

DALEEN TECHNOLOGIES INC

Form DEF 14A

November 20, 2002

**SCHEDULE 14A
(RULE 14a-101)**

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

PROXY STATEMENT PURSUANT TO SECTION 14(a)

OF THE SECURITIES EXCHANGE ACT OF 1934

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Under Rule 14a-12

DALEEN TECHNOLOGIES, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if Other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11:

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

- Fee paid previously with preliminary materials.

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- o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

(1) Amount previously paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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November 20, 2002

Dear Stockholder:

You are cordially invited to attend a Special Meeting of Stockholders of Daleen Technologies, Inc. to be held on December 20, 2002, at our offices located at 902 Clint Moore Road, Suite 230, Boca Raton, Florida 33487. The meeting will begin promptly at 9:00 a.m., local time.

At the special meeting, you will be asked to consider and approve (i) an asset purchase agreement dated October 7, 2002, between us, Daleen Solutions, Inc., one of our indirect, wholly-owned subsidiaries, and Abiliti Solutions, Inc. and the transactions contemplated thereby, whereby Daleen Solutions will purchase substantially all of the assets and assume certain of the liabilities of Abiliti in exchange for shares of our common stock, series F convertible preferred stock and warrants to purchase additional shares of common stock, and (ii) an investment agreement dated October 7, 2002, between us, Behrman Capital II, L.P., and Strategic Entrepreneur Fund II, L.P., and the transactions contemplated thereby, pursuant to which we will sell to Behrman Capital and Strategic Entrepreneur Fund in a private placement transaction shares of our common stock, series F convertible preferred stock and warrants to purchase additional shares of common stock. Behrman Capital and Strategic Entrepreneur Fund will pay an aggregate purchase price of \$5.015 million in the private placement.

In a related proposal, we are asking you to approve amendments to our Certificate of Incorporation to increase the number of authorized shares of our series F convertible preferred stock and to amend the terms of the series F convertible preferred stock so that the transactions contemplated by the asset purchase agreement and the investment agreement will not cause an adjustment to the conversion price of the series F convertible preferred stock or give rise to any redemption rights in favor of the holders of series F convertible preferred stock.

Our stockholders must approve each of the foregoing proposals as described in Proposals 1, 2 and 3 in the attached proxy statement in order for Daleen to consummate the asset purchase and the private placement.

Our board of directors carefully considered the proposed asset purchase and the private placement and recommends that you vote in favor of these transactions, as well as the other matters to be voted upon at the special meeting. The accompanying proxy statement provides detailed information about the transactions and the other matters to be voted upon at the special meeting.

Whether or not you plan to attend the special meeting in person, it is important that your shares be represented and voted at the meeting. Please date, sign, and return your appropriate proxy card(s) promptly in the enclosed envelope to assure that your shares will be represented and voted at the special meeting, even if you cannot attend. If you attend the special meeting, you may vote your shares in person even though you have previously signed and returned your proxy card.

On behalf of your board of directors, thank you for your continued support of and interest in Daleen Technologies, Inc.

Sincerely,

JAMES DALEEN

Chairman, President and Chief Executive Officer

DALEEN TECHNOLOGIES, INC.

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

To Be Held December 20, 2002

NOTICE IS HEREBY GIVEN that a Special Meeting of Stockholders of Daleen Technologies, Inc. will be held at our offices located at 902 Clint Moore Road, Suite 230, Boca Raton, Florida 33487, on December 20, 2002, at 9:00 a.m., local time, for the following purposes:

- (1) To approve an asset purchase agreement between us, Daleen Solutions, Inc., and Abiliti Solutions, Inc. and the transactions contemplated thereby, including the issuance by us to Abiliti of shares of our common stock, series F convertible preferred stock and warrants to purchase additional shares of common stock;
- (2) To approve an investment agreement between us, Behrman Capital II, L.P., and Strategic Entrepreneur Fund II, L.P. and the transactions contemplated thereby, including the issuance and sale by us in a private placement to Behrman Capital and Strategic Entrepreneur Fund of shares of common stock, series F convertible preferred stock and warrants to purchase additional shares of common stock for an aggregate purchase price of approximately \$5.015 million and the adoption of a new Long-Term Incentive Compensation Plan;
- (3) To approve an amendment to our Certificate of Incorporation to (i) increase our authorized shares of series F convertible preferred stock from 356,950 shares to 588,312 shares, and (ii) amend the terms of the series F convertible preferred stock to provide that the transactions contemplated by the asset purchase agreement and investment agreement will not (A) result in an adjustment to the conversion price of the series F convertible preferred stock or (B) give rise to redemption rights in favor of the holders of series F convertible preferred stock; and
- (4) To transact such other business as may properly come before the meeting or any adjournment thereof.

Only the holders of record of our common stock and series F convertible preferred stock at the close of business on November 12, 2002, are entitled to notice of and to vote at the special meeting and any adjournment thereof. A list of stockholders as of the close of business on November 12, 2002, will be available at the special meeting for examination by any stockholder, stockholder's agent, or stockholder's attorney.

Your attention is directed to the proxy statement provided with this Notice.

By Order of the Board of Directors,

JAMES DALEEN

Chairman, President and Chief Executive Officer

Boca Raton, Florida
November 20, 2002

WHETHER OR NOT YOU EXPECT TO ATTEND THE SPECIAL MEETING, PLEASE COMPLETE, SIGN AND DATE THE APPLICABLE ENCLOSED PROXY CARD(S) AND RETURN IT PROMPTLY IN THE ENCLOSED ENVELOPE, WHICH DOES NOT REQUIRE ANY POSTAGE IF MAILED IN THE UNITED STATES. IF YOU ATTEND THE MEETING, YOU MAY REVOKE THE PROXY AND VOTE YOUR SHARES IN PERSON.

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Except as otherwise specifically noted, references to Daleen, we, our, us and similar words in this proxy statement refer to Daleen Technologies, Inc. References to Daleen Solutions are to Daleen Solutions, Inc., our indirect, wholly-owned subsidiary. References to the transactions refer to the transactions contemplated by the asset purchase agreement and the investment agreement, including without limitation the issuance of our capital stock and warrants pursuant to each agreement. References to Abiliti refer to Abiliti Solutions, Inc.

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FORWARD-LOOKING STATEMENTS

The information in this proxy statement contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the Securities Act), and Section 21E of the Securities Exchange Act of 1934, as amended (the Exchange Act). Statements that are not historical in nature, including statements about beliefs and expectations, are forward-looking statements. Forward-looking statements include statements preceded by, followed by or that include the words may, will, should, estimates, predicts, potential, continue, strategies, believes, anticipates, plans, expects, intends and similar expressions. The forward-looking statements regarding Abiliti and us, including the company following our integration of Abiliti's assets pursuant to the asset purchase agreement, in this proxy statement include information relating to:

financial condition and results of operations of the applicable company, including revenue and revenue visibility;

Abiliti's and our technology;

the market for Abiliti's and our products and services, including selling opportunities to potential and existing customers;

business strategies, operating efficiencies or synergies, competitive positions, growth opportunities for existing services and products and plans and objectives of management including growth and other business plans;

the market for our securities;

Nasdaq SmallCap Market listing status;

use of third-party marketing sources; and

the financial and regulatory environment in which Abiliti and we operate.

You should not place undue reliance on forward-looking statements, which speak only as of the date of this proxy statement. These statements are based upon current expectations. We undertake no obligation to publicly update or revise any forward-looking statement, whether as a result of future events, new information or otherwise. All forward-looking statements are subject to risks and uncertainties that could cause actual events to differ materially from those projected. Important factors that might cause or contribute to such a discrepancy include, but are not limited to:

the risk of whether the transactions close;

the effect of the transactions on the market price of our common stock, including the impact of the issuance of additional shares of our series F convertible preferred stock;

our ability to continue as a going concern, including our ability to continue as a going concern following the transactions;

the fact that neither Abiliti nor we have achieved profitability on a quarterly basis;

the extent of our ability to integrate the assets and operations of Abiliti with ours;

our ability to retain Abiliti's customers, as well as our own customers, after the transactions and our ability to increase revenues after the transactions;

variance of quarterly operating results;

the lengthy sales cycle for our and Abiliti's products and timing of contract awards;

the effects of vigorous competition with larger and better-established companies in the markets in which Abiliti and we operate;

our use of strategic third party relationships to implement and sell our and Abiliti s products;

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the market position and financial condition and resources of our customers and potential customers;

the impact of technological change on our business and that of Abiliti, and new entrants and alternative technologies in our respective markets and businesses;

Abiliti's financial ability after the transactions to indemnify us against any liabilities that Daleen Solutions does not assume;

the low price and volatility of our common stock;

the impact of the change in our management following the closing of the transactions;

the effect of the on-going securities class action against us and the underwriters in our initial public offering;

the effect of the transactions on the status of our listing on The Nasdaq SmallCap Market and our ability to satisfy the applicable listing requirements;

the factors discussed under "Risk Factors," beginning on page 11; and

other risks referenced from time to time in our filings with the Securities and Exchange Commission (the "SEC"), including our annual report on Form 10-K for our fiscal year ended December 31, 2001, and our quarterly report on Form 10-Q for the period ended September 30, 2002, copies of which accompany this proxy statement.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any reports, statements or other information that we file at the SEC's public reference room at 450 Fifth Street, Washington, D.C., 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. You also may obtain copies of this information by mail from the Public Reference Section of the SEC, 450 Fifth Street, N.W., Room 1024, at prescribed rates. Our public filings with the SEC also are available from commercial document retrieval services and at the web site maintained by the SEC at <http://www.sec.gov>.

We have supplied all information in this proxy statement relating to Daleen and Daleen Solutions. Abiliti has supplied all information in this proxy statement relating to Abiliti. Kaufman Bros., L.P., our investment advisor, has supplied the information regarding its fairness opinion.

DALEEN TECHNOLOGIES, INC.

**902 Clint Moore Road, Suite 230
Boca Raton, Florida 33487**

PROXY STATEMENT

FOR SPECIAL MEETING OF STOCKHOLDERS

To Be Held December 20, 2002

A Special Meeting of Stockholders of Daleen Technologies, Inc. will be held on December 20, 2002, at our offices located at 902 Clint Moore Road, Suite 230, Boca Raton, Florida 33487, beginning promptly at 9:00 a.m., local time. The enclosed proxy is solicited by our board of directors. It is anticipated that this proxy statement and the accompanying proxy card(s) will first be mailed to holders of our common stock and series F convertible preferred stock (the "series F preferred stock") on or about November 21, 2002.

SUMMARY TERM SHEET

The following summary, together with the previous question and answer section, provides an overview of the transactions discussed in this proxy statement and presented in the attached annexes. The summary also contains cross-references to the more detailed discussions elsewhere in the proxy statement. You should carefully read this entire proxy statement and the attached annexes in their entirety.

The Companies (pages 21 through 26)

Daleen

We are a global provider of high performance billing and customer care software solutions that manage the revenue chain for traditional and next-generation communication service providers, retailers and distributors of digital media, and technology solutions providers.

Daleen Solutions

Daleen Solutions, Inc. is an indirect, wholly-owned subsidiary of Daleen. It was formed for the purpose of purchasing the assets and assuming certain liabilities of Abiliti pursuant to the asset purchase agreement.

Abiliti

Abiliti is a provider of billing, rating and event management and customer care solutions to network service providers.

The Transactions (pages 27 through 48)

Pursuant to the asset purchase agreement, Daleen Solutions will purchase substantially all of the assets and assume certain of the liabilities of Abiliti. As consideration for the asset purchase, we will issue to Abiliti 11,492,136 shares of our common stock, 115,681 shares of our series F preferred stock, and warrants to purchase an additional 5,666,069 shares of our common stock at an exercise price of \$0.906 per share (the "Asset Purchase Warrants").

Pursuant to the investment agreement, we will issue and sell to Behrman Capital II, L.P. and Strategic Entrepreneur Fund II, L.P. (Behrman Capital and Strategic Entrepreneur Fund are referred to collectively as the "Behrman Funds") in a private placement an aggregate of 10,992,136 shares of our common stock, 115,681 shares of our series F preferred stock, warrants to purchase an additional 5,666,069 shares of our common stock at an exercise price of \$0.906 per share, (the "Investment Warrants," and collectively with the Asset Purchase Warrants, the "Initial Warrants") and warrants to purchase an additional 500,000 shares of our common stock at an exercise price of \$0.17 per share (the

Additional Warrants). The Behrman Funds will pay to us an aggregate purchase price of \$5.015 million in the private placement.

Recommendation of the Board of Directors (pages 34 through 35; page 69; page 75; and page 78)

Our board of directors has determined that the terms of the asset purchase agreement and the investment agreement, including the issuance of shares of our capital stock and warrants as described in Proposals 1 and 2 as consideration in the transactions and the adoption of the Daleen Technologies, Inc. Long-Term Incentive Compensation Plan (the LTIP) as described in Proposal 2, are fair to, and in the best interests of, us and our stockholders, and recommends that our stockholders vote FOR the asset purchase agreement, the investment agreement and the transactions contemplated thereby, including the issuance of shares of our capital stock and warrants and the adoption of the LTIP as described in Proposals 1 and 2, and FOR the related amendments to our Certificate of Incorporation described in Proposal 3.

To review the background and reasons for the transactions in detail, see The Transactions Background of the Transactions beginning on page 27 and The Transactions Our Reasons for the Transactions beginning on page 32.

Opinion of Our Financial Advisor (pages 35 through 44)

In connection with the transactions, our board of directors received a written opinion from Kaufman Bros., L.P. as to the fairness, from a financial point of view and as of the date of the opinion, of the transactions taken together and not separately. The full text of the written opinion delivered by Kaufman Bros. is attached to this proxy statement as Annex I. You are encouraged to read this opinion carefully in its entirety for a description of the assumptions made, matters considered and limitations on the review undertaken.

The Asset Purchase (pages 49 through 63)

Terms of the Asset Purchase Agreement

The asset purchase agreement is attached to this proxy statement as Annex A. You should read the asset purchase agreement carefully. Our board of directors has approved the asset purchase agreement, and it is the binding legal agreement that governs the terms of the asset purchase.

General

Pursuant to the asset purchase agreement, our indirect, wholly-owned subsidiary, Daleen Solutions, will purchase substantially all of the assets and assume certain liabilities of Abiliti. In consideration for the assets, we will issue to Abiliti:

11,492,136 shares of common stock;

115,681 shares of our series F preferred stock; and

Asset Purchase Warrants to purchase an additional 5,666,069 shares of our common stock at an exercise price of \$0.906 per share.

The Asset Purchase Warrants are not exercisable until six months after the closing of the asset purchase. The asset purchase agreement provides that ten percent of the shares of common stock, series F preferred stock and Asset Purchase Warrants to be issued to Abiliti will be held in escrow for at least one year from closing in order to provide us protection in the event we have a claim for indemnification against Abiliti. The closing of the asset purchase is scheduled to occur immediately subsequent to, and conditioned upon, the closing of the private placement.

Agreement Not to Solicit Other Offers

Pursuant to the asset purchase agreement, we have agreed that we, our subsidiaries and our representatives will not do any of the following:

solicit, initiate or facilitate any alternative business combination proposal; or

participate in any discussions or negotiations regarding, or furnish any person with any non-public information with respect to, or enter into any agreement, arrangement or understanding requiring us to abandon, terminate or fail to consummate the transactions contemplated by the asset purchase agreement.

Conditions Precedent

The completion of the asset purchase depends on the satisfaction of a number of conditions, including conditions relating to:

approval by our stockholders of Proposals 1, 2 and 3;

approval of the asset purchase agreement and the transactions contemplated thereby by Abiliti's stockholders;

absence of legal prohibitions to the completion of the asset purchase; and

the accuracy of both parties' representations and warranties as of the date of the asset purchase agreement.

Termination

In addition to terminating upon mutual consent or in the event the private placement is not consummated, a party may terminate the asset purchase agreement under the following circumstances:

if a material breach of any provision of the asset purchase agreement has been committed by the other party;

if any of the conditions precedent to a party's obligation to close have not been satisfied as of the closing date or if satisfaction of a condition precedent is or becomes impossible (other than through such party's failure to comply with its obligations under the asset purchase agreement) and the other party has not waived the condition precedent; or

if the closing has not occurred on or before February 28, 2003, or a later date as the parties may agree (unless the failure to close is the result of a breach by the party seeking termination).

Survival of Representations and Warranties

The representations and warranties of each party must be accurate in all material respects only as of the date of the asset purchase agreement, and not as of the date the transactions are consummated. The representations and warranties of each party will expire on the date that is one year after the closing date of the asset purchase or upon termination of the asset purchase agreement in accordance with its terms.

Indemnification

We have agreed to indemnify Abiliti and its directors, officers, employees, agents and affiliates for any damages (as defined in the asset purchase agreement) incurred by them resulting from or arising out of our breach of any representation or warranty, or covenant or agreement contained in the asset purchase agreement. We will have no liability for indemnification unless the total of all damages exceeds \$250,000. In addition, our indemnification will be limited to an amount equal to the value of 3,013,313 shares of our common stock, based on the