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: October 19, 2006

ORDER ENTERED:

OCT 23 2006