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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF )  
PEERLESS NETWORK OF ARIZONA, LLC, )  
FOR APPROVAL OF A CERTIFICATE OF )  
CONVENIENCE AND NECESSITY TO PROVIDE ) DOCKET NO.  
RESOLD LOCAL EXCHANGE ) T-20590A-08-0175  
TELECOMMUNICATIONS SERVICES, RESOLD )  
LONG DISTANCE TELECOMMUNICATIONS )  
SERVICES, FACILITIES-BASED LOCAL ) EVIDENTIARY HEARING  
EXCHANGE TELECOMMUNICATIONS SERVICES )  
AND FACILITIES-BASED LONG DISTANCE )  
TELECOMMUNICATIONS SERVICES. )

AT: Phoenix, Arizona  
DATE: March 5, 2009  
FILED: **MAR 20 2009**

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Arizona Corporation Commission  
**DOCKETED**  
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1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Arizona Corporation Commission, in a conference room of  
4 said Commission, 1200 West Washington Street, Phoenix  
5 Arizona, commencing at 10:00 a.m. on the 5th day of  
6 March, 2009.

7

8 BEFORE: BELINDA A. MARTIN, Administrative Law Judge

9 APPEARANCES:

10 For the Arizona Corporation Commission Staff:

11 Legal Division  
12 By Ms. Nancy Scott  
13 1200 West Washington  
14 Phoenix, Arizona 85007

15 For Peerless:

16 SNELL & WILMER  
17 By Mr. Jeffrey W. Crockett  
18 One Arizona Center  
19 Phoenix, Arizona 85004

20

SHERYL BARKER, RPR  
Certified Reporter  
Certificate No. 50185

21

22

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25

1 ALJ MARTIN: Good morning. I'm Administrative  
2 Law Judge Belinda Martin and I'll be presiding over this  
3 hearing assuming I can talk this morning, which is not a  
4 given.

5 All right. This is the hearing on Peerless  
6 Network of Arizona, LLC's application for Certificate of  
7 Convenience and Necessity to provide resold local  
8 exchange, resold long distance, facilities-based local  
9 exchange and facilities-based long distance  
10 telecommunications services in Arizona, Docket Number  
11 T-20590A-08-0175.

12 At this time if I may take appearances for the  
13 record. On behalf of the applicant?

14 ALJ MARTIN: Good morning, Judge Martin. Jeff  
15 Crockett with the law firm of Snell & Wilmer appearing on  
16 behalf of Peerless Network out of Arizona, an LLC.

17 Seated to my left is Dan Meldazis who is the  
18 Director of Regulatory Affairs for Peerless.

19 ALJ MARTIN: Good morning, Mr. Crockett. Good  
20 morning, Mr. Meldazis.

21 MR. MELDAZIS: Good morning.

22 ALJ MARTIN: On behalf of Staff?

23 MS. SCOTT: Good morning. Nancy Scott on behalf  
24 of Commission Staff and with me is my witness today,  
25 Candrea Allen.

1 ALJ MARTIN: Good morning, Ms. Scott and  
2 Ms. Allen.

3 At this time I would like to open this up for  
4 public comment. If there are any members of the public  
5 present who wish to make comment at this time, please let  
6 them come forward.

7 Please let the report reflect there are no  
8 members of the public.

9 All right. At this time I would like to ask the  
10 parties if they would like to make opening statements.

11 Mr. Crockett?

12 MR. CROCKETT: No, Your Honor.

13 ALJ MARTIN: Thank you. Ms. Scott?

14 MS. SCOTT: No, Your Honor. We will waive an  
15 opening.

16 ALJ MARTIN: Then, Mr. Crockett, if you would,  
17 please, call your witness.

18 MR. CROCKETT: Thank you, Your Honor. The  
19 applicant calls Dan Meldazis.

20 //

21 //

22 //

23 //

24 //

25 //

1

DAN MELDAZIS

2

called as a witness on behalf of the Company, having been

3

first duly sworn by the Certified Reporter to speak the

4

whole truth and nothing but the truth, was examined and

5

testified as follows:

6

7

DIRECT EXAMINATION

8

BY MR. CROCKETT:

9

Q. Would you state your name and business address

10

for the record?

11

A. My name is Daniel Meldazis, M-e-l-d-a-z-is. My

12

businesses address is 225 West Washington Street, Suite

13

1285, Chicago, Illinois 60606.

14

Q. By whom are you employed and in what capacity?

15

A. I'm the Director of Regulatory Affairs for

16

Peerless Network.

17

Q. Would you please briefly describe your work

18

experience prior to joining Peerless?

19

A. Certainly. I started as an outside line

20

technician installer for GTE Northwest. After that I

21

moved to MFS Communications in their Regulatory

22

Department.

23

I subsequently went to Worldcom Communications

24

as a network provisioner and then went to Focal

25

Communications as their Senior Manager of Regulatory

1 Affairs.

2 I spent seven years with Focal. We were  
3 acquired by Broadband Communications. I spent two years  
4 with Broadband as their Director of Regulatory Affairs,  
5 and then moved to Level 3 Communications and spent a year  
6 and-a-half in their Interconnection Services Group.

7 Then I came to Peerless Network as their  
8 Director of Regulatory Affairs.

9 Q. How many years of experience do you have in the  
10 telecommunications industry?

11 A. Sixteen.

12 Q. Would you please describe your responsibilities  
13 as Director of Regulatory Affairs for Peerless?

14 A. I handle the day-to-day regulatory compliance  
15 for the Company in all of the states that we do business  
16 in.

17 I draft tariffs for the Company. I handle  
18 pricing, development, product development issues. I  
19 negotiate interconnection agreements with other  
20 competitive carriers and the government liaison for any  
21 kind of legislative, lobby-type issues, and also the  
22 liaison with law enforcement for any subpoena compliance  
23 and legal-type issues.

24 Q. What is your educational background?

25 A. I have an Associate's Degree in Criminal Justice

1 and Bachelor's Degree in Political Science from Southern  
2 Illinois University, and I am a certified paralegal in  
3 civil litigation.

4 Q. Is Peerless Network of Arizona, LLC, the  
5 applicant in this proceeding today?

6 A. Yes, it is.

7 Q. Are you authorized to testify on behalf of  
8 Peerless?

9 A. I am.

10 Q. Mr. Meldazis, does Peerless Network of Arizona  
11 have affiliates?

12 A. It has sister corporations that are all held by  
13 Peerless Network, LLC.

14 Q. I have placed in front of you the exhibits that  
15 we will be using today. If you would see if you can put  
16 your hands on the exhibit that has been marked as exhibit  
17 A-3.

18 A. I have it.

19 Q. Now, is exhibit A-3 a set of responses to  
20 Staff's second set of data requests in this case?

21 A. Yes, it is.

22 Q. If you would turn to the fourth page of that  
23 exhibit there is a two page document marked Revised CA-1.  
24 Do you have that?

25 A. I have it in front of me.

1 MR. CROCKETT: Judge Martin, I have given you  
2 copies of these exhibit and Staff also has copies as  
3 well.

4 ALJ MARTIN: Thank you.

5 Q. BY MR. CROCKETT: Mr. Meldazis, are the  
6 companies identified on the Revised CA-1 the sister  
7 companies that you were referring to?

8 A. Yes, they are.

9 Q. Is that a complete list of the current  
10 affiliates of Peerless Network of Arizona?

11 A. As of today's date, it is.

12 Q. Just for purposes of clarity sake, when I say  
13 Peerless today, I am referring to the applicant, Peerless  
14 Network of Arizona.

15 A. Understood.

16 Q. Looks like virtually maybe all of the affiliates  
17 share the same name?

18 A. Yes, they do.

19 Q. Just differentiated by the state that they are  
20 in?

21 A. Correct.

22 Q. In what state is Peerless Network of Arizona  
23 Incorporated?

24 A. It is incorporated in Arizona.

25 Q. Do you recall when that occurred?

1 A. I believe that it was in 2006, April of 2006.

2 Q. Now, in the application which I have placed in  
3 front of you which has been marked as exhibit A-1, the  
4 application identifies Peerless Network of Arizona as a  
5 foreign entity. Is that an error in the application?

6 A. That is an error in the application. It is an  
7 Arizona Company.

8 Q. Is Peerless a company in good standing in  
9 Arizona?

10 A. Yes, we are.

11 Q. Let me turn your attention or direct your  
12 attention now to the document that has been marked as  
13 exhibit A-2.

14 Mr. Meldazis, exhibit A-2 is a copy of a  
15 response to Staff's first set of data requests and  
16 insufficiency letter, is that correct?

17 A. Correct.

18 Q. It is a cover letter from myself dated  
19 July 21, 2008?

20 A. Yes.

21 Q. If you'll flip back several pages in that  
22 supplemental filing you'll find the Certificate of Good  
23 Standing for Peerless Network of Arizona. Do you see  
24 that?

25 A. I have it in front of me.

1 Q. Did you obtain that certificate for Arizona?

2 A. I did.

3 Q. Mr. Meldazis, what authority is Peerless seeking  
4 in this application?

5 A. We are seeking authority from the Commission to  
6 provide local and long distance both resold facilities,  
7 telecommunications service in Arizona.

8 Q. Is Peerless seeking statewide authority?

9 A. Yes, we are.

10 Q. Is Peerless also requesting a determination from  
11 the Commission that its services are competitive?

12 A. Yes, we are asking for that.

13 Q. When does Peerless intend to begin providing  
14 service in Arizona?

15 A. If we can get our certification within the next  
16 month or so, we would be able to provide service on or  
17 before the end of this year, 2009.

18 Q. So, if you get a CC&N issued by mid 2009, would  
19 that enable you to get into business before the end of  
20 the year?

21 A. It should do so, yes.

22 Q. That is the plan at this time?

23 A. That is the plan.

24 Q. Does Peerless Network of Arizona have the  
25 authority to provide telephone service in any other

1 state?

2 A. It has no authority in any jurisdiction.

3 Q. Is Peerless Network of Arizona providing any  
4 service today?

5 A. No, it is not.

6 Q. Now, are any of the affiliates of Peerless  
7 Network of Arizona authorized to provide telephone  
8 service?

9 A. Yes. The majority of the affiliates are  
10 authorized on the list that is in evidence in the  
11 exhibit. Only two, Arizona and Connecticut, we are  
12 waiting for our certification in those two states.

13 In Maryland and Virginia we have not applied yet  
14 for certificate of authority from those two  
15 jurisdictions.

16 Other than that, all of the other states that  
17 are listed have authority to provide service from their  
18 various state public utility commissions or public  
19 service commissions.

20 Q. Mr. Meldazis, I'm going to read to you a list of  
21 states that I believe based on your description have  
22 authorization to provide telephone service, and I would  
23 like for you to confirm that that list is a correct list  
24 when I get done.

25 A. Okay.

1 Q. California, Colorado, Delaware, the District of  
2 Columbia, Florida, Georgia, Illinois, Indiana,  
3 Massachusetts, Minnesota, Missouri, New Jersey, New York,  
4 Nevada, North Carolina, Ohio, Oregon, Pennsylvania,  
5 Tennessee, Texas, Washington, and Wisconsin?

6 A. That is correct.

7 Q. Are any of those affiliated companies providing  
8 service?

9 A. Yes. Currently Illinois, Pennsylvania, New  
10 York, Missouri and Minnesota are all providing  
11 telecommunication services as of this date.

12 Q. Has Peerless Network of Arizona or any of the  
13 affiliates that you have identified ever been denied a  
14 certificate to provide telecommunication services in any  
15 state?

16 A. No, they have not.

17 Q. Has Peerless Network of Arizona or any of its  
18 affiliates, members, managers or officers ever been  
19 involved in any formal or informal complaint proceeding  
20 before any state or federal regulatory commission,  
21 administrative agency or law enforcement agency?

22 A. No, they have not.

23 Q. Now, with respect to this question, let me ask  
24 you about one piece of litigation that was identified to  
25 Staff in response to a data request.

1           On June 12, 2008, was a complaint filed in the  
2 Northern Illinois District Court against Peerless  
3 Network, LLC, Peerless Network of Illinois, LLC, and John  
4 Barnicle by a company called Neutral Tandem, Inc.?

5           A.    Yes, it was.

6           Q.    Just very briefly, what is the nature of that  
7 lawsuit?

8           A.    The nature of the lawsuit is a patent  
9 infringement claim that Neutral brought against Peerless  
10 stating that Peerless Network, the parent company  
11 Peerless of Illinois and John Barnicle specifically,  
12 infringed on a patent that Neutral Tandem has.

13          Q.    First of all let me ask a couple of questions.  
14 Peerless Network, LLC, that is the parent company of the  
15 applicant in this case?

16          A.    That is correct.

17          Q.    Is Peerless Network of Arizona, LLC, named in  
18 that litigation?

19          A.    No, it is not.

20          Q.    Do the defendants in that litigation contest the  
21 validity of the claims brought by Neutral Tandem?

22          A.    We have vigorously contested all of the claims  
23 and in fact filed counterclaims that have been allowed by  
24 the judge in that case.

25          Q.    Where in the process is that case?

1           A.     Right now we are in the discovery phase, trading  
2     discovery information back and forth between two  
3     companies, and we expect a hearing in that case to  
4     commence sometime in the summer of this year.

5           Q.     Does that litigation impact Peerless Network of  
6     Arizona?

7           A.     Absolutely not.

8           Q.     Does it impact the roll out of telephone service  
9     in Arizona by Peerless?

10          A.     No, it does not.

11          Q.     Other than that litigation, you are not aware of  
12     any other litigation involving Peerless Network of  
13     Arizona or any of the affiliates?

14          A.     None whatsoever.

15          Q.     I'm going to ask you one other question that is  
16     a bit of a lengthy question, so I apologize in advance  
17     for it.

18                 Has Peerless or any of its affiliates, members,  
19     managers or officers ever been involved in any civil or  
20     criminal investigation or had judgment entered in any  
21     civil matter or had judgment levied by any administrative  
22     agency or regulatory agency or been convicted of any  
23     criminal acts within the last ten years?

24          A.     Not that I know of. I have worked with  
25     everybody in senior management at Peerless over the last

1 12 years or so, and I'm not aware of anything that  
2 anybody would have done that would be germane to your  
3 question.

4 Q. Thank you. Mr. Meldazis, now we are going to  
5 turn to the application for a few minutes, if you would  
6 get that in front of you.

7 A. Okay.

8 Q. The application in this case has been marked as  
9 exhibit A-1. Can you confirm that exhibit A-1 is in fact  
10 the application that was submitted in this Docket by  
11 Peerless Network of Arizona?

12 A. It was.

13 Q. Was that application prepared by you or under  
14 your supervision?

15 A. It was prepared by me.

16 Q. Now, if you would look at exhibit A-2.  
17 Mr. Meldazis, is exhibit A-2 a supplement to the  
18 application filed in this case?

19 A. Yes, it is.

20 Q. Was that supplement prepared by you or under  
21 your direction?

22 A. It was prepared by me.

23 Q. And exhibit A-3 which is a response to Staff's  
24 second set of data requests in this case, do you have  
25 that document?

1 A. I do.

2 Q. Was that document docketed?

3 A. It is stamped that it was Docket Control by the  
4 Commission.

5 Q. Does that document also constitute part of the  
6 application in this case?

7 A. Yes.

8 Q. Mr. Meldazis, did Peerless Network of Arizona  
9 submit a proposed tariff as part of its application?

10 A. Yes, we did.

11 Q. Is that tariff attached as exhibit D to the  
12 application?

13 A. Yes, it is.

14 Q. I am sorry. Appendix D?

15 A. Appendix D, yes.

16 Q. Mr. Meldazis, if you would now get a copy of  
17 exhibit of A-4.

18 A. Yes.

19 Q. Exhibit A-4 is a Notice of Filing Revised Tariff  
20 Sheets and three revised tariff sheets for the tariff.  
21 Do you see that?

22 A. Yes, I do.

23 Q. Do you recognize that document?

24 A. Yes, I do.

25 Q. Was that prepared by you or under your

1 supervision?

2 A. It was prepared by me.

3 Q. Do those revised tariff sheets supercede and  
4 update the corresponding tariff sheets in the  
5 application?

6 A. Yes, they do.

7 Q. Other than these revisions to the tariff sheets  
8 of the tariff filed with the application, are there any  
9 other revisions that need to be made?

10 A. There are no other revisions.

11 Q. So, the tariff attached as Appendix D to the  
12 application together with these three revised tariff  
13 sheets is the tariff that Peerless would like approved by  
14 the Commission?

15 A. Yes, it is.

16 Q. Mr. Meldazis, did Peerless provide comparative  
17 information to Staff regarding its rates and charges?

18 A. Yes, we did.

19 Q. Was that comparative information provided as  
20 part of the response which has been marked as exhibit  
21 A-2?

22 A. Yes, it has.

23 Q. Do the proposed rates of Peerless compare  
24 favorably with rates of similar telecommunication  
25 providers?

1 A. Yes, it does.

2 Q. In your opinion, are the rates proposed by  
3 Peerless just and reasonable?

4 A. Yes, they are.

5 Q. Now, is the application as supplemented by the  
6 filing on July 21, 2008 which has been marked as exhibit  
7 A-2 and the filing that was docketed on  
8 September 15, 2008 which has been marked as exhibit A-3,  
9 do those documents -- are they accurate to the best of  
10 your information and belief?

11 A. To the best of my knowledge and belief, they are  
12 accurate.

13 Q. Did Peerless provide notice of this application  
14 pursuant to the Commission's Procedural Order?

15 A. Yes, we did.

16 Q. Mr. Meldazis, if you would take in front of you  
17 exhibit A-5.

18 A. I have it.

19 Q. Exhibit A-5 is a Notice of Filing Affidavit of  
20 Publication together with an Affidavit of Publication  
21 from the Arizona Republic. Do you recognize that  
22 document?

23 A. I do recognize it.

24 Q. Does that Affidavit of Publication contain the  
25 notice that Peerless provided in this application?

1 A. Yes, it does.

2 Q. Was that notice provided in complete accordance  
3 with the procedural order in this case dated  
4 December 17, 2008?

5 A. Yes, it was.

6 Q. Has Peerless received any complaints or comments  
7 written or verbal regarding its application?

8 A. This application, no, it has not.

9 Q. Has Peerless received notice of any request to  
10 intervene in this proceeding?

11 A. There are no requests to intervene that I am  
12 aware of.

13 Q. Will Peerless collect customer deposits or  
14 require pre-payment for service from its customers?

15 A. No, it will not.

16 Q. Mr. Meldazis, is Peerless willing to provide any  
17 performance bonds that may be ordered by the Commission?

18 A. Whatever bonds are ordered by the Commission, we  
19 will obtain them.

20 Q. Now, in the application in the section which  
21 talks about bonds which is section A-14 of the  
22 application, the boxes regarding whether or not the  
23 applicant is willing to post a performance bond have been  
24 checked no.

25 A. Right.

1 Q. I guess I just want to confirm your earlier  
2 statement that regardless of how the boxes are checked in  
3 the application, that Peerless will provide whatever  
4 performance bond the Commission may raise?

5 A. That box in the application was checked on the  
6 advice of our other regulatory counsel, not yourself, as  
7 to we may or may not need to have bonds.

8 But when I engaged you for local counsel here in  
9 Arizona, you told me that it was a requirement of this  
10 Commission to obtain performance bonds and we will do so  
11 as ordered by the Commission.

12 Q. Mr. Meldazis, would you briefly describe the  
13 services that Peerless Network of Arizona intends to  
14 offer?

15 A. Sure. We intend to offer local and user  
16 telecommunication services, long distance service both in  
17 state and interstate, what is known in the industry as  
18 local toll services which is in between intrastate long  
19 distance and local services.

20 We also provide transit services between other  
21 companies' networks whether they are business customers  
22 or other telecommunication carriers and provide access  
23 services for long distance companies to send and receive  
24 or in the jargon terminate and originate long distance  
25 telephone service here in Arizona beyond network.

1 Q. Does Peerless have the technical expertise to  
2 provide long distance and local telephone service in  
3 Arizona?

4 A. Yes, we do. Both our C.E.O. and our Chief  
5 Operating Officer are electrical engineers with many  
6 years experience in the telecommunication business.

7 We have many other staff members with 10 or 15  
8 years apiece in providing local and long distance  
9 telecommunication service. So I think we are okay there.

10 Q. Would you please identify who the key management  
11 people are at Peerless?

12 A. Key management are our Chief Executive Officer,  
13 John Barnicle. Our Chief Financial Officer, Doug Lee,  
14 and our Executive Vice President of Sales and Marketing,  
15 Richard Knight.

16 Q. Do these three gentlemen have combined  
17 experience exceeding 50 years in the telecommunications  
18 industry?

19 A. Yes, they do.

20 Q. Are the resumes and biographies of these  
21 gentlemen included as Appendix B to the application?

22 A. Yes, they are.

23 Q. I believe that you indicated previously that you  
24 worked with these gentlemen for some period of time?

25 A. Yes. John Barnicle, I have worked with him for

1 about 12 years.

2 Q. Has Peerless provided financial information  
3 demonstrating the company's financial capability to  
4 provide telephone service in Arizona?

5 A. Yes, we have.

6 Q. Will Peerless Network of Arizona have access to  
7 the financial resources of its parent, Peerless Network,  
8 LLC?

9 A. Yes, it will.

10 Q. Does Peerless have the financial capability to  
11 provide telecommunication services in Arizona?

12 A. Yes, we do.

13 Q. Mr. Meldazis, are you familiar with the term  
14 Preferred Provider Agreement?

15 A. Yes, I understand what that is.

16 Q. Does Peerless intend to use Preferred Provider  
17 Agreements in Arizona?

18 A. No.

19 Q. Mr. Meldazis, have you seen a copy of the Staff  
20 Report which was prepared in this case?

21 A. Yes, I have.

22 Q. I believe in front of you there is copy of the  
23 Staff Report which has been marked as exhibit S-1. Do  
24 you have that?

25 A. I have it in front of me.

1 Q. Have you read that Staff Report?

2 A. Several times.

3 Q. Specifically, have you read the recommendations  
4 that are set forth on pages seven through nine of that  
5 Staff Report?

6 A. Yes, I have.

7 Q. Do you understand each of those recommendations?

8 A. I understand each of them.

9 Q. Does Peerless agree to comply with those  
10 recommendations if the Commission issues a CC&N?

11 A. We absolutely do agree to comply.

12 Q. Do you believe that granting the requested CC&N  
13 to Peerless is in the public interests?

14 A. Yes, it is.

15 MR. CROCKETT: I believe that is all that I  
16 have, Your Honor.

17 At this time I would move the admission of  
18 applicant's exhibits A-1, A-2, A-3, A-4, and A-5.

19 ALJ MARTIN: Thank you. Ms. Scott, any  
20 objection?

21 MS. SCOTT: No objection.

22 ALJ MARTIN: So admitted.

23 MR. CROCKETT: Your Honor, that is all that I  
24 have for Mr. Meldazis. I'll make him available for  
25 cross-examination.

1 ALJ MARTIN: Ms. Scott.

2 MS. SCOTT: Thank you.

3

4

CROSS-EXAMINATION

5 BY MS. SCOTT:

6 Q. I want to ask you a couple of questions about  
7 your affiliates that are currently providing similar  
8 services in other states.

9 A. Okay.

10 Q. Can you give us an idea of about how long they  
11 have been providing those services?

12 A. We started providing service in Illinois, New  
13 York and Pennsylvania in May of 2008. Missouri, we  
14 started providing service in January of 2009. In  
15 Minnesota, just the beginning of February of 2009.

16 Q. Does Peerless Network of Arizona currently have  
17 any employees in Arizona?

18 A. No, we currently do not.

19 Q. Do you have any plans for employees in Arizona  
20 once you are certificated?

21 A. We have employees in a few other states, so if  
22 we find a person here in Arizona or several people who  
23 are here in Arizona that we would want to hire on the  
24 Company, we would definitely do so.

25 We have personnel in Illinois, New Jersey and

1 Texas.

2 Q. Would you be able to still provide services in  
3 Arizona even if you had no employees physically located  
4 in Arizona?

5 A. We would still be able to do so.

6 Q. I think it is probably safe to assume that you  
7 have never appeared before our Commission before?

8 A. No, I have never appeared here.

9 Q. Are you familiar with the termination rules that  
10 are provided in our Administrative Code?

11 A. Yes. I was employed with a competitive local  
12 exchange carrier in the 2001-2002 time frame and became  
13 very aware with several of the states including Arizona's  
14 rules about terminating service.

15 So I'm acutely aware of what steps a company has  
16 to do in order to safeguard consumers and make sure that  
17 their service is not interrupted and that they are not  
18 impacted in a negative fashion.

19 Q. I take it then you are willing to comply with  
20 our rules?

21 A. Most definitely we are willing to comply.

22 Q. I do want to ask you a few follow-up questions  
23 about the pending lawsuit.

24 A. Certainly.

25 Q. You indicated that you did not think that it

1 would have any impact on the operations of Peerless of  
2 Arizona?

3 A. No, it won't.

4 Q. It is the parent company and affiliate and the  
5 President?

6 A. That is correct.

7 Q. It involves the President of Peerless of  
8 Arizona?

9 A. Yes, it does.

10 Q. You indicated that Peerless of Arizona would  
11 have access to the financial resources of the parent  
12 company?

13 A. Yes, we will.

14 Q. If there were to be some kind of judgment in  
15 this case, do you think that financial impact on the  
16 parent might impact your operations at all?

17 A. No, I don't believe so.

18 Q. Can you think of any reason why it might impact  
19 your ability to serve the customers in Arizona?

20 A. Not really, because I don't believe that their  
21 suit has any merit, and just the fact that the federal  
22 judge allowed the counterclaims to go forward that we  
23 provided, you know, whether or not the patent is actually  
24 valid and some other claims that we provided in our  
25 counter suit.

1 I don't believe that once we wind through the  
2 long process of defending a patent lawsuit, that this is  
3 going to have any kind of merit and there will be any  
4 judgment against us.

5 In the odd instance that there could be a  
6 judgment against us, it would only be against our parent  
7 company and against our Illinois affiliate and our  
8 President, and usually in these cases the remedy for a  
9 patent infringement is usually some sort of royalty  
10 payment.

11 By the time this case gets to that point, we'll  
12 be in service in many states and be able to provide any  
13 kind of judgment that a court -- reserving our right to  
14 appeal as far as we can in the system they may order.

15 Q. Based on that response, I can guess your  
16 response to my next question. Even though you are still  
17 in the discovery phase, do you see any potential for any  
18 kind of settlement in this case?

19 A. We have actually informally through counsel  
20 approached them about what is it that you want out of  
21 this case, and they came back with the answer, "we don't  
22 know yet."

23 So I'll say the possibility is there. The  
24 potential is slight at this point in time.

25 MS. SCOTT: Thank you. I have no further

1 questions.

2 ALJ MARTIN: Thank you, Ms. Scott. I do.

3

4 EXAMINATION

5 BY ALJ MARTIN:

6 Q Again, harping on the patent infringement suit,  
7 Mr. Barnicle is named as one of the defendants and that  
8 is in relation to the fact that he used to be employed in  
9 some kind of --

10 A. He was the Chief Operating Officer and President  
11 of Neutral Tandem, LLC or Neutral Tandem, Inc. at one  
12 point.

13 Q. So that is why he was named?

14 A. Yes.

15 Q. Just very briefly, can you describe the nature  
16 of the infringement that they are asserting?

17 A. Yes. They applied for a patent from the U.S.  
18 Patent and Trademark Office for Tandem Network Services  
19 provided in a neutral manner. We knew that was applied  
20 for in the 2001 time frame.

21 So they are saying that Peerless in its business  
22 model is infringing on their tandem services. We are the  
23 only company that they named that provide tandem services  
24 that were sued by Neutral.

25 They did not sue any of the common carriers that

1 provide tandem services. They did not pursue any other  
2 competitive carriers that provide tandem services, just  
3 Peerless Network.

4 Q. Can you tell me when approximately Peerless  
5 Network was formed?

6 A. Peerless Networks was formed in 2005.

7 Q. The parent company of all of the affiliates?

8 A. Yes, ma'am.

9 Q. The parent company is financially responsible  
10 for all of the affiliates just as they will be  
11 responsible for the applicant?

12 A. That is correct.

13 Q. I did notice in the financial information  
14 provided that currently Peerless Network has a negative  
15 income and equity?

16 A. Yes. According to the documents, I can just say  
17 that last year the three entities that we are providing  
18 service had a combined revenue of about \$780,000, and  
19 this year our financial modeling is showing we are going  
20 to do about a million and-a-half. So, I think that we  
21 are wrapping up rather nicely.

22 Q. If I could refer to what has been marked as  
23 exhibit A-1 in section B-4 of the application.

24 A. I'm there.

25 Q. You noted that you hoped to begin providing

1 service in Arizona by the end of 2009, correct?

2 A. Yes.

3 Q. Assuming that you begin service in 2009, do you  
4 still expect a revenue for the next 12 months to be zero?

5 A. No. Actually, we have several customers who  
6 have expressed interest in hooking up to our service and  
7 having us provide service as quickly as possible.

8 The way we provide service is more national in  
9 scope, so we have customers who get service from us in  
10 Illinois and New York, and they also have operations here  
11 in Arizona and in other states.

12 So as soon as we can be certified to provide  
13 service, we have customers that are waiting for us.

14 So our revenue would not be zero for the next 12  
15 months. It would be something significantly more than  
16 zero.

17 Q. But you are not at this point comfortable making  
18 a projection of what that might be?

19 A. I could not make a projection right at this  
20 point in time.

21 Q. Could you describe a little bit about the  
22 facilities, any physical facilities that this company  
23 might install in Arizona?

24 A. Sure. We use Sonus GSX 9000 switches. They are  
25 commonly referred to as soft switches being the fact they

1 are not a large, you know, either Nortel or at least some  
2 type of switch that would fill this entire room.

3 It is a soft switch that would fill the rack  
4 back here behind me with your computer equipment in it.

5 We would utilize space, use a company like Qwest  
6 or if there is what is known as carrier hotels where  
7 several carriers meet in a building, usually a downtown  
8 type of situation here in Phoenix where we can get space  
9 from them.

10 We would utilize either a network that we could  
11 get from an incumbent local exchange carrier, from other  
12 competitive local carrier, or if the situation exists  
13 where it would be economically feasible that we could  
14 actually install our own facilities, it is either a  
15 coaxial type cable or fiber optic type cable.

16 Q. So we are not talking massive amounts of  
17 equipment?

18 A. No. If you took all of the components to a GSX  
19 9000 and stacked them up on a table, somebody might think  
20 it is a stereo system rather than a telecommunication  
21 switch.

22 Q. What is the company's targeted customer base?

23 A. We are looking at other competitive local  
24 exchange carriers, long distance companies, Internet  
25 service providers, cable companies, large business

1 telephone users and other similar situated companies.

2 Q. No residential?

3 A. Not at this point.

4 Q. Is it something that might be contemplated, do  
5 you think?

6 A. We never try to rule out any type of service  
7 providing that we would feel would be profitable for the  
8 Company.

9 So if a situation existed where we could provide  
10 residential service either ourselves or in partnership  
11 with another company, we would see if we could do that.

12 Of course, we would make sure that we had the  
13 proper authority from the Corporation Commission to do so  
14 before doing that.

15 Q. Does the Company have a plan in place for  
16 beginning the provision of services as to how you might  
17 implement that?

18 A. Yes. What we would do is once our certificate  
19 is granted, that we would then enter into an  
20 interconnection agreement with the common local exchange  
21 carrier which is Qwest here.

22 Then we would interconnect our networks, install  
23 our switches, and we would also have interconnection with  
24 the other competitive local companies that are here, with  
25 any cable companies, with the major ISPs so that when we

1 have our switch in place interconnected into the network,  
2 all of our facilities installed, we would just basically  
3 turn it on and service starts providing that way.

4 Q. You mentioned that you may or may not have  
5 employees in Arizona. How would the Company handle  
6 customer service for the Arizona customers?

7 A. We have a toll free number that customers can  
8 utilize. They can also e-mail us. We have information  
9 on our Company's Website.

10 I have also handled any kind of customer inquiry  
11 issues in the past, so they could call me as well.

12 Q. Home phone number?

13 A. No. The office phone.

14 Q. How did the Company arrive at its proposed rates  
15 and charges?

16 A. We take a look at the rates that are being  
17 charged in the marketplace and we see what that rate  
18 structure is, what the comparative services are, kind of  
19 use that as a benchmark.

20 Then I look at what our cost structure is, how  
21 much it is costing us to provide service, and then we  
22 come up with a rate that we feel is reasonable based on  
23 the market, and then reasonable based on a profitable  
24 rate of return for the services that we provide.

25 Q. I know Mr. Crockett asked you these questions,

1 but I'll ask the same thing just because I'm the Judge  
2 and I get to.

3 You believe that your rates as proposed are fair  
4 and reasonable?

5 A. Yes, I do.

6 Q. Okay. Thank you. Now, I have one little nit  
7 picky kind of question.

8 A. Okay.

9 Q. In the local exchange tariff --

10 A. Yes.

11 Q. -- on page 21, section 3.1 --

12 A. Yes.

13 Q. -- it says "the BellSouth access areas." Do we  
14 have that service here?

15 A. You may have BellSouth long distance, but that  
16 actually should read Qwest.

17 Q. Just wondering. So we might need to have a new  
18 page to replace that.

19 A. I can do that as soon as I get back to my  
20 office.

21 Q. Okay.

22 MR. CROCKETT: Judge, tell me again the page  
23 number.

24 ALJ MARTIN: Page 21 of the local exchange  
25 service tariff, section 3.1.

1 MR. CROCKETT: Section 3.1?

2 ALJ MARTIN: Yes.

3 Thank you. That is all of the questions that I  
4 have.

5 Mr. Crockett, do you have any redirect?

6 MR. CROCKETT: I do not, Your Honor.

7 ALJ MARTIN: Ms. Scott, anything else that you  
8 want to follow up on?

9 MS. SCOTT: No.

10 ALJ MARTIN: Very well. Mr. Meldazis, thank you  
11 very much. You may step down.

12 Mr. Crockett, do you have any other witness?

13 MR. CROCKETT: I don't, Your Honor. That is our  
14 case.

15 ALJ MARTIN: Ms. Scott, please call your  
16 witness.

17 MS. SCOTT: Thank you. The Commission calls  
18 Candrea Allen.

19 //

20 //

21 //

22 //

23 //

24 //

25 //

1

CANDREA ALLEN

2

called as a witness on behalf of Staff, having been first

3

duly sworn by the Certified Reporter to speak the whole

4

truth and nothing but the truth was examined and

5

testified as follows:

6

7

DIRECT EXAMINATION

8

BY MS. SCOTT:

9

Q. Would you state your name and business address.

10

A. My name is Candrea Allen. Business address is

11

1200 West Washington Street, Phoenix, Arizona 85007.

12

Q. You are employed by the Arizona Corporation

13

Commission?

14

A. Yes.

15

Q. What is your position there?

16

A. I'm employed as a Public Utilities Analyst.

17

Q. What are your duties and responsibilities as an

18

Analyst?

19

A. Some of my duties include review of applications

20

such as the one today.

21

Q. You were assigned to the application today?

22

A. Yes.

23

Q. Can you briefly tell us what your qualifications

24

and experience are for this position?

25

A. Well, I have a Bachelor's Degree from the

1 University of Oklahoma in Economics and I have been with  
2 the Commission for a little over two years.

3 Q. So as part of your assignment to evaluate this  
4 application, did you prepare a Staff Report that included  
5 your conclusions and recommendation?

6 A. Yes.

7 Q. I believe that you see before you what has been  
8 marked as exhibit S-1. Is that the Staff Report that you  
9 prepared in this case?

10 A. Yes, it is.

11 Q. Do you have any corrections, additions, changes  
12 that you would like to make to that today?

13 A. No, I do not.

14 Q. Do you adopt that as your sworn testimony here?

15 A. Yes.

16 MS. SCOTT: Your Honor, Staff would offer  
17 exhibit S-1 into evidence.

18 ALJ MARTIN: Mr. Crockett, any objection?

19 MR. CROCKETT: No, Your Honor.

20 ALJ MARTIN: So admitted.

21 Q. BY MS. SCOTT: Ms. Allen, you heard the  
22 applicant indicate that they have no plans to collect any  
23 advances or deposits. Is that consistent with what was  
24 in the application?

25 A. Yes.

1 Q. Nevertheless, it is one of your recommendations  
2 that the applicant post a performance bond or draft  
3 letter of credit?

4 A. Yes.

5 Q. Why is that a recommendation when they are not  
6 collecting advances?

7 A. For the services they are requesting authority  
8 to provide, that is our standard recommendation for the  
9 facilities based local and long distance and the resold  
10 local exchange service.

11 Q. What is the purpose of the bond?

12 A. That is mainly to protect the customers just in  
13 case something should happen to the Company.

14 Q. As part of your analysis you looked at whether  
15 or not these services are competitive?

16 A. Yes.

17 Q. And your conclusion was that they are?

18 A. Yes.

19 Q. So is it your conclusion then if there were to  
20 be an outage where the company were to go out of  
21 business, are there sufficient providers or services in  
22 this area that could provide services to these customers?

23 A. Yes, there are numerous other carriers.

24 Q. The applicant submitted a proposed tariff into  
25 the Docket with their application; is that correct?

1 A. Yes, they did.

2 Q. Did you review the rates as proposed in that  
3 tariff?

4 A. Yes, I did.

5 Q. Is it your opinion that those rates are fair and  
6 reasonable?

7 A. Yes.

8 Q. Based on your analysis, do you believe that this  
9 Company has the technical capabilities and financial  
10 resources to provide services?

11 A. Yes.

12 Q. And that they are a fit and proper entity to  
13 provide services?

14 A. Yes.

15 Q. You heard some discussion about the lawsuit that  
16 is currently pending and that the parent company is named  
17 in that lawsuit.

18 As part of your analysis, did you consider the  
19 financial resources of the parent company?

20 A. Yes, they were considered. But also because the  
21 Staff recommended the performance bond or letter of  
22 credit, we believe that if something should happen,  
23 customers would be protected with that.

24 Q. Finally then, it is your recommendation that  
25 this application be granted?

1 A. Yes.

2 MS. SCOTT: I have no other questions. She is  
3 available for cross.

4 ALJ MARTIN: Thank you. Mr. Crockett?

5 MR. CROCKETT: I feel like I should ask some  
6 questions, but I can't think of any. So, I don't have  
7 any questions, Your Honor.

8 ALJ MARTIN: I have a couple.

9

10 EXAMINATION

11 BY ALJ MARTIN:

12 Q. Ms. Allen, if you could look -- referring to  
13 different places in the Staff Report, first beginning on  
14 page two, section five regarding local exchange carrier  
15 specific issues.

16 A. Yes.

17 Q. And then keeping your finger on that page and  
18 going to the recommendations page, it starts on page  
19 seven but actually we are looking at page eight, I notice  
20 that the recommendations in the recommendations section  
21 include similar recommendations that were made in  
22 sections 5.3, 5.4 and 5.6. But the recommendations in  
23 5.1, 5.2 and 5.5 did not make the jump. Was there a  
24 reason for that?

25 A. I'm sorry. Could you repeat which sections did

1 not --

2 Q. 5.1, 5.2 and 5.5. Number Portability, the  
3 Universal Service, and the 9-1-1 service.

4 A. I'm sorry.

5 Q. Take your time.

6 A. I believe those were inadvertently omitted or  
7 left out from the Staff Report.

8 Q. But Staff is still recommending the Company  
9 comply with those requirements, even though they did not  
10 make the transfer over?

11 A. Yes.

12 Q. I just wanted to know if there was a specific  
13 reason why.

14 So the Staff recommends that the Company comply  
15 with the Number Portability requirement, correct?

16 A. Yes.

17 Q. That the Company comply with the Universal  
18 Service Fund requirement, correct?

19 A. Yes.

20 Q. And with the 9-1-1 service requirements,  
21 correct?

22 A. Yes.

23 Q. I'm sorry. Maybe Ms. Scott asked this and I  
24 wasn't paying attention.

25 You believe the Company has the technical

1 capabilities to operate in Arizona?

2 A. Yes.

3 Q. Does Staff believe that the rates and charges  
4 proposed by the Company are just and reasonable?

5 A. Yes.

6 ALJ MARTIN: Give me one moment. Okay. I  
7 believe that is all of the questions that I have.

8 Ms. Scott, do you have any redirect?

9 MS. SCOTT: No, Your Honor.

10 ALJ MARTIN: Mr. Crockett, anything that you  
11 want to follow up with?

12 MR. CROCKETT: No, Your Honor, other than if  
13 Your Honor believes it is necessary, we can put  
14 Mr. Meldazis back on the stand with regard to these three  
15 additional recommendations.

16 I have conferred with him here and Peerless does  
17 not have any objection to those recommendations. So I  
18 don't know if you would like that on the record or if you  
19 feel like what you have is sufficient.

20 ALJ MARTIN: I did note in the application those  
21 three -- the part of the application where those three  
22 things were specifically mentioned and the Company had  
23 already indicated that they would comply with those.

24 So I'll take that. Since it has been admitted,  
25 I'll take that that you are willing to comply.

1 MR. CROCKETT: Fair enough.

2 ALJ MARTIN: Then we are done. Ms. Allen, thank  
3 you very much.

4 Any further witnesses, Ms. Scott?

5 MS. SCOTT: No, Your Honor.

6 ALJ MARTIN: Mr. Crockett, do you have any  
7 closing statements that you would like to make?

8 MR. CROCKETT: Your Honor, I don't other than  
9 just I would simply note for the record that the Company  
10 is anxious to get into business, and I think their plans  
11 for getting into business in Arizona by the end of this  
12 year depend upon how quickly things move along.

13 We understand work pressures and workloads here  
14 at the Commission, so I'm just suggesting that --

15 ALJ MARTIN: ASAP?

16 MR. CROCKETT: I hesitate to say ASAP, but that  
17 is --

18 ALJ MARTIN: I said it for you.

19 MR. CROCKETT: Thank you very much, Your Honor.

20 ALJ MARTIN: You are welcome.

21 Ms. Scott, is there anything you wish to say at  
22 this time?

23 MS. SCOTT: No, not at this time.

24 ALJ MARTIN: Then let me confirm the exhibits  
25 that I have. I have on behalf of the applicant I have

1 exhibit A-1 which is the application. Exhibit A-2, which  
2 is the first set of data responses. Exhibit A-3, which  
3 is the second set of data responses. Exhibit A-4, which  
4 is the provider tariff sheet. Exhibit A-5, Affidavit of  
5 Publication and all have been admitted.

6 Mr. Crockett, does that conform with what you  
7 have?

8 MR. CROCKETT: Yes, it does, Your Honor.

9 ALJ MARTIN: Ms. Scott, on behalf of Staff I  
10 have exhibit S-1 which is the Staff Report.

11 MS. SCOTT: That is correct.

12 ALJ MARTIN: The only other thing I would like  
13 to see is the revised page 21 of the local exchange  
14 tariff.

15 Do you think that we could get those filed by  
16 next Tuesday?

17 MR. MELDAZIS: I could have them definitely by  
18 next Tuesday.

19 ALJ MARTIN: Just to give you a little time to  
20 get back.

21 MR. MELDAZIS: I'll be in the office tomorrow  
22 and I can work on that and get it to Mr. Crockett for  
23 filing.

24 ALJ MARTIN: Thank you. Any other issues that  
25 you need to discuss, Mr. Crockett?

1 MR. CROCKETT: No, Your Honor.

2 ALJ MARTIN: Ms. Scott?

3 MS. SCOTT: No, Your Honor.

4 ALJ MARTIN: Very well. If there are no other  
5 issues, this matter will be taken under advisement  
6 pending a submission and a recommended opinion issued to  
7 the Commission for their approval.

8 Thank you so much for coming today. We are  
9 adjourned and we will go off the record.

10 (The proceeding was concluded at 10:53 a.m.)

11 \* \* \*

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1 STATE OF ARIZONA )  
2 ) ss.  
3 COUNTY OF NAVAJO )  
4  
5

6 I, SHERYL BARKER, Certified Court Reporter  
7 No. 50185 for the State of Arizona, do hereby certify  
8 that the foregoing printed pages constitute a full, true  
9 and accurate transcript of the proceedings had in the  
10 foregoing matter, all done to the best of my skill and  
11 ability.  
12

13 WITNESS my hand this 16th day of March, 2009.  
14

15   
16 SHERYL BARKER, RPR  
17 Certified Reporter  
18 Certificate No. 50185  
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