

BINGHAM

NEW APPLICATION  
ORIGINAL  
RECEIVED



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AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
DOCKETED

August 28, 2008

AUG 29 2008

Via Overnight Courier

Brian C. McNeil, Executive Secretary  
Arizona Corporation Commission  
Utilities Division  
1200 W. Washington Street  
Phoenix, AZ 85007-2927

T-04229A-08-0451

DOCKETED BY	ne
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Re: Lightyear Network Solutions, LLC and Wherify Wireless, Inc.  
Notice of Indirect Transfer of Control

Dear Mr. McNeil:

Lightyear Network Solutions, LLC ("Lightyear") and Wherify Wireless, Inc. ("Wherify") (together, "Parties") hereby notify the Commission of a transaction that will result in the indirect transfer of control of Lightyear, a competitive carrier that holds authority to provide intrastate telecommunications services in Arizona, to Wherify through the merger of Lightyear's parent, LY Holdings, LLC ("Holdings") into and with Wherify Acquisition, Inc. ("Merger Sub"), a Wherify subsidiary created for the purpose of this transaction, with Holdings emerging as the surviving entity and a direct subsidiary of Wherify.

Other than the insertion of Wherify as the ultimate parent of Lightyear, the proposed transaction will not have any significant impact on the Commission's regulatory oversight of Parties. No transfer of certificates, assets or customers will occur as a consequence of the proposed stock transaction. Lightyear will continue to provide service to its existing customers in Arizona pursuant to its existing authorization and at the same rates, terms and conditions. Accordingly, this transaction will be virtually transparent to Lightyear's customers, and the company will continue to be run by a combination of the highly experienced, well qualified management, operational and technical personnel that operate the company today. Indeed, the current owners of Lightyear will be the largest owners of Wherify following the transaction and will have the power to appoint a majority of its Board of Directors.

- Boston
- Hartford
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- San Francisco
- Santa Monica
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- Washington

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It is the Parties' understanding that Commission approval is not required in connection with the transaction described herein.<sup>1</sup> Accordingly, this letter is filed for informational purposes only to ensure the continuing accuracy of the Commission's records.

The Parties further state as follows:

**I. Description of the Companies**

**A. Lightyear Network Solutions, LLC**

Lightyear is a limited liability company organized and existing under the laws of the Commonwealth of Kentucky, with offices located at 1901 Eastpoint Parkway, Louisville, Kentucky 40223. Lightyear is a wholly owned subsidiary of Holdings, a Kentucky limited liability company also located in Louisville, Kentucky, and Holdings is owned by a series of investors including LANJK, LLC, SullivanLY, LLC, and Rice-LY Ventures, LLC. Lightyear holds domestic and international Section 214 authorizations from the FCC and is authorized to provide local exchange telecommunications services in 44 states and long distance telecommunications services in 49 states.

In Arizona, Lightyear is authorized to provide resold interexchange telecommunications services pursuant to Docket No. T-04229A-03-0915 issued on December 5, 2006. Further information regarding Lightyear and the services it provides has previously been submitted to the Commission and Parties request that it be incorporated herein by reference.

**B. Wherify Wireless, Inc.**

Wherify, a Delaware corporation, is a public company traded over-the counter under the symbol "WFYW" and has principal offices located at 63 Bovet Rd, Suite 521, San Mateo, CA 94402-3104. For the purpose of accomplishing this transaction, Wherify created a new, wholly-owned merger subsidiary, Merger Sub, a Delaware corporation. Wherify is a pioneering developer of patented wireless location products and services for family safety and business communications. Its portfolio of intellectual property includes proprietary integration of the US Government's Global Positioning System (GPS) and wireless communication technologies; patented back-end location service; the Wherifone™ GPS locator phone which provides real-time location information and lets

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<sup>1</sup> Both Parties had less than \$1 million in jurisdictional revenues in 2007, and therefore, the Arizona Affiliated Interest Rules, A.A.C. R12-2-801 to R12-2-806, requiring utilities with greater than \$1 million in jurisdictional revenues to obtain prior approval for a transfer of control transaction, do not apply. Accordingly, the Parties hereby submit this notice for the Commission's reference and files.

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families with pre-teens, seniors, or those with special medical needs, stay connected and in contact with each other. Wherify holds international Section 214 authority from the FCC.

**II. Designated Contacts**

For the purposes of this filing, questions or any correspondence, orders, or other materials should be directed to the following contacts:

**Counsel for Parties:**

Jean L. Kiddoo  
Danielle C. Burt  
Jasbir K. Bawa  
Bingham McCutchen LLP  
2020 K Street, N.W.  
Washington, DC 20006  
Tel: (202) 373-6000  
Fax: (202) 373-6001  
Email: jean.kiddoo@bingham.com  
danielle.burt@bingham.com  
jasbir.bawa@bingham.com

**With copies to:**

John Greive  
Lightyear Network Solutions, LLC  
1901 Eastpoint Parkway  
Louisville, Kentucky 40223  
Tel: (502) 253-1508  
Fax: (502) 515-4138  
Email: john.greive@lightyear.net

and

Vincent D. Sheeran  
Wherify Wireless, Inc.  
63 Bovet Rd, #521  
San Mateo, CA 94402  
Tel: (650) 641-2225  
Fax: (650) 641-2225  
Email: vsheeran@wherify.com

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### **III. Description of the Transaction**

Lightyear and Wherify entered into an Agreement and Plan of Merger (“Agreement”) on August 12, 2008, whereby Merger Sub will merge with Holdings, with Holdings surviving. As a result, Holdings will be a direct, wholly-owned subsidiary of Wherify, and Lightyear will be an indirect subsidiary of Wherify. Parties expect that following the transaction Holdings’ current owners will hold on a fully diluted basis approximately 51 percent combined interest in Wherify. They will also have the power to appoint 5 members of its Board of Directors – a majority of the 7-person Board. In addition to Wherify’s public shareholders, there will be some additional investors in the combined company at closing as a result of certain financing transactions, but Parties do not anticipate that any such new investor will hold an attributable interest in more than 10 percent of the shares of Wherify. Parties therefore notify the Commission of the indirect transfer of control of Lightyear to Wherify.<sup>2</sup> For the Commission’s convenience, pre- and post-transaction illustrative organization charts for the combined operating companies are provided as Exhibit A.

Immediately following the consummation of the proposed transaction, Lightyear will continue to offer service with no change in the name of the company, or its rates or terms and conditions of service. Therefore, the transfer of control of Lightyear will be seamless and virtually transparent to consumers in the State.

### **IV. Public Interest Considerations**

Parties submit that the proposed transaction will serve the public interest. The proposed acquisition will enable Lightyear to obtain access to additional financial resources as a result of its new publicly-traded parent company. These additional resources will allow Lightyear to strengthen its competitive position in Arizona to the benefit of Arizona’s consumers and the State’s telecommunications marketplace.

In addition, the transaction will be conducted in a manner that will be virtually transparent to customers of Lightyear. The transfer of ultimate control of Lightyear will not result in a change of carrier for customers or any transfer of authorizations. Following consummation of the proposed transaction, Lightyear will continue to provide high-quality communications services to its customers without interruption and without change in rates, terms or conditions. Parties emphasize that the proposed transfer of control will be seamless and virtually transparent to the customers of Lightyear, and in no event will it result in the discontinuance, reduction, loss, or impairment of service to customers.

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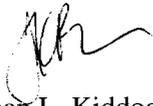
<sup>2</sup> The Parties anticipate changing the name of Wherify to Lightyear Network Solutions, Inc. as soon as practicable after closing.

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An original and thirteen (13) copies of this filing are enclosed. Please date-stamp the enclosed extra copy of this letter and return it in the attached self-addressed, stamped envelope. Please contact Danielle Burt at (202) 373-6039 if the Commission has any questions regarding this matter.

Respectfully submitted,

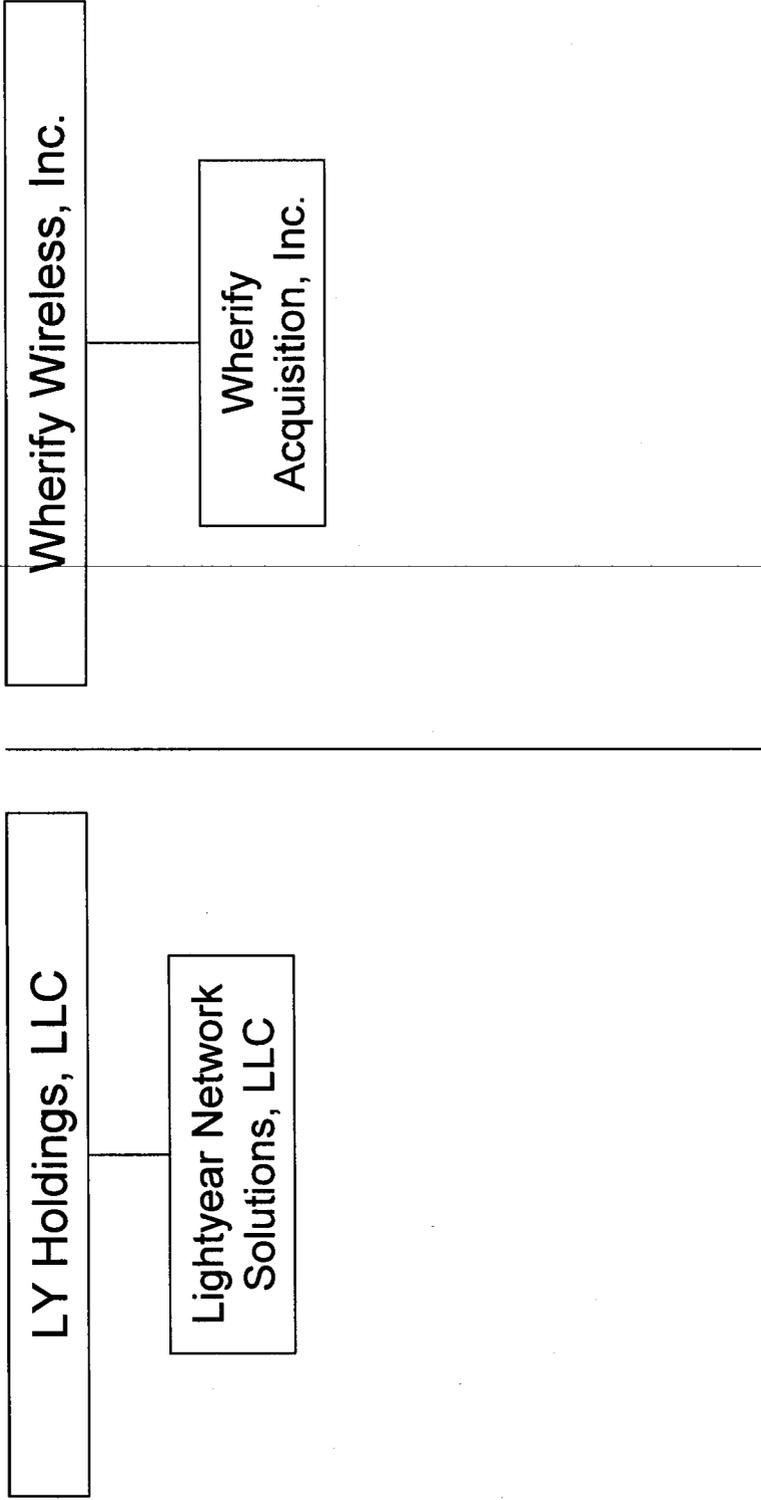


Jean L. Kiddoo  
Danielle Burt  
~~Jasbir K. Bawa~~

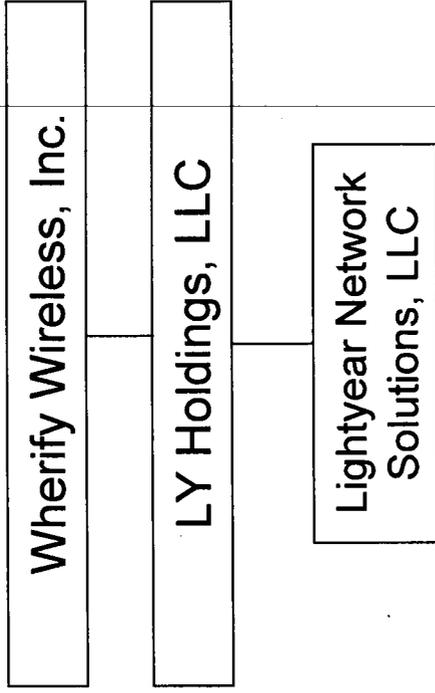
**EXHIBIT A**

**Pre- and Post-Transaction Illustrative Chart**

# Pre-Transaction Illustrative Organization Chart



# Post-Transaction Illustrative Organization Chart



## Verifications

STATE OF KENTUCKY

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CITY OF LOUISVILLE

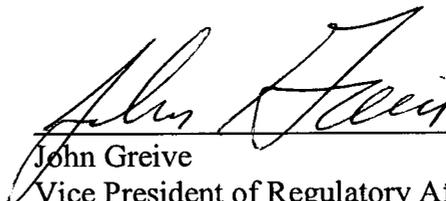
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### VERIFICATION

I, John Greive, state that I am Vice President of Regulatory Affairs and General Counsel;  
that I am authorized to make this Verification on behalf of Lightyear Network Solutions, LLC;  
that the foregoing filing was prepared under my direction and supervision; and that the contents  
are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this  
19<sup>th</sup> day of August, 2008.

  
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John Greive  
Vice President of Regulatory Affairs  
& General Counsel  
Lightyear Network Solutions, LLC

STATE OF KENTUCKY

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CITY OF LOUISVILLE

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**VERIFICATION**

I, Vincent D. Sheeran, hereby declare that I am the Chief Executive Officer of Wherify Wireless, Inc.; that I am authorized to make this Verification on behalf of Wherify Wireless, Inc.; that the foregoing filing was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 21<sup>st</sup> day of August, 2008.



Vincent D. Sheeran  
Chief Executive Officer  
Wherify Wireless, Inc.