

ORIGINAL

NEW APPLICATION



0000154096

**NIEHAUS
& ASSOCIATES, LTD**
ATTORNEYS AT LAW

RECEIVED

2014 OCT -2 P 12: 58

SECURP COMMISSION writer's email: kalas@niehausassociates.com
DOCKET CONTROL

October 1, 2014

Arizona Corporation Commission

DOCKETED

OCT 02 2014

SENT VIA OVERNIGHT DELIVERY

Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

T-20590A-14-0358

DOCKETED BY

RE: Peerless Network of Arizona, LLC's Application for Bond Rescission

Dear Docket Control Center:

Peerless Network of Arizona, LLC ("Peerless") hereby submits an original and thirteen (13) copies of this application for rescission of its bond requirement, which was originally established in Decision No. 70976. As demonstrated in the attached application, the bond is no longer necessary to protect Arizona consumers. Peerless does not collect any deposits, advance payments or prepayments from customers in Arizona; the bond has never been invoked; and Peerless has a solid record of sufficient managerial, technical and financial resources. Rescinding the bond would also be consistent with recent Commission actions to rescind bonds for other telecommunications carriers.

Please contact me at the information below if you have any questions. Thank you.

Sincerely,

NIEHAUS & ASSOCIATES, LTD.

Brian C. Kalas, Esq.

BCK/MLZ
Enclosures

• CLARE C. ARMBRUSTER • JESSICA L. BILIUS • ZACHARY M. CLARK • BRIAN C. KALAS* • CHARLES D. NIEHAUS • PATRICIA A. WISE^
*Also admitted in Michigan ^OSBA Board Certified

7150 Granite Circle, Suite 203 • Toledo, Ohio 43617-1173 • Phone: 419-517-9090 • Fax: 419-517-9091
www.niehausassociates.com

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**
RECEIVED

2 **COMMISSIONERS**

2014 OCT -2 P 12: 58

3
4 **BOB STUMP**

5 **Chairman**

6 **GARY PIERCE**

7 **Commissioner**

8 **BRENDA BURNS**

9 **Commissioner**

10 **BOB BURNS**

11 **Commissioner**

12 **SUSAN BITTER SMITH**

13 **Commissioner**

ARIZONA CORP COMMISSION
DOCKET CONTROL

14 IN THE MATTER OF THE APPLICATION)
15 OF PEERLESS NETWORK OF ARIZONA, LLC)
16 FOR RESCISSION OF BOND REQUIREMENT)
17

DOCKET NO. T-20590A-14-0358

18 **APPLICATION**

19 Peerless Network of Arizona, LLC (“Peerless”) requests rescission of the bond imposed
20 by the Arizona Corporation Commission (“Commission”) in Decision No. 70976, and return of
21 the bond to Peerless. As explained below, this requirement is not necessary to protect Peerless’s
22 customers. In support of its application, Peerless provides the following information:

23 **BACKGROUND**

- 24 1. Peerless provides local and long distance telecommunications services to business customers
25 in the state of Arizona. Peerless does not provide telecommunications services to residential
26 customers.
- 27 2. Peerless is a wholly-owned subsidiary of Peerless Network, Inc. (“PNI”). PNI has operating
28 subsidiaries authorized to provide local exchange service in 36 states and long distance
29 service in all states except for Alaska.

- 1 3. Peerless is a domestic limited liability company under the laws of Arizona. Peerless is
2 currently in Good Standing with the Corporations Division of the Commission (File No. L-
3 1276121-9).
- 4 4. Peerless was certified by the Commission to provide competitive resold local exchange,
5 resold long distance, facilities-based local exchange, and facilities-based long distance
6 telecommunications services in Arizona on May 5, 2009 in Decision 70976.
- 7 5. As a condition of approval, the Commission required Peerless to procure a performance bond
8 or irrevocable sight draft letter of credit equal to \$225,000. This bond requirement was
9 similar to bond requirements imposed on all carriers receiving a CC&N at that time. The
10 Commission further ordered that the bond amount be increased (in increments of \$112,500)
11 if at any time it would be insufficient to cover advances, deposits, and/or prepayments
12 collected from the Company's customers.
- 13 6. Peerless has maintained the required bond at all times, and Peerless currently has a bond of
14 \$225,000 in effect through December 31, 2014.
- 15 7. The bond is no longer necessary in order to protect Arizona customers.
- 16 8. The bond has never been invoked and no customer complaint has questioned Peerless's
17 conduct as a public service corporation.
- 18 9. Peerless does not collect any deposits, advance payments or prepayments from customers in
19 Arizona.
- 20 10. Peerless has proven its financial, technical and managerial ability to provide services in
21 Arizona. Peerless has complied with all Commission requirements, including all of Staff
22 recommendation that the Commission adopted in Decision 70976. Peerless has complied
23 with all applicable Commission rules, regulations and orders. There are currently no active

1 formal complaints against Peerless, nor is Peerless aware of any prior formal or informal
2 complaints since Decision 70976 was adopted.

3 11. The cost of maintaining the bond creates an unnecessary expense for Peerless and forces the
4 Company to divert resources to maintain the bond instead of directing those funds back into
5 its business operations.

6 12. The Commission recently, in appropriate circumstances, has not required a performance
7 bond or has been relieving competitive local exchange carriers (CLECs) of the performance
8 bond requirement.¹ Granting Peerless's Application seeking rescission of the bond
9 requirement would put Peerless on equal footing with other there CLECs currently operating
10 in Arizona.

11 13. Rescinding the performance bond requirement will not alter rates, terms or conditions of
12 service to Peerless customers in Arizona and will not adversely impact service.

13 14. The Commission's Competitive Telecommunications Services Rules – A.A.C. 14-2-1101
14 through 14-2-1115, which apply to Peerless, do not require that Peerless maintain a
15 performance bond as a condition of providing service in Arizona. Specifically, A.A.C. R14-
16 2-1105(D) states that the Commission "*may* require, as a precondition to certification, the
17 procurement of a performance bond sufficient to cover any advances or deposits the
18 telecommunications company may collect from its customers, or other than such advances or
19 deposits be held in escrow or trust." In other words, the Commission has the authority and
20 the discretion to determine whether a performance bond is still appropriate for Peerless.
21 Because of the circumstances described above – including Peerless's demonstration of
22 sufficient managerial, technical and financial resources; Peerless's adherence to Arizona

¹ See, Decision 74152 (10/16/13), Decision 74295 (1/29/14), Decision 74497 (5/23/14), Decision 74490 (5/23/14), Decision 74493 (5/23/14), and Decision 74495 (5/23/14).

1 rules and regulations; and the fact that Peerless does not collect customer deposits or advance
2 payments – Peerless believes that the \$225,000 performance bond requirement should now
3 be rescinded.

4 15. Upon cancellation of its bond requirement, Peerless requests that the Commission return the
5 Peerless bond in the Commission's possession to:

6 Julie Oost
7 222 S. Riverside Plaza, Suite 2730
8 Chicago, IL 60606

9 **CONTACTS**

10 Questions or correspondence, orders, or other materials pertaining to this filing should be
11 directed to the following person:

12 Julie Oost
13 222 S. Riverside Plaza, Suite 2730
14 Chicago, IL 60606

15 **CONCLUSION**

16 WHEREFORE, Peerless respectfully requests that the Commission rescind the \$225,000
17 performance bond requirement for the reasons set forth in this filing.

18 RESPECTFULLY SUBMITTED this 1st day of October, 2014.

19
20 By: Brian C. Kalas
21 Brian C. Kalas, Attorney for Peerless

22 Original and 13 copies
23 Filed this ___ day of October 2014 with:
24 Docket Control
25 Arizona Corporation Commission
26 1200 West Washington Street
27 Phoenix, Arizona 85007