

OPEN MEETING ITEM



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COMMISSIONERS  
SUSAN BITTER SMITH - Chairman  
BOB STUMP  
BOB BURNS  
DOUG LITTLE  
TOM FORESE



ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION  
DOCKET CONTROL

DATE: MARCH 12, 2015  
DOCKET NOS.: T-04229A-14-0092 AND T-03864A-14-0092

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Sasha Paternoster. The recommendation has been filed in the form of an Order on:

LIGHTYEAR NETWORK SOLUTIONS, LLC  
(CC&N CANCELLATION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

MARCH 23, 2015

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

APRIL 14, 2015 and APRIL 15, 2015

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission  
DOCKETED

MAR 12 2015

DOCKETED BY 

JODI JERICH  
EXECUTIVE DIRECTOR

ORIGINAL

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347  
[www.cc.state.az.us](http://www.cc.state.az.us)

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov.

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

SUSAN BITTER SMITH - Chairman  
BOB STUMP  
BOB BURNS  
DOUG LITTLE  
TOM FORESE

IN THE MATTER OF THE APPLICATION OF  
LIGHTYEAR NETWORK SOLUTIONS, LLC FOR  
APPROVAL TO CANCEL ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY.

DOCKET NO. T-04229A-14-0092  
DOCKET NO. T-03864A-14-0092

DECISION NO. \_\_\_\_\_

**ORDER**

Open Meeting  
April 14 and 15, 2015  
Phoenix, Arizona

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

\* \* \* \* \*

**FINDINGS OF FACT**

1. On December 3, 2004, the Commission issued Decision No. 67435 granting Lightyear Network Solutions, LLC ("LNS" or "Company") a Certificate of Convenience and Necessity ("CC&N") to provide competitive facilities-based and resold local exchange and interexchange services within the State of Arizona. The Decision also ordered LNS to procure and docket proof of a \$235,000 performance bond.

2. On December 5, 2006, the Commission issued Decision No. 69171 wherein the facilities-based long distance portion of LNS' CC&N was canceled and, as a result, LNS' performance bond requirement was reduced to \$135,000.

3. On May 16, 2008, the Commission issued Decision No. 70342 in which the facilities-based and resold local exchange portions of LNS' CC&N were canceled as well as the remaining \$135,000 performance bond requirement. However, LNS retained its authority to provide resold long distance service and the Decision ordered LNS to maintain a \$10,000 irrevocable sight draft letter of

1 credit ("ISDLOC") until further order of the Commission.

2 4. LNS transferred all of its assets and customers to Ionex Communications North, Inc.  
3 d/b/a Birch Communications, Inc. ("Birch") and the Commission was notified of the transaction by  
4 letter dated February 23, 2014.<sup>1</sup>

5 5. On March 18, 2014, LNS filed an Application with the Commission requesting  
6 immediate cancellation of its remaining resold long distance CC&N.

7 6. On February 10, 2015, the Commission's Utilities Division ("Staff") filed a Staff  
8 Report in this matter recommending approval of LNS' application to cancel its CC&N. Staff also  
9 recommended the cancellation of LNS' tariff that is on file with the Commission.

10 7. Staff states LNS was sold to Birch on September 7, 2013. LNS' Custodian of Records  
11 stated the Company dissolved in December 2013 and no longer exists as a legal entity.

12 8. On February 26, 2014, Birch filed a letter to advise the Commission of the transfer of  
13 customers from LNS to Birch. Subsequently, Birch requested the Commission grant a waiver of the  
14 A.A.C. R14-2-1904 et. seq., or the "Slamming Rules."

15 9. A.A.C. R14-2-1107(A)(2) requires that an application to discontinue service include  
16 verification that all affected customers have been notified of the proposed discontinuance or  
17 abandonment. A.A.C. R14-2-1107(B) requires a competitive telecommunications provider to publish  
18 legal notice of its application to discontinue service in all counties affected by its application within  
19 20 days after filing the application. LNS did not publish the requisite notice. On October 23, 2013,  
20 in compliance with the Federal Communications Commission's ("FCC") Customer notification rule,  
21 Birch notified LNS customers of its acquisition of LNS' telecommunications services. Decision No.  
22 74778 (October 24, 2014) approved Birch's request for a waiver of the Slamming Rules that may be  
23 inconsistent with the FCC's rules regarding the transfer of customer bases.

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27 <sup>1</sup> See IN THE MATTER OF THE APPLICATION OF IONEX COMMUNICATIONS NORTH, INC. D/B/A BIRCH  
28 COMMUNICATIONS FOR APPROVAL OF THE TRANSFER OF CUSTOMERS FROM LIGHTYEAR NETWORK  
SOLUTIONS, LLC, ERNEST COMMUNICATIONS, INC., AND COVISTA, INC., Docket Nos. T-03864A-14-0073,  
T-04229A-14-0073, T-03631A-14-0073, and T-03490A-14-0073.



1 IT IS FURTHER ORDERED that Lightyear Network Solutions, LLC may cancel, rescind,  
2 discontinue and be released from any performance bond, irrevocable sight draft letter of credit or  
3 other instrument obtained in compliance with the \$10,000 performance bond or irrevocable sight  
4 draft letter of credit requirement set by Decision No. 70342.

5 IT IS FURTHER ORDERED that the \$10,000 irrevocable sight draft letter of credit on file  
6 with the Commission on behalf of Lightyear Network Solutions, LLC be returned to the following  
7 name and address provided by the Company:

8 Mr. Steve Lochmueller  
9 Custodian of Records  
10 Lightyear Network Solutions, LLC  
11 P.O. Box 22889  
12 Lexington, KY 40522

11 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

12 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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14  
15 CHAIRMAN

COMMISSIONER

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17 COMMISSIONER

COMMISSIONER

COMMISSIONER

18  
19 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
20 Director of the Arizona Corporation Commission, have  
21 hereunto set my hand and caused the official seal of the  
22 Commission to be affixed at the Capitol, in the City of Phoenix,  
23 this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

23 JODI JERICH  
24 EXECUTIVE DIRECTOR

25 DISSENT \_\_\_\_\_

26  
27 DISSENT \_\_\_\_\_  
28 SP:ru/tv

1 SERVICE LIST FOR:

LIGHTYEAR NETWORK SOLUTIONS, LLC

2 DOCKET NOS.:

T-04292A-14-0092 AND T-03864A-14-0092

3

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