

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission) Application No. NUSF-32
on its own motion, seeking to)
conduct an inquiry into the) ORDER INITIATING SHOW CAUSE
failure of various companies to) AND SETTING HEARING
comply with Commission Orders)
and, at its own discretion,)
impose administrative fines)
against the named defendants.) Entered: February 18, 2004

BY THE COMMISSION:

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

As part of its regulatory authority pursuant to the Nebraska Telecommunications Universal Service Fund Act, the Commission, on March 28, 2000, entered an order in Application No. NUSF-1, Progression Order No. 7, requiring all companies whose revenues, subject to assessment of the Nebraska Universal Service Fund (NUSF) surcharge, are greater than \$1,000,000 in a NUSF fiscal year, shall have all information used for the determination of intrastate retail telecommunications services revenue subject to the NUSF surcharge, audited on an annual basis. This audit is to be performed by an independent third party, with audit results for a fiscal year being due before the end of the next fiscal year.

On November 26, 2002, the Commission initiated Application No. NUSF-33 to investigate the audit requirements related to the NUSF. On March 25, 2003, pursuant to Application No. NUSF-33 Progression Order No. 1, the Commission expanded the reporting period containing the required information from the twelve months ended June 30, 2002, to the eighteen months ended December 31, 2002, and extended the filing deadline for the reporting period from June 30, 2003 to December 31, 2003.

Jeff Pursley, the Director of the NUSF, issued a memorandum on September 30, 2003, to all telecommunications providers within the state of Nebraska illustrating the requirements ordered in NUSF-1, Progression Order No. 7 and the subsequent expansion and extension ordered in NUSF-33, Progression Order No. 1. In the same memorandum of September 30, 2003, companies were apprised of the possibility that an administrative fine, pursuant to Nebraska Revised Statute section 75-156, could be levied for failure to comply.

At this time, the Commission has failed to receive the required information and finds it appropriate to initiate a show cause proceeding requiring:

**Ionex Communications North, Inc.,
Wireless II, LLC, and
Lightyear Network Solutions, LLC**

to appear before the Commission at 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska on **March 23, 2004** at 1:30 p.m. and show cause why said companies have failed to comply with NUSF-1, Progression Order No. 7 as expanded and extended by NUSF-33, Progression Order No. 1 and Title 291, Chapter 10, Rule 003.05 of the Nebraska Administrative Code and why the Commission should not impose administrative penalties against said companies for failing to comply with the Commission rules and orders described herein.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-named companies be and it is hereby ordered to Show Cause why the Commission should not assess upon it administrative penalties for its failure to comply with NUSF-1, Progression Order No. 7 as expanded and extended by NUSF-33, Progression Order No. 1 and Title 291, Chapter 10, Rule 003.05 of the Nebraska Administrative Code.

IT IS FURTHER ORDERED that the above-named companies appear before the Commission on **March 23, 2004**, at 1:30 p.m., in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska for a hearing on this Show Cause Order.

MADE AND ENTERED at Lincoln, Nebraska, this 18th day of February, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Lawrence J. Johnson
Ann E. Boyle
Joe Johnson

Chair

Gerald L. Vap

ATTEST:

Ad S. Pollack
Executive Director

//s//Frank E. Landis
//s//Gerald L. Vap