

June 17, 2005

VIA ELECTRONIC MAIL AND US MAIL

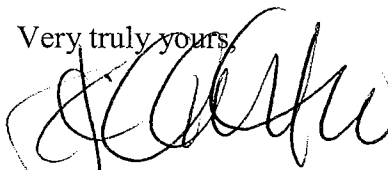
Filing Center
Oregon Public Utility Commission
550 Capitol Street NE #215
PO Box 2148
Salem, OR 97308-2148

Re: CP 1283 - Motion to Dismiss Protest of LS Networks' Application for License as
a Competitor in the State of Oregon

Dear Sir or Madam:

Enclosed for filing in the above-named docket is the original LS Networks' Motion to
Dismiss Protest of LS Networks' Application for License as a Competitor in the State of Oregon.
Please contact me with any questions.

Very truly yours,



Jessica A. Centeno

Enclosure

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**
3 **CP 1283**

4
5 In the Matter of

6 The Application of LIGHTSPEED
7 NETWORKS, INC.

8 For a Certificate of Authority to Provide
9 Telecommunications Service in Oregon and
10 Classification as a Competitive
Telecommunications Provider.

MOTION TO DISMISS GUY ALVIS'
PROTEST AGAINST LS NETWORKS'
APPLICATION FOR CERTIFICATE OF
AUTHORITY AND CLASSIFICATION
AS A COMPETITIVE
TELECOMMUNICATIONS PROVIDER

11
12 **MOTION**

13 Lightspeed Networks, Inc., d/b/a LS Networks, hereby moves to dismiss the protest of
14 Mr. Guy Alvis against LS Networks' Application for a Certificate of Authority to Provide
15 Telecommunications Service in Oregon and Classification as a Competitive Telecommunications
16 Provider ("Application"). In the alternative, LS Networks respectfully requests that the
17 Commission require Mr. Alvis to show that he is affected by the application and/or that his
18 appearance and participation will not unreasonably broaden the issues or burden the record, as
19 permitted by OAR 860-032-0005(7)(c).

20 **STATEMENT OF FACTS**

21 On April 20, 2005, LS Networks filed its Application with the Oregon Public Utilities
22 Commission ("Commission"). On May 23, 2005, Guy Alvis submitted a letter to Mr. Dave
23 Booth of Commission Staff protesting LS Networks' Application. Mr. Alvis did not serve copies
24 of this letter on LS Networks at the time of filing.

25 LS Networks is a newly incorporated Oregon corporation organized in order to provide
26 telecommunications services in this state. LS Networks acquired certain assets of NoaNet

1 Oregon after LS Networks purchased an outstanding operating loan that NoaNet Oregon had
2 with its financing company, CFC. As a result of NoaNet Oregon’s default on that note, LS
3 Networks, as a secured creditor, exercised its rights under its security agreement to obtain the
4 collateral securing NoaNet Oregon’s operating loan. LS Networks did not acquire NoaNet
5 Oregon in its entirety and did not assume the liabilities of NoaNet Oregon. The two companies
6 entered into a contract agreeing to work with together to facilitate the transfer from NoaNet
7 Oregon to LS Networks. As part of that agreement, NoaNet agreed to continue operating certain
8 lines of its business by leasing equipment and employees from LS Networks.

9 After the foreclosure, certain employees of NoaNet Oregon were hired by LS Networks.
10 However, not every employee was hired by the new company. Mr. Alvis was one of the
11 employees who was not hired. Mr. Alvis had an employment agreement with NoaNet
12 Washington. There is a dispute between the parties about whether Mr. Alvis’s employment
13 agreement was transferred to and assumed by NoaNet Oregon, as well as several other disputes
14 related to his employment.

15 ARGUMENT

16 None of the assertions made in Mr. Alvis’ protest letter are relevant to LS Networks’
17 Application. Under ORS 759.020, the Commission shall issue the certificate if the authorization
18 would serve the public interest. Mr. Alvis is not even purporting to object on the basis of the
19 public interest. In fact, as Mr. Alvis made clear in his letter, he would have no objection to the
20 issuance of the certificate if “the creditors of NoaNet Oregon, such as myself, are paid in
21 full. . . .”

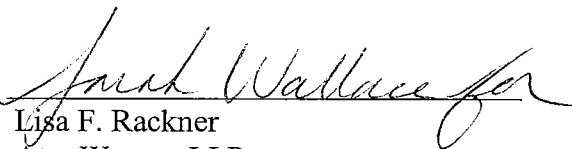
22 Mr. Alvis’ arguments are primarily related to his former employment agreement with
23 NoaNet Washington—a distinct entity from NoaNet Oregon. He also speculates about NoaNet
24 Oregon’s failure to pay its creditors. Mr. Alvis’ grievances with NoaNet Washington, which was
25 not acquired by LS Networks and is not related to these proceedings, are irrelevant to the
26 question of whether issuing a certificate to LS Networks will serve the public interest. Mr. Alvis

1 is inappropriately trying to use this forum to seek disputed payments under his employment
2 contract. Such contracts are not within this Commission's jurisdiction, and Mr. Alvis' private
3 grievances with NoaNet Washington are irrelevant in these proceedings. Even if NoaNet
4 Washington transferred Mr. Alvis' employment contract to NoaNet Oregon, it was not
5 transferred to LS Networks. In addition, LS Networks did not assume NoaNet Oregon's
6 liabilities and is not responsible in any way for those liabilities.

7 For the foregoing reasons, LS Networks respectfully requests that the Commission
8 dismiss Mr. Alvis' protest. In the alternative, LS Networks requests that the Commission require
9 Mr. Alvis to show that he is affected by the Application and/or that his appearance and
10 participation will not unreasonably broaden the issues or burden the record, as permitted by OAR
11 860-032-0005(7)(c).

12 Respectfully submitted this 17th day of June, 2005.

13 ATER WYNNE, LLP

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15 By: 
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**CERTIFICATE OF SERVICE
CP 1283**

I hereby certify that a true and correct copy of **MOTION TO DISMISS PROTEST OF LS NETWORKS' APPLICATION FOR LICENSE AS A COMPETITOR IN THE STATE OF OREGON** was served via U.S. Mail on the following parties on June 17, 2005:

Michael T. Weirich
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