

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF UTAH**

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| Joint Application of                        | ) |                  |
|   | ) |                  |
| <b>Lightyear Network Solutions, LLC</b>     | ) |                  |
| and   | ) | Docket No. _____ |
| <b>Wherify Wireless, Inc.</b>               | ) |                  |
|   | ) |                  |
| For Approval of the Indirect Transfer of    | ) |                  |
| Control of Lightyear Network Solutions, LLC | ) |                  |
| to Wherify Wireless, Inc.                   | ) |                  |

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**JOINT APPLICATION**

Lightyear Network Solutions, LLC (“Lightyear”) and Wherify Wireless, Inc. (“Wherify”) (together, “Applicants”), through their undersigned counsel and pursuant to Utah Code Ann. §§ 54-4-28 and 54-4-29, hereby respectfully request Commission approval for 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 Utah, 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 Applicants. 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 Utah 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.

In support of this Joint Application, Applicants 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 Utah, Lightyear is authorized to provide facilities-based and resold local exchange and interexchange telecommunications services pursuant to Docket No. 04-2434-01 issued on April 7, 2005. Further information regarding Lightyear and the services it provides has previously been submitted to the Commission and Applicants 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 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 Joint Application, questions or any correspondence, orders, or other materials should be directed to the following contacts:

Counsel for Applicants:

Jean L. Kiddoo  
Danielle C. Burt  
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

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

### **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. Applicants 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 Applicants do not anticipate that any such new investor will hold an attributable interest in more than 10 percent of the shares of Wherify. Applicants therefore request authority for the indirect transfer of control of Lightyear to Wherify.<sup>1</sup> For the Commission’s convenience, pre- and post-transaction illustrative organization charts for the combined Utah operating companies are provided as Exhibit A. Also attached as Exhibit B are the most recent audited

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<sup>1</sup> Applicants anticipate changing the name of Wherify to Lightyear Network Solutions, Inc. as soon as practicable after closing.

financials of Wherify that demonstrate Lightyear's continued financial qualifications upon completion of the transaction.<sup>2</sup>

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**

Applicants 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 Utah to the benefit of Utah'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. Applicants 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 complete financial statements of Wherify are available online at <http://www.wherify.com/html/company.asp?pageId=118>.

**V. Conclusion**

For the reasons stated above, Applicants respectfully submit that the public interest, convenience, and necessity would be furthered by a grant of this Application for the transfer of control of Lightyear Network Solutions, LLC.

Respectfully submitted,

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Jean L. Kiddoo  
Danielle Burt  
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

Counsel for Applicants

Dated: August 22, 2008

**LIST OF EXHIBITS**

- Exhibit A - Pre- and Post-Transaction Illustrative Chart
- Exhibit B - Audited Financial Statements of Wherify Wireless, Inc.
- Verifications

**EXHIBIT A**

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



**EXHIBIT B**

**Audited Financial Statements of Wherify Wireless, Inc.**

## Verifications