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08-1019-TP-ACO  
90-9040-TP-TRF 19

# BINGHAM

**FILE**

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August 22, 2008

**Via Overnight Courier**

Renee J. Jenkins, Director of Administration  
Docketing Department  
Public Utilities Commission of Ohio  
180 E. Broad St.  
Columbus, OH 43215-3793

RECEIVED-DOCKETING DIV  
2008 AUG 25 AM 10: 02  
PUCO

**Re: In the Matter of the Application of Lightyear Network  
Solutions, LLC to Obtain Authority for an Indirect Transfer of  
Control**

Dear Ms. Jenkins:

On behalf of Applicants, enclosed for filing are an original and ten (10) copies of the above-referenced Application.

Please date-stamp the enclosed extra copy of this filing and return it in the self-addressed, postage paid envelope provided. Should you have any questions concerning this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,



Jean L. Kiddoo  
Danielle C. Burt  
Katie B. Besha

- Boston
- Hartford
- Hong Kong
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Washington, DC  
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**The Public Utilities Commission of Ohio**  
**TELECOMMUNICATIONS APPLICATION FORM for ROUTINE PROCEEDINGS**  
(Effective: 01/18/2008)

In the Matter of the Application of Lightyear Network Solutions, LLC to Obtain Authority for an Indirect Transfer of Control )  
 )  
 )  
 )

TRF Docket No. 90-\_\_\_\_

Case No. \_\_ - \_\_\_\_ -TP - \_\_\_\_

NOTE: Unless you have reserved a Case # or are filing a Contract, leave the "Case No" fields BLANK.

Name of Registrant(s) Lightyear Network Solutions, LLC

DBA(s) of Registrant(s) \_\_\_\_\_

Address of Registrant(s) 1901 Eastpoint Parkway, Louisville, Kentucky 40223

Company Web Address www.lightyear.net

Regulatory Contact Person(s) Linda Hunt

Phone (502) 253-1531 Fax (502) 515-4138

Regulatory Contact Person's Email Address linda.hunt@lightyear.net

Contact Person for Annual Report John Greive

Phone (502) 253-1508

Address (if different from above) same as above

Consumer Contact Information Linda Hunt

Phone (502) 253-1531

Address (if different from above) same as above

Motion for protective order included with filing?  Yes  No

Motion for waiver(s) filed affecting this case?  Yes  No [Note: Waivers may toll any automatic timeframe.]

**Section I – Pursuant to Chapter 4901:11-6 OAC – Part I – Please indicate the Carrier Type and the reason for submitting this form by checking the boxes below. CMRS providers: Please see the bottom of Section II.**

NOTES: (1) For requirements for various applications, see the identified section of Ohio Administrative Code Section 4901 and/or the supplemental application form noted.

(2) Information regarding the number of copies required by the Commission may be obtained from the Commission's web site at [www.puco.ohio.gov](http://www.puco.ohio.gov) under the docketing information system section, by calling the docketing division at 614-466-4095, or by visiting the docketing division at the offices of the Commission.

<b>Carrier Type</b> <input type="checkbox"/> Other (explain below)	<input type="checkbox"/> ILEC	<input checked="" type="checkbox"/> CLEC	<input checked="" type="checkbox"/> CTS	<input type="checkbox"/> AOS/IOS
<b>Tier 1 Regulatory Treatment</b>				
Change Rates within approved Range	<input type="checkbox"/> TRF <u>1-6-04(B)</u> (0 day Notice)	<input type="checkbox"/> TRF <u>1-6-04(B)</u> (0 day Notice)		
New Service, expanded local calling area, correction of textual error	<input type="checkbox"/> ZTA <u>1-6-04(B)</u> (0 day Notice)	<input type="checkbox"/> ZTA <u>1-6-04(B)</u> (0 day Notice)		
Change Terms and Conditions, Introduce non-recurring service charges	<input type="checkbox"/> ATA <u>1-6-04(B)</u> (Auto 30 days)	<input type="checkbox"/> ATA <u>1-6-04(B)</u> (Auto 30 days)		
Introduce or Increase Late Payment or Returned Check Charge	<input type="checkbox"/> ATA <u>1-6-04(B)</u> (Auto 30 days)	<input type="checkbox"/> ATA <u>1-6-04(B)</u> (Auto 30 days)		
Business Contract	<input type="checkbox"/> CTR <u>1-6-17</u> (0 day Notice)	<input type="checkbox"/> CTR <u>1-6-17</u> (0 day Notice)		
Withdrawal	<input type="checkbox"/> ATW <u>1-6-12(A)</u> (Non-Auto)	<input type="checkbox"/> ATW <u>1-6-12(A)</u> (Auto 30 days)		
Raise the Ceiling of a Rate	Not Applicable	<input type="checkbox"/> SLF <u>1-6-04(B)</u> (Auto 30 days)		
<b>Tier 2 Regulatory Treatment</b>				
Residential - Introduce non-recurring service charges	<input type="checkbox"/> TRF <u>1-6-05(E)</u> (0 day Notice)	<input type="checkbox"/> TRF <u>1-6-05(E)</u> (0 day Notice)		
Residential - Introduce New Tariffed Tier 2 Service(s)	<input type="checkbox"/> TRF <u>1-6-05(C)</u> (0 day Notice)	<input type="checkbox"/> TRF <u>1-6-05(C)</u> (0 day Notice)	<input type="checkbox"/> TRF <u>1-6-05(C)</u> (0 day Notice)	
Residential - Change Rates, Terms and Conditions, Promotions, or Withdrawal	<input type="checkbox"/> TRF <u>1-6-05(E)</u> (0 day Notice)	<input type="checkbox"/> TRF <u>1-6-05(E)</u> (0 day Notice)	<input type="checkbox"/> TRF <u>1-6-05(E)</u> (0 day Notice)	
Residential - Tier 2 Service Contracts	<input type="checkbox"/> CTR <u>1-6-17</u> (0 day Notice)	<input type="checkbox"/> CTR <u>1-6-17</u> (0 day Notice)	<input type="checkbox"/> CTR <u>1-6-17</u> (0 day Notice)	
Commercial (Business) Contracts	Not Filed	Not Filed	Not Filed	
Business Services (see "Other" below)	Detariffed	Detariffed	Detariffed	
Residential & Business Toll Services (see "Other" below)	Detariffed	Detariffed	Detariffed	

<b>Certificate Status</b>	<b>ILEC</b>	<b>CLEC</b>	<b>CTS</b>	<b>AOS/IOS</b>
Certification (See Supplemental ACE form)		<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)	<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)	<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)
Add Exchanges to Certificate	<input type="checkbox"/> ATA 1-6-09(C) (Auto 30 days)	<input type="checkbox"/> AAC 1-6-10(F) (0 day Notice)	CLECs must attach a current CLEC Exchange Listing Form	
Abandon all Services - With Customers	<input type="checkbox"/> ABN 1-6-11(A) (Non-Auto)	<input type="checkbox"/> ABN 1-6-11(A) (Auto 90 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)
Abandon all Services - Without Customers		<input type="checkbox"/> ABN 1-6-11(A) (Auto 30 days)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)
Change of Official Name (See below)	<input type="checkbox"/> ACN 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ACN 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Change in Ownership (See below)	<input type="checkbox"/> ACO 1-6-14(B) (Auto 30 days)	<input checked="" type="checkbox"/> ACO 1-6-14(B) (Auto 30 days)	<input checked="" type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice) (
Merger (See below)	<input type="checkbox"/> AMT 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> AMT 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Transfer a Certificate (See below)	<input type="checkbox"/> ATC 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ATC 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Transaction for transfer or lease of property, plant or business (See below)	<input type="checkbox"/> ATR 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ATR 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
<b>Procedural</b>				

**Section I – Part II – Certificate Status and Procedural**

Designation of Process Agent(s)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)
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**Section II – Carrier to Carrier (Pursuant to 4901:1-7), CMRS and Other**

<b>Carrier to Carrier</b>	<b>ILEC</b>	<b>CLEC</b>		
Interconnection agreement, or amendment to an approved agreement	<input type="checkbox"/> NAG 1-7-07 (Auto 90 day)	<input type="checkbox"/> NAG 1-7-07 (Auto 90 day)		
Request for Arbitration	<input type="checkbox"/> ARB 1-7-09 (Non-Auto)	<input type="checkbox"/> ARB 1-7-09 (Non-Auto)		
Introduce or change c-t-c service tariffs,	<input type="checkbox"/> ATA 1-7-14 (Auto 30 day)	<input type="checkbox"/> ATA 1-7-14 (Auto 30 day)		
Introduce or change access service pursuant to 07-464-TP-COI	<input type="checkbox"/> ATA (Auto 30 day)			
Request rural carrier exemption, rural carrier suspension or modification	<input type="checkbox"/> UNC 1-7-04 or (Non-Auto) 1-7-05	<input type="checkbox"/> UNC 1-7-04 or (Non-Auto) 1-7-05		
Pole attachment changes in terms and conditions and price changes.	<input type="checkbox"/> UNC 1-7-23(B) (Non-Auto)	<input type="checkbox"/> UNC 1-7-05 (Non-Auto)		
<b>CMRS Providers</b> See 4901:1-6-15	<input type="checkbox"/> RCC [Registration & Change in Operations] (0 day)		<input type="checkbox"/> NAG [Interconnection Agreement or Amendment] (Auto 90 days)	
<b>Other*</b> (explain) _____				

*\*NOTE: During the interim period between the effective date of the rules and an Applicant's Detariffing Filing, changes to existing business Tier 2 and all toll services, including the addition of new business Tier 2 and all new toll services, will be processed as 0-day TRF filings, and briefly described in the "Other" section above.*

**All Section I and II applications that result in a change to one or more tariff pages require, at a minimum, the following exhibits. Other exhibits may be required under the applicable rule(s). ACN, ACO, AMT, ATC, ATR and CIO applications see the 4901:1-6-14 Filing Requirements on the Commission's Web Page for a complete list of exhibits.**

Exhibit	Description:
A	The tariff pages subject to the proposed change(s) as they exist before the change(s)
B	The Tariff pages subject to the proposed change(s), reflecting the change, with the change(s) marked in the right margin.
C	A short description of the nature of the change(s), the intent of the change(s), and the customers affected.
D	A copy of the notice provided to customers, along with an affidavit that the notice was provided according to the applicable rule(s).

**Section III. – Attestation**

Registrant hereby attests to its compliance with pertinent entries and orders issued by the Commission.

**AFFIDAVIT**

***Compliance with Commission Rules and Service Standards***

I am an officer/agent of the applicant corporation, Lightyear Network Solutions, LLC, and am authorized to make this statement on its behalf.  
(Name)

I attest that these tariffs comply with all applicable rules, including the Minimum Telephone Service Standards (MTSS) Pursuant to Chapter 4901:1-5 OAC for the state of Ohio. I understand that tariff notification filings do not imply Commission approval and that the Commission's rules, including the Minimum Telephone Service Standards, as modified and clarified from time to time, supersede any contradictory provisions in our tariff. We will fully comply with the rules of the state of Ohio and understand that noncompliance can result in various penalties, including the suspension of our certificate to operate within the state of Ohio.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on (Date)

8/19/08

at (Location) Louisville, Kentucky

\*(Signature and Title)

Allen Flinn  
Vice President of Regulatory & General Counsel

(Date)

8/19/08

- This affidavit is required for every tariff-affecting filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.

**VERIFICATION**

I, John Greive, verify that I have utilized the Telecommunications Application Form for Routine Proceedings provided by the Commission and that all of the information submitted here, and all additional information submitted in connection with this case, is true and correct to the best of my knowledge.

\*(Signature and Title)

Allen Flinn

Vice President of Regulatory & General Counsel

(Date)

8/19/08

*\*Verification is required for every filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.*

***Send your completed Application Form, including all required attachments as well as the required number of copies, to:***

**Public Utilities Commission of Ohio  
Attention: Docketing Division  
180 East Broad Street, Columbus, OH 43215-3793**

*Or*

**Make such filing electronically as directed in Case No 06-900-AU-WVR**

**Section III. – Attestation**

Registrant hereby attests to its compliance with pertinent entries and orders issued by the Commission.

**AFFIDAVIT**

***Compliance with Commission Rules and Service Standards***

I am an officer/agent of the applicant corporation, Wherify Wireless, Inc., and am authorized to make this statement on its behalf.  
(Name)

I attest that these tariffs comply with all applicable rules, including the Minimum Telephone Service Standards (MTSS) Pursuant to Chapter 4901:1-5 OAC for the state of Ohio. I understand that tariff notification filings do not imply Commission approval and that the Commission's rules, including the Minimum Telephone Service Standards, as modified and clarified from time to time, supersede any contradictory provisions in our tariff. We will fully comply with the rules of the state of Ohio and understand that noncompliance can result in various penalties, including the suspension of our certificate to operate within the state of Ohio.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on (Date) Aug. 21, 2008 at (Location) Louisville, KY

\*(Signature and Title) Vincent Sheeran (Date) 8/21/08  
Chief Executive Officer

- This affidavit is required for every tariff-affecting filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.

**VERIFICATION**

I, Vincent D. Sheeran, verify that I have utilized the Telecommunications Application Form for Routine Proceedings provided by the Commission and that all of the information submitted here, and all additional information submitted in connection with this case, is true and correct to the best of my knowledge.

\*(Signature and Title) Vincent Sheeran Chief Executive Officer (Date) 8/21/08

*\*Verification is required for every filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.*

***Send your completed Application Form, including all required attachments as well as the required number of copies, to:***

**Public Utilities Commission of Ohio  
Attention: Docketing Division  
180 East Broad Street, Columbus, OH 43215-3793**

***Or***

**Make such filing electronically as directed in Case No 06-900-AU-WVR**

**ATTACHMENTS**

- Attachment A - Description of Transaction
- Attachment B - Pre- and Post-Transaction Illustrative Chart
- Attachment C - Certificate of Good Standing
- Attachment D - Lightyear's Officers
- Attachment E - Customer Notice



## **Attachment A**

### **Description of Transaction**

Lightyear Network Solutions, LLC (“Lightyear”) and Wherify Wireless, Inc. (“Wherify”) (together, “Applicants”), through their undersigned counsel, 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 Ohio, 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 Ohio 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 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 Ohio, Lightyear is authorized to provide facilities-based and resold local exchange and interexchange telecommunications services and resold wireless services pursuant to Case Nos. 03-2513-TP-ATC and 03-1547-TP-CIO issued on January 18, 2004. 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 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.<sup>1</sup> For the Commission’s convenience, pre- and post-transaction illustrative organization charts for the combined Ohio operating companies are provided as Exhibit B.

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 Ohio to the benefit of Ohio’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

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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.

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.

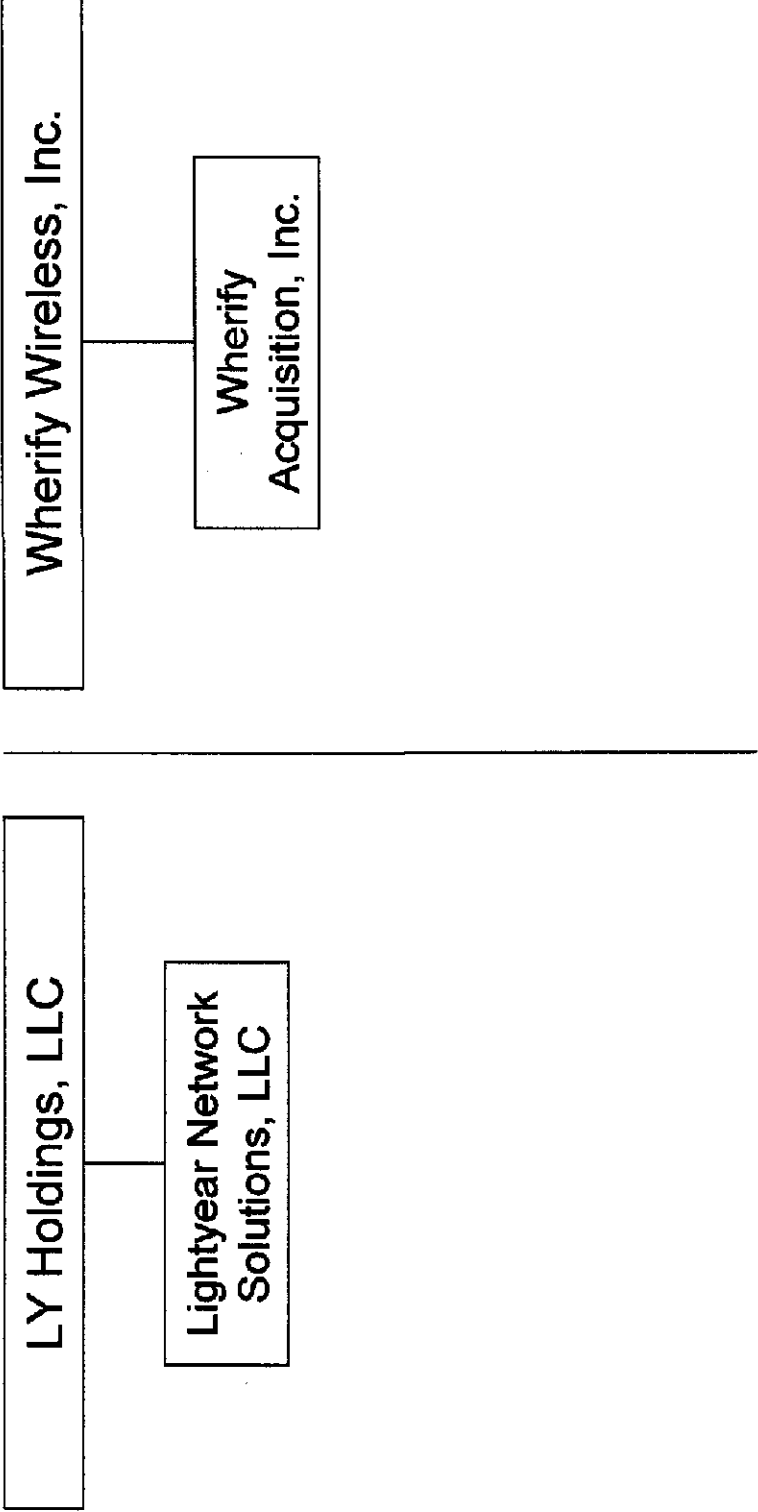
**V. Conclusion**

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.

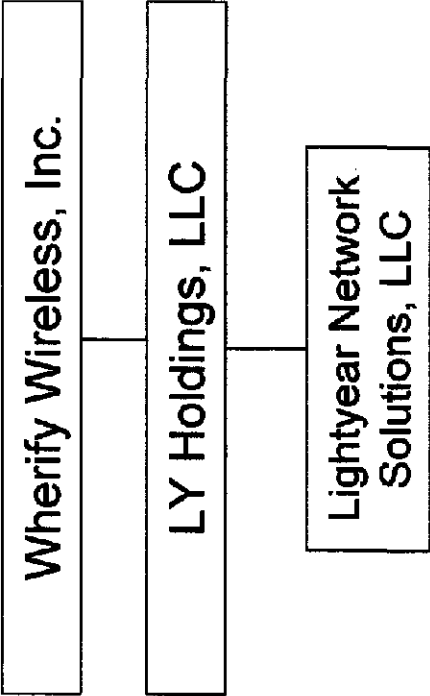
**Attachment B**

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

# Pre-Transaction Illustrative Organization Chart



**Post-Transaction Illustrative Organization Chart**



**Attachment C**  
**Certificate of Good Standing**



**United States of America  
State of Ohio  
Office of the Secretary of State**

*I, Jennifer Brunner, do hereby certify that I am the duly elected, qualified and present acting Secretary of State for the State of Ohio, and as such have custody of the records of Ohio and Foreign business entities; that said records show **LIGHTYEAR NETWORK SOLUTIONS, LLC**, a Kentucky Limited Liability Company, Registration Number 1427752, filed on December 12, 2003, is currently in **FULL FORCE AND EFFECT** upon the records of this office.*



*Witness my hand and the seal of the  
Secretary of State at Columbus, Ohio  
this 22nd day of August, A.D. 2008*

A handwritten signature in cursive script, appearing to read "Jennifer Brunner".

Ohio Secretary of State

Validation Number: V2008234AAE105

## **Attachment D**

### **Officers of Lightyear**

J. Sherman Henderson III, Founder, President & Chief Executive Officer  
Josh Henderson, Senior Vice President of Sales & Marketing/President of Lightyear Alliance  
Elaine G. Bush, Chief Financial Officer  
John Greive, Vice President of Regulatory Affairs & General Counsel  
David A. Corral, Vice President of Information Technology & Networks  
Kevin Shady, Vice President of Sales & Operations  
Steve Ray, Vice President of Carrier Relations  
Brian Garrison, VP, Audit and Pricing

## **Attachment E**

### **Customer Notice**

Immediately following the transaction, Lightyear will continue to operate as a subsidiary of Holdings and Wherify. Further, Lightyear will continue to provide service to its customers under the same rates and terms and conditions of service as it currently provides. Petitioners, therefore, may not provide notice to customers since the transaction will be conducted in a manner that will be transparent to customers of Lightyear. Ohio Admin. Code §4901:1-6-14(A)(3).