



PUBLIC NOTICE

Federal Communications Commission
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DA 04-64
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DOMESTIC SECTION 214 APPLICATION FILED FOR ACQUISITION OF ASSETS OF LIGHTYEAR COMMUNICATIONS, INC. AND LIGHTYEAR TELECOMMUNICATIONS, LLC BY LIGHTYEAR NETWORK SOLUTIONS, LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 04-1

On December 22, 2003, Lightyear Communications, Inc. (Lightyear), Lightyear Telecommunications, LLC (“LLC,” and with Lightyear, the “Lightyear Companies”) along with Lightyear Network Solutions, LLC (“New Lightyear” and, collectively with Lightyear Companies, “Applicants”), pursuant to sections 63.03 and 63.04 of the Commission’s rules,¹ requested approval to permit Applicants to consummate a series of transactions through which Lightyear Companies will emerge from bankruptcy through the transfer of substantially all of their assets to New Lightyear.²

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(1)(ii) of the Commission’s rules because the transferee is not a telecommunications provider.³

Lightyear, a Kentucky corporation, provides end-user local and interexchange services to primarily small businesses and residential customers. LLC, a Kentucky limited liability company, is licensed to provide telecommunications services in the United States, but does not

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² Applicants are also filing an application for transfer of control associated with authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related pending applications.

³ *See* 47 C.F.R. § 63.03(b)(1)(ii); *see also* 47 C.F.R. § 63.03(b)(3) (“For purposes of (b)(1) and (2) of this paragraph, the terms ‘applicant,’ ‘carrier,’ ‘party,’ and ‘transferee’ (and their plural forms) include any affiliates of such entities within the meaning of section 3(1) of the Communications Act of 1934, as amended.”); Letter from Douglas D. Orvis II, Counsel for the Lightyear Companies, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 04-1 at 2 (filed Jan. 12, 2004) (Lightyear Jan. 12 Supplement).

currently provide any telecommunications services. The Lightyear Companies are wholly owned subsidiaries of Lightyear Holdings, Inc., a Kentucky corporation that serves solely as a telecommunications holding company.

New Lightyear is a newly formed limited liability company organized under the laws of Kentucky for the purpose of carrying out the transaction described herein. New Lightyear is a wholly owned subsidiary of LY Acquisition, LLC, a Kentucky limited liability company.

Since April 29, 2002, the Lightyear Companies have been operating under the protection of the United States Bankruptcy Code in a case pending in the Bankruptcy Court for the Western District of Kentucky.⁴ The proposed transactions will allow a reorganization of the Lightyear Companies by transferring substantially all of the assets to New Lightyear, under the control of a new set of investors, with access to the capital required to allow New Lightyear to continue operating after the completion of the reorganization. New Lightyear, as the successor of the Lightyear Companies, will acquire substantially all of the Lightyear Companies' assets, as well as the experience of its personnel in providing telecommunications services.

The Applicants state that the proposed transactions would serve the public interest because (1) New Lightyear holds the managerial, technical, and financial qualifications to acquire the assets of the Lightyear Companies; (2) the transactions will benefit competition in the telecommunications market by enabling Lightyear to resume its growth as an effective competitor; and (3) the transactions will assure that there is no disruption of service and will be virtually transparent to existing customers of the Lightyear Companies.

GENERAL INFORMATION

The transfer of control 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.⁵ Unless otherwise notified by the Commission, Applicants are permitted to transfer on the 31st day after the date of this notice.⁶ 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).

⁴ On May 23, 2002, the Lightyear Companies notified the Commission of the Lightyear Companies' debtor-in-possession status. *See* Lightyear Jan. 12 Supplement at 1.

⁵ *See* 47 C.F.R. § 63.03(a).

⁶ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

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 e-mail to ecfs@fcc.gov, and should include the following words in the subject line "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 appears 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, Natek, 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.

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

- (1) the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893;
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: tracey.wilson-parker@fcc.gov;
- (3) Christi Shewman, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C142, Washington, D.C. 20554; e-mail: christi.shewman@fcc.gov;
- (4) Julie Veach, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C124, Washington, D.C. 20554; e-mail: julie.veach@fcc.gov;
- (5) Cynthia Bryant, Telecommunications Division, International Bureau, 445 12th Street, S.W., Room 7-A623, Washington, D.C. 20554; email: cynthia.bryant@fcc.gov; and

(6) Christopher Killion, Office of General Counsel, 445 12th Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: christopher.killion@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 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.

For further information, please contact Tracey Wilson at (202) 418-1394 or Christi Shewman at (202) 418-1686.

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