

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF)
PEERLESS NETWORK OF DELAWARE, LLC, FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO PROVIDE LOCAL EXCHANGE AND)
COMPETITIVE INTRASTATE TELECOMMUNICATIONS) PSC DOCKET NO. 08-197
SERVICES WITHIN THE STATE OF DELAWARE,)
AND FOR REVIEW OF A PLAN FOR PROVIDING)
INTRALATA TOLL DIALING PARITY IN ACCORD-)
ANCE WITH FEDERAL COMMUNICATIONS COMMIS-)
SION REQUIREMENTS (FILED JULY 18, 2008))

FINDINGS AND ORDER NO. 7456

This 7th day of October, 2008, the Public Service Commission ("PSC" or the "Commission") makes the following findings, determination, and Order:

1. On July 18, 2008, Peerless Network of Delaware, LLC ("Peerless Network") filed with the Commission an application for a Certificate of Public Convenience and Necessity ("CPCN") to allow it to provide local exchange and competitive intrastate telecommunications services within Delaware. Peerless Network has also filed an illustrative tariff setting forth the terms and conditions for its proposed services and its proposed dialing parity plan; and

2. Public notice of the application, including a period for filing objections, was published in the Delaware State News newspaper on July 28, 2008 and The News Journal newspaper on July 30, 2008. No comments or objections to the application have been received. The Commission Staff reports that Peerless Network has shown that it has the financial, technical, and managerial capabilities as required for a CPCN as set forth in the Commission's "Rules for the Provision of

Telecommunications Services."¹ On August 26, 2008, Peerless Network filed a surety bond in the amount of Ten Thousand Dollars (\$10,000) with corporate surety licensed to do business in Delaware; and

3. The Commission determines that a conditional CPCN should be granted to Peerless Network authorizing it, as a public utility, to offer local exchange and competitive intrastate telecommunications services under the provisions of the Commission's "Rules for the Provision of Telecommunications Services" until the Company completes the conditions described in Ordering Paragraph 4; and

4. The Commission determines that a CPCN should be granted to Peerless Network authorizing it, as a public utility, to offer competitive intrastate telecommunications services under the provisions of the Commission's "Rules for the Provision of Telecommunications Services."

Now, therefore, **IT IS ORDERED:**

1. That, pursuant to 26 Del. C. §§ 203A and 703(3) and the Commission's "Rules for the Provision of Telecommunications Services," a conditional Certificate of Public Convenience and Necessity is granted to Peerless Network of Delaware, LLC to operate as a public utility and provide local exchange telecommunications services as described in the application filed on July 18, 2008.

2. That, pursuant to 26 Del. C. §§ 203A and 703(3) and the Commission's "Rules for the Provision of Telecommunications Services," a

¹Adopted in PSC Order No. 5833 (eff. Dec. 10, 2001) and amended by PSC Order No. 6839 (eff. Mar. 11, 2006).

Certificate of Public Convenience and Necessity is granted to Peerless Network of Delaware, LLC to operate as a public utility and provide competitive intrastate telecommunications services as described in the application filed on July 18, 2008.

3. That Peerless Network of Delaware, LLC shall provide local exchange and competitive intrastate telecommunications services in the manner required by the Commission's "Rules for the Provision of Telecommunications Services," and shall, at all times, comply with all applicable provisions of such Rules. Peerless Network of Delaware, LLC shall also file all returns and pay all assessments and fees as may be required by the provisions of 26 Del. C. §§ 114 and 115.

4. That the Certificate for local exchange telecommunications services is awarded upon, and subject to, the following conditions:²

- (a) That ten (10) days prior to the date Peerless Network of Delaware, LLC intends to offer and implement local exchange telecommunications services, Peerless Network of Delaware, LLC shall file a tariff or price list with rules, regulations, terms, and conditions of service specifically adopted for Delaware; and
- (b) That Peerless Network of Delaware, LLC, has a Commission approved interconnection agreement or a filed "opt-in" agreement between Peerless Network of Delaware, LLC and Verizon Delaware LLC or another certificated local exchange carrier.

²These conditions must be completed within 6 months of the date of this Order.

5. That the intraLATA toll dialing parity plan filed by Peerless Network of Delaware, LLC is approved with the modification expressed in Staff's recommendation in their October 1, 2008 memorandum. The Commission reserves the right to revisit the approval granted here if changed circumstances or complaints (from either consumers or competitors) raise concerns that "real world" implementation of the intraLATA toll dialing parity plan of Peerless Network of Delaware, LLC does not allow for customers to exercise informed choice in the selection of an intraLATA toll carrier.

6. That the provisions of 26 Del. C. § 208(b) are waived, and Peerless Network of Delaware, LLC is authorized to maintain its books and records relating to its Delaware operations outside of the State of Delaware provided, however, and upon the condition that, all such books and records relating to Delaware operations as the Commission may deem it reasonably necessary from time to time, to review and copy, shall be provided to the Commission at the Commission's Office within the State of Delaware in a timely manner upon written request by the Commission's Executive Director. The conduct of such a review at a location other than Delaware shall be at the Applicant's expense.

7. That Peerless Network of Delaware, LLC, shall comply with all state and federal statutes and rules relating to a customer's selection of a preferred carrier of telecommunications services. Peerless Network of Delaware, LLC, agrees to pay all fees, assessments, penalties, and allowed damages arising from a violation of such state and federal statutes or rules pertaining to the selection of a preferred carrier.

8. That a violation of the "Rules for the Provision of Telecommunications Services" may result in suspension or revocation of this Certificate.

9. That the Commission reserves the jurisdiction and authority to enter such further Orders in this proceeding as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary