

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 FURTHER  
failure of various companies to ) SHOW CAUSE AND PARTIAL  
comply with Commission Orders ) FINDINGS  
and, at its own discretion, )  
impose administrative fines )  
against the named defendants. ) Entered: May 11, 2004

Appearances:

For Lightyear Network Solutions, LLC:

Loel Brooks

Brooks, Pansing, Brooks

984 Wells Fargo Center

Lincoln, Nebraska 68508

For the Commission:

Shana Knutson

300 The Atrium

1200 N Street

Lincoln, Nebraska 68508

BY THE COMMISSION:

In this Order, the Commission initiates a show cause proceeding against two defendants named below for failure to comply with the Commission's directive with respect to remittance audits. The Commission also orders Lightyear Network Solutions, LLC (Lightyear) to file its compliance audit with the Commission two weeks from the date that it emerges from Chapter 11 reorganization.

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.

Upon written request, the Commission granted extensions of time to Vartec Telecom, Inc. and to Excel Telecommunications, Inc. until April 1, 2004. At this time, the Commission has not received their compliance filings. Accordingly, the Commission finds it appropriate to initiate a show cause proceeding requiring:

**Vartec Telecom, Inc., and  
Excel Telecommunications, Inc.**

to appear before the Commission at 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska on **June 8, 2004** at 1:30 p.m. and show cause why said companies should not be administratively fined for their failure to comply with NUSF-1, Progression Order No. 7 as modified by NUSF-33, Progression Order No. 1 and Title 291, Chapter 10, Rule 003.05 of the Nebraska Administrative Code and extended by the Commission.

With respect to Lightyear, it was argued by Loel Brooks at the hearing on March 23, 2004, that it was undergoing Chapter 11 reorganization. In light of its bankruptcy proceedings we find that Lightyear should be required to file its audited statements to the Commission no more than 14 calendar days following its emergence from bankruptcy. Lightyear should notify the Commission in writing immediately after it has emerged from Chapter 11 and from that notice, it will have 14 days to file its audited statements with the Commission.

## 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.

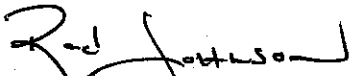
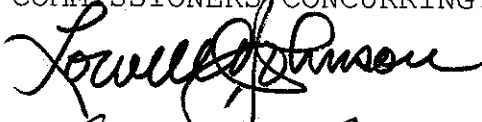
IT IS FURTHER ORDERED that the above-named companies appear before the Commission on **June 8, 2004**, at 1:30 p.m., in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska for a hearing on this Show Cause Order.

IT IS FURTHER ORDERED that Lightyear Network Solutions, LLC be required to file its audited statements to the Commission no more than 14 calendar days following its emergence from bankruptcy as provided herein.

MADE AND ENTERED at Lincoln, Nebraska, this 11th day of May 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



//s//Frank E. Landis

//s//Gerald L. Vap

Chairman



ATTEST:



Executive Director

