



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF PEERLESS)
NETWORK OF NEW JERSEY, LLC FOR APPROVAL)
TO PROVIDE LOCAL EXCHANGE AND)
INTEREXCHANGE TELECOMMUNICATIONS SERVICES)
THROUGHOUT THE STATE OF NEW JERSEY)

ORDER

DOCKET NO. TE08050322

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated May 19, 2008, Peerless Network of New Jersey, LLC (“Petitioner” or “Peerless”) filed a Petition with the New Jersey Board of Public Utilities (“Board”) requesting authority to provide all forms of resold and facilities-based local exchange and interexchange telecommunications services throughout the State of New Jersey. Petitioner has submitted its financial information under seal along with a sworn affidavit with substantiation for confidential treatment in accordance with the Board’s rules for determining confidentiality, N.J.A.C. 14:1-12 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

Peerless is a privately held limited liability company organized under the laws of the State of New Jersey. Peerless is 100% owned by Peerless Network, Inc. John Barnicle is the Chief Executive officer of the company. Petitioner’s principal offices are located at 225 W Washington Street, Suite 1285 Chicago, IL 60606.

Petitioner has submitted a copy of its Certificate of Incorporation and a Certificate of Good Standing from the State of New Jersey. Petitioner has filed a Resale Acknowledgement Letter to provide resold local exchange and interexchange telecommunications services in the State of New Jersey, however, to date it has not commenced operations in any jurisdiction and has no customers in New Jersey. Petitioner is authorized to provide local exchange telecommunications services in the State of Florida, Georgia, Illinois, Massachusetts, Minnesota, Missouri, Nevada, New York, Oregon, Pennsylvania and Washington and is also authorized to provide resold interexchange telecommunications services in Florida, Georgia, Illinois, Massachusetts, Minnesota, New York, Oregon, Pennsylvania and Washington. Petitioner’s affiliates are authorized to provide and currently are operating in Illinois, New York and Pennsylvania. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has not been the subject of any civil or criminal proceedings. Petitioner will

commence negotiations to enter into an interconnection agreement with Incumbent Local Exchange Carriers ("ILECs") during the processing of its petition.

According to the Petition, Peerless was formed and seeks authority to provide all forms of resold and facilities-based local exchange and interexchange telecommunications services to both residential and business customers in the State of New Jersey. Petitioner plans to offer its services using a combination of both its own facilities and facilities of other carriers by purchasing unbundled network elements and through the resale of the services of ILECs. Petitioner will co-locate its state of the art telecommunications equipment within the existing facilities of other carriers, central offices of local exchange carriers, or other structures and, will use the existing conduits, ducts, right-of-way and facilities of other telecommunications carriers and utilities. Petitioner states that its services includes but is not limited to, local exchange, flat-rates, vertical, direct inward and outward dialed trunks, carrier access, public and semi-public coin telephone and any other switched and non-switched local services including private line services. Petitioner states that it does not currently have any telecommunications transmission facilities in New Jersey nor does it plan to construct new or extend the existing outside plant. Petitioner's business plan includes providing services to internet service providers and medium to large business customers over a one year period as well as a full range of telecommunications services to government entities over a five year period. Petitioner maintains a toll-free number for customer service inquiries and will file a proposed tariff with the Board.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3, which requires that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate office located in Chicago, Illinois. Petitioner states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, Peerless states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel, who according to Peerless are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

DISCUSSION

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. §253(a).

Any grant of authority is subject to the right of the Board as the state regulatory authority to impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. §253(c).

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets of qualified applicants. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Peerless's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout New Jersey.

The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52 the Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is filed with the Board.

The Board HEREBY ORDERS that:

- 1) Petitioner shall file its tariff with the Board.
- 2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 3) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

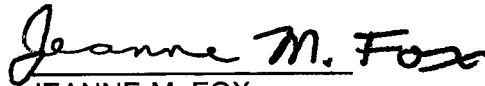
On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

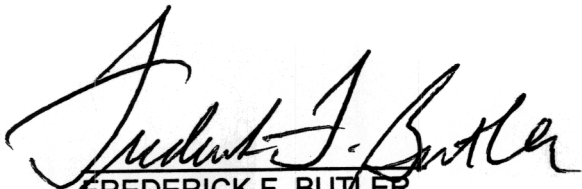
Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from

maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 7/31/08

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

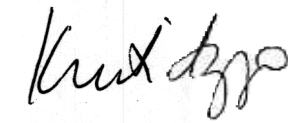

FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

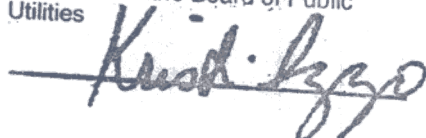

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



IN THE MATTER OF THE PETITION OF PEERLESS NETWORK OF NEW JERSEY, LLC
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES THROUGHOUT
THE STATE OF NEW JERSEY

DOCKET NO. TE08050322

SERVICE LIST

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