

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02A-597AT

IN THE MATTER OF THE APPLICATION OF LIGHTYEAR COMMUNICATIONS, INC. TO
DISCONTINUE OR CURTAIL JURISDICTIONAL TELECOMMUNICATIONS SERVICE.

**DECISION GRANTING APPLICATION FOR REHEARING,
REARGUMENT, OR RECONSIDERATION**

Mailed Date: January 28, 2003
Adopted Date: January 22, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of the letter filed by Lightyear Communications, Inc. (Lightyear), on January 9, 2003. That letter requests that we modify Decision No. C02-1392, the decision granting Lightyear's Application to Discontinue or Curtail Jurisdictional Telecommunications Service. Because the letter is addressed to our decision granting the Application to Discontinue, we construe the letter as an application for rehearing, reargument, or reconsideration (RRR). Now being duly advised in the matter, we grant the application for RRR, in part only.

2. Initially we comment on the procedure used by Lightyear to request reconsideration of Decision No. C02-1392. First, a letter addressed to the Director of the Commission is not the appropriate manner to request reconsideration of a formal Commission decision. Entities regulated by the Commission should be sufficiently familiar with Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, to know that *formal pleadings* (not letters) in the docket should be filed when Commission action is requested in a

formal docket. Second, the letter by Lightyear was signed by Linda Hunt, Manager of Regulatory Affairs and Paralegal to General Counsel. However, nothing in this file indicates that Ms. Hunt is authorized by Lightyear to file documents on behalf of Lightyear in formal Commission dockets. Furthermore, nothing in this docket indicates that the matter here is one in which Ms. Hunt, a non-attorney, is authorized to represent Lightyear in this manner. Nevertheless, because Lightyear's application to discontinue service was non-contested and the requests made in the letter do not involve legal issues, we construe Lightyear's letter as an application for RRR, and now grant it in part.

3. Lightyear first requests that we modify ordering paragraph 4 in Decision No. C02-1392 to clarify that Lightyear retains its authority to offer private line service, frame relay, and 1+ dedicated services over any underlying carrier authorized to provide service in Colorado. According to Lightyear, in this docket it is seeking to discontinue service over the network of Williams Communications (Williams), but reserves the right to, at some future date, re-negotiate a new carrier agreement with Williams.

4. We deny this request to modify paragraph 4. Ordering paragraph 4 in Decision No. C02-1392 already states that the authority to discontinue service is limited to services provided over Williams' network, the precise request made in Lightyear's application. Therefore, as we understand the application for RRR, the modification requested by Lightyear is unnecessary, and is denied.

5. The application for RRR also requests deletion of ordering paragraph 5 of Decision No. C02-1392, which directs Lightyear to submit an advice letter to withdraw pages from its tariff related to private line, frame relay, and 1+ dedicated services. The application for RRR states that its filed tariffs do not specifically name any carrier, such as Williams, as the

underlying carrier. Therefore, Lightyear suggests, there is no need to withdraw any tariff pages currently on file with the Commission. Good grounds having been stated, we grant this request.

II. ORDER

A. The Commission Orders That:

1. The letter filed on January 9, 2003 by Lightyear Communications, Inc., is construed as an application for rehearing, reargument, or reconsideration, and is granted consistent with the above discussion. Ordering paragraph 5 from Decision No. C02-1392 is deleted from the decision. In all other respects the application for rehearing, reargument, or reconsideration is denied.

2. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the Mailed Date of this Decision.

3. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 22, 2003.**

(S E A L)



ATTEST: A TRUE COPY

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RAYMOND L. GIFFORD

POLLY PAGE

JIM DYER

Commissioners