

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6587

Petition of DSLnet Communications, LLC, for     )  
Approval of an Indirect Transfer of Control     )

Order entered: 12/19/2001

**I. INTRODUCTION**

On November 2, 2001, DSLnet Communications, LLC ("DSLnet" or "Petitioner") filed a Telecommunications Merger and or Acquisition Request for Approval Form ("Petition") with the Vermont Public Service Board ("Board") seeking approval under 30 V.S.A. § 107 of an indirect transfer of control resulting from a transfer of control of its parent corporation.

On December 4, 2001, the Vermont Department of Public Service ("Department") submitted a letter to the Board indicating that the Department had no objection to the transfer of control. The Department noted that the transaction would be transparent to Vermont consumers and would not involve a change in the management or services of DSLnet. Further, the Department also had no objection to the issuance of an order without hearing or further investigation, as provided under 30 V.S.A. § 107.

**II. FINDINGS OF FACT**

Based upon the petition and accompanying documents, the Board makes the following findings of fact.

1. DSLnet received a Certificate of Public Good ("CPG") to provide telecommunications services in Vermont on September 1, 1999, in Docket No. 6234. DSLnet is a wholly-owned subsidiary of DSLnet, Inc. Application at 1-2.

2. VantagePoint Venture Partners ("VPVP") is a private investment firm which holds no regulatory authority from this or any other regulatory commission. Petition at 1-2.

3. Under the proposed transaction, VPVP plans to acquire additional shares of DSLnet, Inc. The stock purchase will ultimately result in VPVP acquiring a 71.1% ownership interest in DSLnet's parent corporation, thus resulting in an indirect transfer of control of DSLnet to VPVP. Following the transaction, DSLnet will continue to operate in all respects as it currently operates,

pursuant to existing operating authority. Neither the name of nor the terms and conditions of service offered by DSLnet will be affected by the transaction. Petition at 2.

4. Completion of the proposed transaction will promote the public interest in that it will promote competition among telecommunications providers by providing DSLnet with access to management resources more focused upon the telecommunications market, thus strengthening its competitive position and enabling it to pursue marketing and business plans more effectively. Petition at 4-5.

### **III. CONCLUSIONS OF LAW AND DISCUSSION**

The proposed transaction requires Board approval under 30 V.S.A. § 107, which applies to a direct or indirect acquisition of a controlling interest in a Vermont utility.<sup>1</sup> Under Section 107, a "controlling interest" is defined as 10% or more of the outstanding voting securities of a company. Section 107 requires a finding that the transfer of control will promote the public good. This standard is met in this case. The proposed transaction will promote the public good, because the indirect transfer of control of DSLnet will allow it access to additional capital resources, thus allowing it to operate in a more flexible manner. In the competitive arena of telecommunications, the overall effect of this transfer may promote more customer choice in terms of services, with stronger competitors in the Vermont telecommunications market. It should also be noted that the transfer of control will not have an adverse impact on Vermont consumers as DSLnet will continue to operate according to its present authority.

For all of the above reasons, the proposed indirect transfer of control of DSLnet should be approved.

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1. Approval under 30 V.S.A. §§ 231 and 311 is not required because the current holder of the Certificate of Public Good will continue to be the entities providing telecommunications service in Vermont.

**IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The indirect transfer of control of DSLnet Communications, Inc. to VantagePoint Venture Partners, is approved.
2. Petitioners shall file a letter notifying the Board of the completion of the transaction within one week of such completion.

DATED at Montpelier, Vermont, this 19<sup>th</sup> day of December, 2001.

s/Michael H. Dworkin	)	
	)	PUBLIC SERVICE
	)	
s/David C. Coen	)	BOARD
	)	
	)	OF VERMONT
s/John D. Burke	)	

OFFICE OF THE CLERK

Filed: December 19, 2001

Attest: s/Susan M. Hudson

Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us).*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*