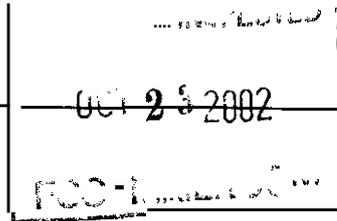




# PUBLIC NOTICE

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DA 02-2791

## DOMESTIC SECTION 214 APPLICATION FILED FOR CONSENT TO ACQUISITION OF ASSETS OF NETWORK ACCESS SOLUTIONS BY DSLnet

### STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 02-329

On October 17, 2002, Network Access Solutions Corp., Debtor-in-Possession (NAS Corp.) and Network Access Solutions, LLC (NAS LLC) (together, NAS); and DSLnet Communications, LLC, DSL.net, Inc., and DSLnet Communications VA, Inc. (together, DSLnet; and together with NAS, Applicants) filed an application pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and sections 1.763, 63.03 and 63.04 of the Commission's rules, 47 C.F.R. §§ 1.763, 63.03, 63.04, for consent to the acquisition of certain assets and customers of NAS by DSLnet.

Applicants assert that this application is subject to streamlined processing under section 63.03(b)(2)(i) of the Commission's rules because the proposed transaction would not result in DSLnet having a market share in the interstate, interexchange market of 10 percent or more, the proposed transaction would not result in DSLnet providing any competitive telephone exchange services or exchange access services in any geographic areas not also served by a dominant local exchange carrier that is not a party to the transaction, and none of the applicants is a dominant carrier with respect to any service.<sup>1</sup>

NAS Corp. is a Delaware corporation with principal offices at Three Dulles Tech Center, 13650 Dulles Technology Drive, Hemdon, Virginia 20171. NAS LLC is a Virginia limited liability company with principal offices also in Hemdon. NAS Corp. and NAS LLC provide high-speed data transmission service, principally using DSL technology, with NAS LLC operating only in Virginia.

<sup>1</sup> See 47 C.F.R. § 63.03(b)(2)(i).

DSLnet Communications, LLC is a Delaware limited liability company. DSLnet Communications VA, Inc. is a Virginia corporation. Both have principal offices located at 545 Long Wharf Drive, Fifth floor, New Haven, Connecticut 06511 and are wholly owned by DSL.net, Inc., a Delaware corporation with its principal offices located at the same address. DSLnet provides high-speed data transmission service, principally using DSL technology. DSLnet is authorized to provide facilities-based and/or resold local exchange and interexchange telecommunications services in 50 states and local exchange service in the District of Columbia pursuant to certification, registration or tariff requirements, or on a deregulated basis.

On June 4, 2002, Network Access Solutions Corp., along with certain of its affiliates, filed for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330, with the United States Bankruptcy Court for the District of Delaware (U.S. Bankruptcy Court). Pursuant to section 63.03(d)(2) of the Commission's rules, 47 C.F.R. § 63.03(d)(2), NAS has previously notified the Commission of the transfer of control of NAS to NAS as a Debtor-in-Possession.

As part of the NAS reorganization, on October 16, 2002, NAS, together with certain of its wholly-owned subsidiaries (collectively, Sellers), and DSLnet executed an asset purchase agreement (the Agreement), whereby, among other transactions in connection with the Agreement, Sellers will sell to DSLnet certain NAS assets and data customer accounts. The assets being transferred include network equipment supporting the provision of high-speed data service and certain data services accounts. None of the customers involved in the proposed transaction receives circuit-switched local exchange, intraLATA toll or interLATA toll services from NAS. The NAS assets and customer base to be acquired are located in Connecticut, the District of Columbia, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Virginia, jurisdictions in which DSLnet already provides data telecommunications services.

Applicants request expedited consideration of their application in order to allow NAS to transfer the assets immediately upon the approval of the sale by the United States Bankruptcy Court. Applicants state that the proposed transaction is an important component of the NAS reorganization, and that securing the necessary regulatory authority on an expedited basis is key to stabilizing the assets to be sold, thereby reducing the risk of service disruption for NAS' customers.

Applicants assert that the proposed transaction is in the public interest because it will promote the continuation of service to NAS' current data customers and will allow DSLnet to expand its operations in a cost-efficient manner, thereby enhancing its competitive position and ability to provide high-quality data services. Applicants state that the integration of the NAS assets into DSLnet's network will proceed smoothly due to the companies' similar network configuration and service offering, and that the NAS customers acquired by DSLnet will be served by a strong data service provider with a well qualified technical and operational management team. DSLnet states that it can operate the purchased assets in an efficient and economical manner and bring a stronger financial basis to these operations.

## **GENERAL INFORMATION**

The transfer of control application identified herein has been found, upon initial review, to be acceptable for filing **as** a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments within 14 days** and **reply comments within 21 days** of this notice.<sup>2</sup> Unless otherwise notified by the Commission, an applicant is permitted to transfer control of the domestic lines or authorization to operate on the 31<sup>st</sup> day after the date of this notice. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

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<sup>2</sup> See 47 C.F.R. § 63.03(a).

**In addition, one copy of each pleading must be sent to each of the following:**

- (1) the Commission's duplicating contractor, Qualex International, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: [qualexint@aol.com](mailto:qualexint@aol.com); facsimile: (202) 863-2898; phone: (202) 863-2893.
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: [twilson@fcc.gov](mailto:twilson@fcc.gov), and
- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 6-A461, Washington, D.C. 20554; e-mail: [dcjohnso@fcc.gov](mailto:dcjohnso@fcc.gov); and
- (4) Imani Ellis-Cheek, Telecommunications Division, International Bureau, 445 12<sup>th</sup> Street, S.W., Room 6-A739, Washington, D.C. 20554; email: [ielis@fcc.gov](mailto:ielis@fcc.gov); and
- (5) Nandan Joshi, Office of General Counsel, 445 12<sup>th</sup> Street, S.W., Room 8-A820, Washington, D.C. 20554; e-mail: [njoshi@fcc.gov](mailto:njoshi@fcc.gov).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals 11, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals 11, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

For further information, please contact Tracey Wilson, at (202) 418-1394 or Bill Dever, Competition Policy Division, Wireline Competition Bureau at (202) 418-1578.

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