

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 30, 2008**

**IN RE:**

**JOINT APPLICATION OF LIGHTYEAR NETWORK  
SOLUTIONS, LLC AND WHERIFY WIRELESS, INC. FOR  
APPROVAL OF THE INDIRECT TRANSFER OF CONTROL  
OF LIGHTYEAR NETWORK SOLUTIONS, LLC TO  
WHERIFY WIRELESS, INC.**

**DOCKET NO.  
08-00154**

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**ORDER APPROVING TRANSFER OF CONTROL**

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This matter came before Chairman Tre Hargett, Director Eddie Roberson and Director Sara Kyle of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on October 20, 2008 for consideration of the *Joint Application* filed by Lightyear Network Solutions, LLC (“Lightyear”) and Wherify Wireless, Inc. (“Wherify”) (together, “Applicants”) on August 25, 2008.

Lightyear, a wholly-owned subsidiary of LY Holdings, LLC (“Holdings”) is authorized to provide local exchange telecommunications services in forty-four states and long distance telecommunications services in forty-nine states. In Tennessee, Lightyear has approximately 404 customers<sup>1</sup> and is authorized to provide facilities-based and resold local exchange and interexchange telecommunications services.<sup>2</sup>

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<sup>1</sup> Data Response, p. 2 (September 19, 2008).

<sup>2</sup> See *Joint Petition of Lightyear Communications, Inc., Lightyear Telecommunications, LLC and Lightyear Network Solutions, Inc. for Authority Necessary to Consummate a Corporate Reorganization*, Docket No. 03-00634.

Wherify is a Delaware corporation and a pioneering developer of patented wireless location products and services for family safety and business communications. For the purpose of accomplishing this transaction, Wherify created a new, wholly-owned merger subsidiary, Merger Sub. Wherify is not presently authorized to provide telecommunications services in Tennessee.

### **The Joint Application**

According to the *Joint Application*, Lightyear and Wherify entered into an Agreement and Plan of Merger whereby Merger Sub will merge with Holdings, with Holdings emerging as the surviving entity. As a result, Holdings will be a direct, wholly-owned subsidiary of Wherify, and Lightyear will be an indirect subsidiary of Wherify.<sup>3</sup>

After the transaction, the Applicants expect that Holdings' current owners will hold approximately 51% interest in Wherify. They will also have the power to appoint five out of the total seven members of its board of directors. There will be additional investors, but Applicants do not anticipate that any such investor will own more than a 10% interest in Wherify shares. The proposed transaction will enable Lightyear to obtain access to additional financial resources, thereby strengthening its competitive position in Tennessee to the benefit of Tennessee consumers. Following consummation of the transaction, Lightyear will continue to provide high quality communication services to its customers without interruption or change in rates, terms or conditions of service making the transaction seamless and transparent to consumers.

### **Findings and Conclusions**

The Petitioners request approval to consummate the transfer of authority pursuant to Tenn. Code Ann. § 65-4-112 (2004). The Authority finds that the proposed transaction should be considered

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<sup>3</sup> According to the *Joint Application*, the Applicants anticipate changing the name of Wherify to Lightyear Network Solutions, Inc. as soon as practicable after consummation of the proposed transaction.

pursuant to Tenn. Code Ann. § 65-4-113 (2004) because control of a Tennessee-certificated entity is being transferred to a non-certificated entity.

Tenn. Code Ann. § 65-4-113 (2004) requires a public utility to obtain TRA approval to transfer its authority to provide utility services and provides as follows:

No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) (2004) provides the standards by which the TRA shall consider an application for transfer of authority, in pertinent part, as follows:

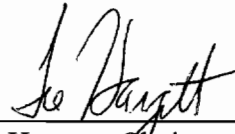
Upon application for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. The authority shall approve the transfer after consideration of all relevant factors and upon finding that such transfer furthers the public interest.

At the regularly scheduled Authority Conference held on October 20, 2008, the voting panel assigned to this docket considered the *Joint Application* and voted unanimously to approve the transfer of authority pursuant to Tenn. Code Ann. § 65-4-113 (2004) based on the following findings:

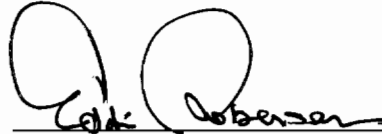
1. The Federal Communications Commission has approved the transfer.
2. The transfer is in the public interest because it would enable Lightyear to obtain access to additional financial resources which would allow Lightyear to strengthen its competitive position in Tennessee.

**IT IS THEREFORE ORDERED THAT:**

1. The transfer of authority of Lightyear Network Solutions, LLC to Wherify Wireless, Inc. as described in the *Joint Petition* and discussed herein is approved pursuant to Tenn. Code Ann. § 65-4-113 (2004).
2. The Applicants are directed to file with the Authority any subsequent documentation from the Federal Communications Commission regarding the transfer.



Tre Hargett, Chairman



Eddie Roberson, Director



Sara Kyle, Director