

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application	)	Application No. C-4738
of Peerless Network of Nebraska,	)	
LLC, Chicago, Illinois, seeking	)	
authority for a certificate of	)	
public convenience and necessity	)	
to provide local exchange and	)	GRANTED
interexchange telecommunications	)	
services in the State of	)	
Nebraska.	)	Entered: March 17, 2015

BY THE COMMISSION:

On January 30, 2015, an application was filed with the Nebraska Public Service Commission ("Commission") by Peerless Network of Nebraska, LLC, ("Peerless" or "Applicant") of Chicago, Illinois. Applicant seeks authority to provide facilities-based and resold local exchange and interexchange telecommunications services in the State of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on February 4, 2015. No protests were filed; therefore, this application is processed pursuant to the Commission's Rule of Modified Procedure.

E V I D E N C E

Applicant is a limited liability company organized under the laws of the State of Nebraska. Applicant has been authorized by the Secretary of State to operate in Nebraska and is in good standing. Applicant is a wholly-owned subsidiary of Peerless Network, Inc. ("PNI") and the state specific operating company for Nebraska and is therefore not authorized to operate in any other state. However, other wholly-owned subsidiaries of PNI are authorized to operate in Alabama, California, Colorado, Connecticut, District of Columbia, Delaware, Florida, Georgia, Illinois, Kentucky, Massachusetts, Maryland, Maine, Michigan, North Carolina, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Vermont, West Virginia, and Wisconsin. No officer, director or shareholder having five percent or more of the Applicant's voting securities has been involved in a formal complaint or other investigatory or enforcement proceeding.

Applicant seeks to provide facilities-based and resold local exchange and interexchange telecommunications services and access telecommunications services state-wide in Nebraska. Applicant proposes to provide these services as a common carrier. Peerless states it will initially utilize resold services and combinations of network elements provided by

underlying carriers. The underlying carriers will perform switching, routing, and call completion functions. Applicant will transition to facilities-based service provisioning as market forces allow. Peerless intends to offer service to business customers. Applicant does not plan to collect customer deposits or offer any prepaid services in Nebraska. Applicant states it will provide billing services and customer service available through a toll-free number.

In support of its managerial, technical and financial capabilities, Applicant submitted a description of its senior officer's management and telecommunications experience.

Applicant states that a grant of the proposed application is in the public interest because Applicant's proposed services will foster greater competition in the local exchange and interexchange marketplaces in Nebraska which will help to preserve/advance universal service, ensure continuous quality of telecommunications services and safeguard the rights of consumers.

#### O P I N I O N      A N D      F I N D I N G S

The Commission considers this application for authority in light of the following criteria and standards established in the Commission's telecommunications rules:

- (a) Whether the Applicant has provided the information required by the Commission;
- (b) Whether the Applicant has provided a performance bond, if required;
- (c) Whether the Applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether the Applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether the Applicant possesses adequate managerial competence to provide the proposed service; and
- (f) Whether granting the Applicant a certificate preserves and advances universal service, protects the public safety and welfare, ensures the continued quality of telecommunications services, and safeguards the rights of consumers, pursuant to Section 253(b) of the Act.

Applicant has demonstrated that it meets the standards of financial, technical and managerial competence necessary to provide service in the State of Nebraska.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering applications to provide local exchange and interexchange service. All telecommunications carriers seeking such a certificate must demonstrate that they meet, at a minimum, the standards and criteria set forth herein.

Before the Applicant is allowed to provide local exchange service to its users, it must either:

- (a) Through negotiation or arbitration, reach an interconnection/resale agreement with the pertinent incumbent local exchange carrier and receive Commission approval of the interconnection/resale agreement; or
- (b) In the event a certified local exchange carrier provides a wholesale tariff, purchase rates from that tariff, file its own tariff and receive Commission approval of its tariff.

This order does not terminate, waive or in any manner diminish the exemptions and protections created by the Act for rural carriers, as defined by the Act. This order does not address the issue of the rural local exchange carrier exemption under the Act. Rural exemptions may be terminated, suspended or modified only as provided in Section 251(f) of the Act.

Prior to providing service in any area in the State of Nebraska, Applicant must file tariffs in accordance with the provisions of Section 002.21 of the Neb. Admin. R. & Regs. Title 291, Chapter 5.

Upon the offering of interexchange and/or local exchange services in the State of Nebraska, Applicant would be subject to the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other local exchange and interexchange carriers, except those obligations imposed on ILECs pursuant to Section 251(c) of the Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-4738, be, and it is hereby, approved.

IT IS FURTHER ORDERED that the Applicant comply with Section 251(f)(1)(B) of the Telecommunications Act of 1996 and that the Applicant submit any bona fide request(s) for interconnection, services or network elements from a rural telephone company to the Commission for its approval.

IT IS FURTHER ORDERED that Applicant is obligated to abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other interexchange and local exchange carriers, except obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Act.

IT IS FURTHER ORDERED that, to the extent Applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-301 through 86-315 (Relay Act) and defined in Neb. Admin. R. & Reg. Title 291, Chapter 5 § 001.01B, the Applicant shall collect from its subscribers a surcharge (Relay Surcharge) pursuant to the relay act and the Commission's annual orders establishing the amount of the surcharge, and shall remit to the Commission the proceeds from the relay surcharge as provided by the relay act.

IT IS FURTHER ORDERED that the Applicant comply with all necessary statutes and Commission Rules and Regulations as they pertain to the Nebraska Universal Service Fund.

IT IS FURTHER ORDERED that Applicant shall file, in accordance with the applicable statutes, on or before April 30 of each year, an annual report with the Commission consisting of: (a) a copy of the ARMIS Report filed with the Federal Communications Commission if applicable; (b) a copy of any annual report to stockholders; and (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission. If such reports are unavailable, Applicant shall file a balance sheet and income statement for the previous year of operation, and for the State of Nebraska on a combined interstate-intrastate basis, the investment in the telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses and taxes.

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IT IS FURTHER ORDERED that within 30 days from the entry of this order that the Applicant file a tariff with the Commission as required by state statutes and the Commission's regulations.

IT IS FINALLY ORDERED that this order be, and hereby is, made the Commission's official Certificate of Public Convenience and Necessity to the Applicant to provide local exchange and interexchange telecommunications services in the State of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 17<sup>th</sup> day of March, 2015.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Tim Schram*

Chairman

*Crystal Goodale*

ATTEST:

*Reed Johnson*

*Steve Meradith*

Executive Director