

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Application of)

Peerless Network of Missouri, LLC)

To Expand its Certificate of Basic Local Exchange)
Telecommunications Service Authority to Include)
All Exchanges Throughout the State of Missouri)
And to Continue to Classify the Company and)
Its Services as Competitive)

Case No. _____

**APPLICATION OF PEERLESS NETWORK OF MISSOURI, LLC
TO EXPAND CERTIFICATE OF
BASIC LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE AUTHORITY**

I. INTRODUCTION

Peerless Network of Missouri, LLC (“Peerless” or “Applicant”), by its undersigned counsel and pursuant to Sections 392.361, 392.410, 392.420, 392.430, 392.450 and 392.455 RSMo and 4 CSR 24-2.060 and 4 CSR 240-3.510, respectfully files this Application to expand its certificate of basic local exchange telecommunications authority to include all exchanges throughout the State of Missouri and to classify Peerless and its services in those exchanges as competitive. Applicant previously obtained authority from the Commission to provide interexchange telecommunications services and non-switched local exchange telecommunications services throughout the state of Missouri.¹ In addition, Applicant previously

¹ See *In the Matter of the Application of Common Pointe Networks of Missouri, LLC for Certificate of Service Authority to Provide Intrastate Interexchange and Non-Switched Local Exchange Telecommunications Services within the State of Missouri and for Competitive Classification*, Order Approving Interexchange and Nonswitched Local Exchange Certificate of Service Authority and Order Approving Tariff, Case No. XA-2007-0144 (Effective November 19, 2006). See also, *In the Matter of Common Pointe Networks of Missouri, LLC’s Request to*

obtained authority from the Commission to provide facilities-based and resold basic local exchange telecommunications services as a competitive telecommunications company in the portions of Missouri that are currently being served by Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, Embarq Missouri, Inc. (f/k/a Sprint), CenturyTel of Missouri, LLC, and Spectra Communications Group, LLC, d/b/a CenturyTel.²

In this Application, Applicant seeks authority to expand its service authority to provide facilities-based and resold basic local exchange telecommunications service in the exchanges comprising all other service territories within the State of Missouri (herein referred to as “expanded service area”), following the exchange boundaries of incumbent local exchange companies (“ILECs”), in addition to the exchanges of Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, Embarq Missouri, Inc. (f/k/a Sprint), CenturyTel of Missouri, LLC, and Spectra Communications Group, LLC, d/b/a CenturyTel. Applicant also requests, pursuant to Sections 392.361 and 394.420 RSMo, that its basic local exchange telecommunications services offered in the expanded service area be classified as competitive, that Applicant and its services remain classified as competitive, and that certain statutes and regulations be waived.

The Applicant submits the following information in support of its request.

Change Its Name to Peerless Network of Missouri, LLC, Order Recognizing Name Change and Approving Tariff, Case No. XN-2008-0024 (Effective August 22, 2007).

² See *In the Matter of the Application of Peerless Network of Missouri, LLC for Certificate of Service Authority to Provide Basic Local Telecommunications Services in Portions of the State of Missouri and for Competitive Classification*, Order Granting Certificate to Provide Basic Local Telecommunications Services, Case No. TA-2008-0360 (Effective July 10, 2008).

II. APPLICATION TO EXPAND SERVICE AUTHORITY, COMPETITIVE CLASSIFICATION, AND WAIVERS

A. Description of the Applicant

1. Peerless Network of Missouri, LLC is a limited liability company formed and operating under the laws of the State of Missouri. A copy of Peerless' certificate of good standing from the Missouri Secretary of State is attached hereto as Exhibit A. Applicant's principal place of business is located at the following address:

Peerless Network of Missouri, LLC
225 W. Washington Street
Chicago, Illinois 60606
Tel: (312) 506-0920
Fax: (312) 506-0931

2. The name and address of Peerless' registered agent in Missouri for service of process is:

CT Corporation System
120 South Central Avenue
Clayton, MO 63105

3. Correspondence or communications pertaining to this Application should be directed to:

Mark W. Comley
Newman, Comley & Ruth PC
Monroe Bluff Executive Center
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, Missouri 65102-0537
Tel: (573) 634-2266
Fax: (573) 634-3306
Email: comley@ncrpc.com

Tamar Finn
Danielle Burt
Bingham McCutchen LLP
2020 K Street, N.W.
Washington, D.C. 20006
Tel: (202) 373-6000
Fax: (202) 373-6001
Email: tamar.finn@bingham.com
danielle.burt@bingham.com

4. Questions concerning the ongoing operations of Applicant should be directed to:

Daniel Meldazis
Director Regulatory Affairs
Peerless Network of Missouri, LLC
225 W. Washington Street
Chicago, Illinois 60606
Tel: (312) 506-0933
Email: dmeldazis@peerlessnetwork.com

B. Qualifications

5. Applicant remains managerially and technically qualified to provide basic local exchange telecommunications services in the State of Missouri as determined in Case No. TA-2008-0360. It has been successfully providing basic local exchange services in Missouri since commencing operations on January 2, 2009.

6. Applicant remains financially qualified to provide basic local telecommunications services in the State of Missouri as determined in Case No. TA-2008-0360. Applicant provided its financial information as part of Case No. TA-2008-0360 and in its Annual Report filed with the Commission. Based on the prior Commission determination in Case No. TA-2008-0360 and its ongoing operations, Applicant seeks a wavier of the requirement that financial data be submitted under 4 CSR 240-3.510(1)(D).³

C. Description of Services

7. Applicant is currently authorized and provides basic local exchange telecommunications services within the service territories of Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, Embarq Missouri, Inc. (f/k/a Sprint), CenturyTel of Missouri, LLC, and Spectra Communications Group, LLC, d/b/a CenturyTel. Applicant respectfully requests that the Commission take administrative notice of Applicant's local exchange service tariff, which is incorporated herein by reference.

³ An affidavit of the Applicant's Chief Executive Officer pertaining to the Applicant's financial status will be submitted however.

8. Applicant seeks additional authorization to provide basic local exchange telecommunications services in all other service territories within the State of Missouri. Applicant will follow the boundaries of the ILEC exchanges and will not be smaller than an exchange, as required by Commission standards. Applicant will continue to offer basic local exchange telecommunications service as a separate and distinct service. Also, Applicant will meet applicable minimum Commission standards.

9. Applicant exercises the option and requests a temporary waiver of 4 CSR 240-3.510(1)(C), which requires that an application for a certificate of service authority to provide basic local exchange service include a proposed tariff with a forty-five day effective date but provides the option to file a tariff prior to providing basic local exchange telecommunications service rather than simultaneously with the application. Applicant will file a tariff in a manner consistent with the Commission's practices in similar cases prior to providing basic local exchange telecommunications service in the expanded service area.

10. Applicant seeks continued classification as a competitive telecommunications company, including classification of its basic local exchange telecommunications services in the expanded service area as competitive, pursuant to Section 392.361 RSMo and 4 CSR 240-3.510(1)(A). The Commission previously classified Applicant and its services as competitive in Case No. TA-2008-0360.

D. Compliance with Rules and Request for Waiver

11. Applicant is willing to comply with all applicable Commission rules, except those that are waived by the Commission, for the provision of basic local telecommunication service in its existing service area and the expanded service area, including, but not limited to, billing, quality of service, and tariff filing and maintenance, and will comply in a manner consistent with

the Commission's requirements for incumbent local exchange carriers with whom Applicant seeks to compete.

12. Pursuant to Section 392.420 RSMo and consistent with the Commission's treatment of other certificated competitive local exchange telecommunications companies, Applicant requests that the following statutes and regulations be waived for its basic local exchange service:

<u>Statutes</u>	<u>Missouri Public Service Commission Rules</u>
392.210.2	4 CSR 240-3.550(5)
392.240.1	4 CSR 240-3.550(5)(A)
392.270	4 CSR 240-3.550(5)(C)
392.280	4 CSR 240-10.020
392.290	4 CSR 240-30.040
392.300	4 CSR 240-32.050(4)(B) ⁴
392.310	4 CSR 240-32.060
392.320	4 CSR 240-32.070
392.330	4 CSR 240-32.080
392.340	4 CSR 240-33.040 (excluding (4))
	4 CSR 240-33.045
	4 CSR 240-33.080(1)
	4 CSR 240-33.130(1), (4) and (5)

13. The above statutes and regulations have been previously waived for Applicant and other competitive companies in prior cases. These rules and statutory provisions are principally designed to apply to non-competitive telecommunications carriers. No public utility will be affected by a Commission grant of the requested waivers.

⁴ Applicant seeks the same limited waiver the Commission has granted to competitors, and Applicant therefore agrees (1) to advise customers in the metropolitan calling areas ("MCAs") that they will not receive printed residential white page directories unless they call Applicant's toll-free number or use Applicant's website to request delivery of such printed directories and (2) to forward to AT&T electronic files identifying those customers that make such requests, so that delivery can be accomplished pursuant to the applicable interconnection agreement.

14. As indicated above, Applicant requests a temporary waiver of 4 CSR 240-3.510(1)(C), which requires that an application for a certificate of service authority to provide basic local exchange service include a proposed tariff with a forty-five day effective date but provides the option to file a tariff prior to providing basic local exchange telecommunications service rather than simultaneously with the application. Applicant is unable to develop tariff to fully comply with this rule since it has not yet executed or received Commission approval of any interconnection and/or resale agreements with ILECs in the expanded service area. At such time as Applicant has determined all of the information necessary to develop its tariff, it will promptly file the tariff in a manner consistent with the Commission's practice in similar cases and no later than 30 days after Commission approval of Applicant's interconnection and/or resale agreement.

15. Applicant has no pending action or final unsatisfied judgment or decision against it from any state or federal agency or court which involves customer service or rates, which action, judgment or decision has occurred within three years of the date of this Application.

16. Applicant has no overdue annual reports or assessment fees.

17. Applicant agrees that, in accordance with Sections 392.361.6 and 392.370 RSMo, its originating and terminating switched exchange access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for the ILEC within the respective service area. Additionally, pursuant to the Commission's Report and Order in Case No. T0-99-596, Applicant agrees that if such ILEC decreases its current originating and/or terminating access service rates, Applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within thirty (30) days of the ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap on switched exchange access rates.

E. Public Interest Considerations

18. Granting this Application, as the Commission granted Applicant's certificate of authority request in Case No. TA-2008-0360, will promote the public interest by further creating and enhancing competition and expanding customer service options, consistent with the legislative goals set forth in the Telecommunications Act of 1996 and Chapter 392 RSMo. The grant of this Application will also further the public interest by increasing equitable access for Missourians, regardless of where they live or their income, to affordable telecommunications services. Prompt approval will expand the availability of innovative, high-quality and reliable telecommunications services within the State of Missouri.

III. CONCLUSION

For the reasons stated above, Applicant respectfully requests that the Commission grant the expansion of its certificate of service authority to include the provision of basic local telecommunications services in all exchanges in the State of Missouri, classify Applicant and its basic local exchange telecommunications services in the expanded service areas as competitive, and grant waiver of the aforesaid statutes and regulations.

Respectfully submitted,

By: /s/ Mark W. Comley
Mark W. Comley #28847
Newman, Comley & Ruth PC
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, Missouri 65102-0537
(573) 634-2266 (Tel)
(573) 634-3306 (Fax)
comleym@ncrpc.com

Tamar Finn
Danielle Burt
BINGHAM MCCUTCHEN LLP
2020 K Street, NW
Washington, DC 20006
(202) 373-6000 (Tel)
(202) 373-6001 (Fax)

COUNSEL FOR APPLICANT

Dated: January 25, 2010

Certificate of Service

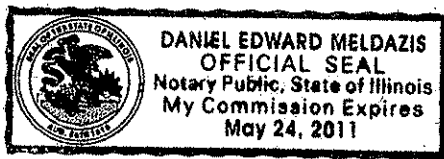
I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 25th day of January, 2010, to General Counsel's Office at gencounsel@psc.mo.gov; and Office of Public Counsel at opcservice@ded.mo.gov.

/s/ Mark W. Comley
Mark W. Comley

Verification

John Barnicle, CEO of Peerless Network of Missouri, LLC, being first duly sworn,
deposes and says that he has read the foregoing Application and verifies that the statements made
therein are true and correct to the best of his knowledge, information and believe.

Peerless Network of Missouri, LLC



By:

John Barnicle
John Barnicle

Subscribed and sworn to before this 15th day of January, 2010.

Daniel Edward Meldazis
Notary Public

My Commission expires: May 24, 2011

STATE OF MISSOURI



Robin Carnahan
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

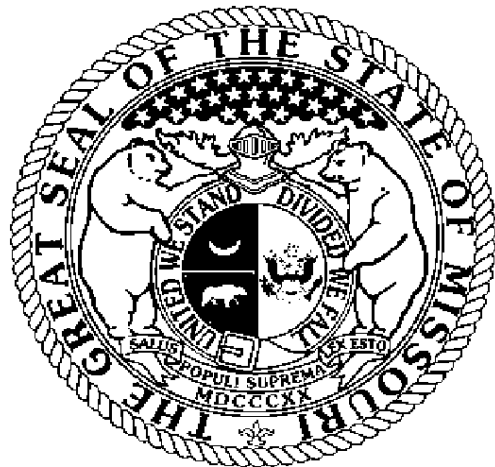
**PEERLESS NETWORK OF MISSOURI, LLC
LC0753692**

was created under the laws of this State on the 24th day of July, 2006, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 25th day of January, 2010

A handwritten signature in cursive script that reads "Robin Carnahan".

Secretary of State



Certification Number: 12463729-1 Reference:
Verify this certificate online at <https://www.sos.mo.gov/businessentity/soskb/verify.asp>