

PENDING PETITION MEMO

Date: ~~5/9/2006~~ 7/24/07

TO : OT  
OGC

FROM: CENTRAL OPERATIONS

UTILITY: COMMON POINTE NETWORKS OF NEW YORK, LLC.

SUBJECT: 06-C-0549

Petition of Common Pointe Networks of New York, LLC. for an Original Certificate of Public Convenience and Necessity to provide all forms of Telecommunications Services including resold local Dial Tone Services.

Petition of Peerless Network of New York, LLC f/k/a Common Pointe Networks of New York LLC to amend CPCN to include facilities-based local exchange services.

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September 21, 2007

Jaclyn A. Brilling  
Secretary of the Commission  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, NY 12223-1350

RE: PEERLESS NETWORK OF NEW YORK, LLC

Dear Ms. Brilling:

Peerless Network of New York, LLC ("Company") was granted authority on July 5, 2006 to operate as a reseller of interexchange telephone service with authority to provide local exchange service in New York in Case No. 06-C-0549. The Company respectfully requests to expand that authority to include facilities-based local exchange services.

Enclosed herewith for filing with the Commission, please find an original and three (3) copies of the Company's Petition to amend the Company's authority to include facilities-based local exchange services.

Also enclosed is a duplicate copy of this letter. Please stamp the duplicate and return it to me in the postage-paid envelope attached thereto.

Should you have any questions, please contact the undersigned at (269) 381-8844 or [pcrocker@earlylennon.com](mailto:pcrocker@earlylennon.com).

Very truly yours,

EARLY, LENNON, CROCKER & BARTOSIEWICZ, P.L.C.

  
Patrick D. Crocker

PDC/tld

**STATE OF NEW YORK  
DEPARTMENT OF PUBLIC SERVICE**

<b>IN THE MATTER OF THE PETITION OF</b>	)	
<b>PEERLESS NETWORK OF NEW YORK, LLC</b>	)	
<b>FOR AN AMENDED CERTIFICATE OF</b>	)	<b>CASE NO.</b>
<b>PUBLIC CONVENIENCE AND NECESSITY</b>	)	
<b>TO PROVIDE TELECOMMUNICATIONS</b>	)	
<b>SERVICES IN THE STATE OF NEW YORK</b>	)	

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**PETITION TO EXPAND AUTHORITY  
FOR A CERTIFICATE  
OF PUBLIC CONVENIENCE AND NECESSITY**

NOW COMES PEERLESS NETWORK OF NEW YORK, LLC ("Petitioner"), by and through its attorneys EARLY, LENNON, CROCKER & BARTOSIEWICZ, P.L.C., and pursuant to Title 16 of the Official Compilation of Codes, Rules and Regulations of the State of New York, Chapter I, Subchapter C, Article 2, Part 21.7 and Chapter VI Subchapter D, Part 649.1, hereby petitions the State of New York Department of Public Service ("DPS") to expand the authority granted in Case No. 06-C-0549 to include facilities-based local exchange services within the State of New York.

Petitioner provides additional information to the Petition for a Certificate of Public Convenience and Necessity filed in Case No. 06-C-0549 to include information required for local exchange providers as follows:

1. Identification and business address are as follows:

Peerless Network of New York, LLC  
200 South Wacker Drive, Suite 3100  
Chicago IL 60606  
Telephone: (312) 642-6286  
Facsimile: (312) 264-0179  
Toll Free: (888) 380-2721

2. Any questions relative to this Petition should be directed to:

Patrick D. Crocker  
Early, Lennon, Crocker & Bartosiewicz, P.L.C.  
900 Comerica Building  
Kalamazoo, MI 49007  
Telephone: (269) 381-8844  
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3. Petitioner is a limited liability company organized under the laws of the State of New York. Petitioner's qualifying documents were attached as Exhibit A in Case No. 06-C-0549 and are incorporated herein by reference.

4. Petitioner intends to provide facilities-based and resold local exchange services within the State of New York. The proposed service will bring long term benefits to New York end user, including, but not limited to the following:

- (a) Expanded market coverage enriched by existing carrier sales forces;
- (b) High quality alternative telecommunications services;
- (c) Increased consumer choices and billing options;
- (d) Efficient use of existing telecommunications resources as well as increased diversification and reliability of the supply of the telecommunications services;
- (e) An additional tax revenue source for the State of New York.

5. Petitioner will offer service to its subscribers using facilities of the communications networks of certificated facilities-based carriers and the local exchange telephone companies ("LECs"). Petitioner intends to provide service in a manner that will not

require the Company to construct facilities or lay lines.

6. Applicant has no "slamming" complaints filed against it with any state or federal regulatory agency.
7. Applicant has not been the subject of a complaint and/or investigation for unauthorized switching of a customer's local or long distance service from one carrier to another.
8. Petitioner will contract with the incumbent local exchange carrier to provide access to public safety/emergency telephone services, access to the statewide relay system and lifeline service.
9. Petitioner will have "0-" emergency calls processed by the incumbent local exchange carrier or other certified operator services provider.
10. Petitioner attaches an intraLATA presubscription implementation plan as **Attachment 1.**

Petitioner is currently prepared to provide the service for which it seeks authority herein.

Accordingly, Applicant requests an expedited consideration of this Application.

WHEREFORE, PEERLESS NETWORK OF NEW YORK, LLC respectfully requests that the State of New York Department of Public Service:

(a) Expand Petitioner's authority to provide all forms of competitive telecommunication services, including facilities-based local exchange services within the State of New York; and,

(b) Grant such other relief that the DPS deems just and equitable under the circumstances.

Respectfully submitted this 21 day of September, 2007.

PEERLESS NETWORK OF NEW YORK, LLC

By: 

Patrick D. Crocker, Attorney

## **ATTACHMENT 1**

### IntraLATA Presubscription Implementation Plan

**PEERLESS NETWORK OF NEW YORK, LLC**  
**PROPOSED PLAN FOR PROVIDING TOLL DIALING PARITY**

**Introduction**

Section 251(b)(3) of the Telecommunications Act of 1996 (the "Act"), 47 USC '251(b)(3), requires each local exchange carrier ("LEC") to provide dialing parity to competing providers of telephone exchange service and telephone toll services. In order to ensure that each LEC is providing toll dialing parity, the Federal Communications Commission's ("FCC") regulations implementing the ACT, 48 CFR '52.213, require each LEC to file a plan for providing toll dialing parity with the state Commission or the FCC. PEERLESS NETWORK OF NEW YORK, LLC ("PEERLESS") hereby files, for review by the New York State Public Service Commission ("Commission") its Proposed Plan for Providing Toll Dialing Parity.

**TOLL DIALING PARITY PLAN**

**Technical Implementation**

PEERLESS will be offering dialing parity for all toll calls. Each customer requesting PEERLESS local exchange service will be given the opportunity to affirmatively select a presubscribed carrier for intraLATA toll and interexchange toll calls. PEERLESS intends to utilize the underlying carrier's 2-PIC capabilities. This allows a customer to presubscribe to a preferred carrier for intraLATA toll calls and the same or different carrier for interLATA toll calls.

**Business Office Practices**

PEERLESS will ensure that all customers are aware they have a choice of intraLATA, as well as interLATA toll carriers. In response to each request for PEERLESS service, a PEERLESS sales representative will inform the customer that PEERLESS will presubscribe the customer's toll service to both the intraLATA and the interLATA toll carrier(s) of the customer's choice. In this way, the customer knows that a choice can be made among intraLATA and



interLATA toll carriers. A representative will inform the customer that PEERLESS will presubscribe the customer's toll service to both the intraLATA and interLATA toll carrier(s) of the customer's choice. In this way, the customer knows that a choice can be made among intraLATA and interLATA toll carriers. All carriers will be treated on a non-discriminatory basis and each customer will be given the opportunity to affirmatively select an intraLATA and interLATA toll carrier. PEERLESS will maintain a list of available toll carriers and keep it updated. PEERLESS will process a customer's PIC change to a toll carrier other than PEERLESS in the same fashion and in the same time frames as a request to presubscribe to itself. Once a PEERLESS customer has chosen an intraLATA and interLATA toll carrier, the customer will be able to verify that selection at any time by dialing a toll free number. If a new customer does not select a service package that includes Sprint and Qwest long distance service, the customer's long distance service will not default to Sprint and Qwest. Customers will have access on a nondiscriminatory basis to telephone numbers, operator services, directory assistance, and directory listings. PEERLESS does not have a PIC change charge waiver period at this time.

In responding to a communication from another intraLATA and interLATA telecommunications carrier, PEERLESS's customer care representative will use an industry-standard Customer Account Record ("CARE") format to accept the required change. Such changes will be implemented only through a CARE request to ensure that changes are not made without appropriate authorization. Other carriers may submit a CARE request of PEERLESS either manually or electronically.

#### Anti-Slamming

PEERLESS will comply with the FCC's anti-slamming provisions, 47 CFR ' 64-110-150. PEERLESS will make available a PIC-freeze option to requesting customers to protect the customer from unauthorized changes to its selected intraLATA and interLATA toll carrier.

### Dialing Plan

The following matrix outlines the proposed routing of calls by Sprint and Qwest.

0	PEERLESS local Operator Service
00	Dial to presubscribed Toll Provider Operator Service
1+10 digits	Dial to presubscribed intraLATA Toll Provider or interLATA Toll Provider Operator Service (depending on 10 digit number dialed).
10xxx or 101xxx+0	Dial around presubscribed intraLATA or interLATA Toll Provider to alternate Toll Provider Operator Service identified by code used by xxx or xxix portion of dialing request).
10xxx or 101xxxx+0+10 digits	Dial around presubscribed intraLATA or interLATA Toll Provider to alternate Toll Provider Operator Service (identified by code used in xxx or xxix portion of dialing request).
10xxx or 101xxxx+1+10 digits	Dial around presubscribed intraLATA or interLATA Toll Provider to direct dial through alternate Toll Provider (identified by code used in xxx or xxix portion of dialing request).

### Applicability

This plan for providing dialing parity is intended to apply to all dial tone lines provisioned by PEERLESS. PEERLESS will comply with all rules of the FCC and the Commission.

### Conclusion

PEERLESS respectfully requests that the Commission approve its proposed plan for providing toll-dialing parity.