



State of Utah

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Public Service Commission

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January 7, 2022

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Re: Docket No. 21-2552-01, *Peerless Network of Utah, LLC – Peerless Network of Utah, LLC and Airus, Inc. Subsidiaries of Peerless Network Holdings, Inc. 's Notice of Indirect Transfer of Control to OpenMarket, Inc.*

Docket No. 22-2518-01, *Airus, Inc. – Peerless Network of Utah, LLC and Airus, Inc. Subsidiaries of Peerless Network Holdings, Inc. 's Notice of Indirect Transfer of Control to OpenMarket, Inc.*

All,

The Public Service Commission (PSC) has reviewed the notice (“Notification”) filed on November 30, 2021 by Peerless Network Holdings, Inc. and OpenMarket Inc. (“OpenMarket”) (together, “Parties”) of their planned transaction (“Transaction”) that will result in OpenMarket’s 100 percent indirect ownership interest in Peerless Network of Utah, LLC (“PNU”) and Airus,

Inc. (“Airus”), both with authority to provide telecommunications services in Utah under their respective certificates of public convenience and necessity (CPCN).¹

The Notification states that, pursuant to Utah Code Ann. § 54-8b-3.1, the Transaction is exempt from the requirements of Utah Code Ann. § 54-4-29 because PNU and Airus are competitive entrants under Utah Code Ann. § 54-8b-2.1 and do not receive high cost support from the Universal Public Telecommunications Support Fund. *See* Utah Code Ann. § 54-8b-3.4(1)(a)(i) and § 54-8b-3.4(2). Consequently, the Notification states the Parties need only submit notice to the PSC of the Transaction before it is completed. The Parties further assert that the Transaction will preserve and enhance PNU’s and Airus’s strengths, including the ability of each to meet the needs of customers, without posing any threat of anticompetitive effects or other public interest harm.

The PSC reviewed comments filed December 7, 2021, by the Division of Public Utilities (DPU) recommending the PSC acknowledge the Notification and requesting informal adjudication of the matter under Utah Admin. Code R746-110-1. DPU states that the Notification provides reasonable documentation of information required by Utah Admin. Code R746-349-7. DPU does not address whether PSC approval of the Transaction is required.

No party has identified a statutory or other legal requirement for the PSC to approve the Transaction, and no party has requested a declaratory ruling on the issue pursuant to Utah Admin. Code R746-101-1, et seq. Accordingly, the PSC acknowledges that the Notification was filed with the PSC and gives notice it will take no further action in these dockets unless a party files a request for action and explains the basis on which the PSC may or should act.

For clarity, the PSC has opened Docket No. 22-2518-01 to ensure the public record reflects the filing of the Notification and the acknowledgment letter for both of the certificated carriers.

Sincerely,

/s/ Gary L. Widerburg
PSC Secretary
DW#321857

¹ PNU’s CPCN was granted in Docket No. 14-2552-01 on November 19, 2014. Airus’s CPCN was granted in Docket No. 09-2518-01 on March 25, 2010 to IntelePeer, Inc. Subsequently, in Docket No. 13-2552-01 control of IntelePeer, Inc. (“IntelePeer”) was acquired by PNU, and IntelePeer changed its name to Airus, Inc. Both PNU and Airus retained their individual CPCNs in the process, described in Docket No. 13-2552-01, and the current Notification states both companies will continue to operate under separate CPCNs.