

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application    ) Application No. C-3411  
of Lightyear Network Solutions,    )  
LLC, Louisville, Kentucky,        )  
seeking authority to provide        ) GRANTED  
resold and facilities-based        )  
local exchange within the state    )  
of Nebraska.                        ) Entered: August 9, 2005

BY THE COMMISSION:

By its application filed April 22, 2005, Lightyear Network Solutions, LLC, Louisville, Kentucky, (Applicant or Lightyear) seeks authority to operate as a local exchange carrier of telecommunications services within the state of Nebraska. Notice of the application was published in the Daily Record, Omaha, Nebraska, on April 26, 2005. No protests or interventions were filed; therefore, this application is processed in accordance with the Commission's Rule of Modified Procedure.

E V I D E N C E

The Applicant is a limited liability company, organized under the laws of the state of Kentucky. Its principal place of business is Lexington, Kentucky. It has been organized as such since November 20, 2003. The Applicant provided a copy of its Certificate of Authority from the Nebraska Secretary of State to operate as a foreign corporation.

Applicant is a telecommunications company that offers a wide range of long distance, toll free, data transmission, and related communication service options at competitive prices, and provides to its customers a standard of service it believes is comparable to other industry participants. Additionally, on January 21, 2004, Applicant was granted the authority to provide resold interexchange service in Nebraska pursuant to Application No. C-3065.

In its application, the Applicant seeks authority to provide resold and facilities-based competitive local exchange telecommunications services. Applicant seeks authority to provide these services to resident and business customers throughout Nebraska in all exchanges that are not exempt from competition.

Applicant initially plans to offer residential and business services via interconnection agreements with incumbent local exchange carriers. Applicant is also developing a residential

service utilizing voice over internet protocol network (VoIP). Applicant may also eventually offer Digital T-1 and Integrated T-1 services to business customers via resale of other carriers' service.

Applicant provided a comprehensive list of its managerial and technical staff in its application. Applicant also asserted in its application that it has the overall technical experience needed to provide the services for which it has applied. Additionally, Applicant has approval to provide resold interexchange services in 49 states. Applicant has also received approval to provide resold and facilities-based local service in 29 states and is pending approval in 4 others.

The application stated that no formal complaint or other investigatory or enforcement proceeding has been conducted upon the Applicant. The Applicant also stated that it does not propose to require advanced payments or deposits.

Applicant separately submitted a copy of its independently-prepared financial statements and requested confidential treatment.

Applicant asserts that the Commission's granting of the application is in support of the public interest. Applicant contends that approval of its application will promote the public interest by increasing the level of competition in the Nebraska telecommunications market. Ultimately, competition will compel all exchange providers to operate more efficiently and pass the resultant cost savings on to consumers. As a result of the competition, the overall quality and variety of local exchange services within the state will improve.

In response to a request by the Commission staff, Applicant filed a letter on July 27, 2005, further describing its Voice Over the Internet Protocol (VoIP) service offering referenced in its application as a non facilities-based service which would be exempt from the Commission's order in Docket NUSF-40.

#### O P I N I O N     A N D     F I N D I N G S

The Commission considers this application for authority in light of the following criteria and standards established in the Commission's telecommunications rules:

- (a) Whether the Applicant has provided the information required by the Commission;

- (b) Whether the Applicant has provided a performance bond, if required;
- (c) Whether the Applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether the Applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether the Applicant possesses adequate managerial competence to provide the proposed service; and
- (f) Whether granting the Applicant a certificate preserves and advances universal service, protects the public safety and welfare, ensures the continued quality of telecommunications services and safeguards the rights of consumers, pursuant to Section 253(b) of the Act.

Applicant has demonstrated that it meets the standards of financial, technical and managerial competence and all other criteria necessary to provide local exchange service in the proposed service territory. Applicant is granted authority to provide local exchange services throughout Nebraska except in areas served by incumbent local exchange carriers eligible for a small or rural carrier exemption pursuant to Section 251(f)(1) of the Federal Act. By this application, Applicant does not seek to provide service to customers in the rural incumbent territories.

If Applicant desires to provide service to those customers in the small or rural company territories which qualify for an exemption pursuant to Section 251(f)(1), Applicant must first make a subsequent application to the Commission to extend its Certificate of Authority to those areas.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering applications to provide local exchange service in the above-mentioned territories. All telecommunications carriers seeking such a certificate must demonstrate that they meet, at a minimum, the standards and criteria set forth herein.

Before Applicant is allowed to provide local exchange service to its users, it must either:

- (a) Through negotiation or arbitration, reach an interconnection/resale agreement with the pertinent incumbent

local exchange carrier and receive Commission approval of the interconnection/resale agreement; or

- (b) In the event a certified local exchange carrier provides a wholesale tariff, purchase rates from that tariff and file its own tariff.

This order does not terminate, waive or in any manner diminish the exemptions and protections created by the Act for rural carriers, as defined by the Act. This order does not address the issue of the rural local exchange carrier exemption under the Act. Rural exemptions may be terminated, suspended or modified only as provided in Section 251(f) of the Act.

Prior to providing local exchange service in any area in the state of Nebraska, Applicant must file tariffs in accordance with the provisions of Section 002.21 of the Neb. Admin. R. & Regs. Title 291, ch. 5.

As a provider of local exchange service in the state of Nebraska, Applicant would be subject to the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other local exchange company except those obligations imposed on ILECs pursuant to Section 251(c) of the Act.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-3411 be, and hereby is, granted as provided herein.

IT IS FURTHER ORDERED that the Applicant comply with Section 251(f)(1)(B) of the Telecommunications Act of 1996 and that the Applicant submit any bona fide request(s) for interconnection, services or network elements from a rural telephone company to the Commission for its approval.

IT IS FURTHER ORDERED that Applicant is obligated to abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other interexchange and local exchange carriers, except obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Act.

IT IS FURTHER ORDERED that, to the extent Applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-301 through 86-315 (Relay Act) and defined in Neb. Admin. R. & Reg. Title 291, ch. 5 § 001.01B, the Applicant shall collect from its subscribers a surcharge (Relay Surcharge) pursuant to the relay act and the Commission's annual orders establishing the amount of the surcharge, and shall remit to the Commission the proceeds from the relay surcharge as provided by the relay act.

IT IS FURTHER ORDERED that Applicant comply with all necessary statutes, Commission Rules and Regulations and orders as they pertain to the Nebraska Universal Service Fund.

IT IS FURTHER ORDERED that should Applicant ever provide a facilities-based Voice Over the Internet Protocol service that it will remit the NUSF surcharge in accordance with the provisions of the Commission's Order in NUSF-40.

IT IS FURTHER ORDERED that Applicant shall file, in accordance with the applicable statutes, on or before April 30 of each year, an annual report with the Commission consisting of: (a) a copy of any report filed with the Federal Communications Commission; (b) a copy of any annual report to stockholders; and (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission. If such reports are unavailable, Applicant shall file a balance sheet and income statement for the previous year of operation, and for the state of Nebraska on a combined interstate-intrastate basis, the investment in the telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses and taxes.

IT IS FURTHER ORDERED that within 30 days from the entry of this order that the Applicant file a tariff with the Commission as required by state statutes and the Commission's regulations.

IT IS FINALLY ORDERED that this order be, and hereby is, made the Commission's official Certificate of Public Convenience and Necessity to the Applicant to provide local exchange telecommunications services in the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 9th day of August, 2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director