Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of
Technologies Transitions Policy Task Force

GN Docket No. 13-5

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COMMENTS OF PEERLESS NETWORK, INC.

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Submitted: July 8, 2013

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Peerless Network, Inc. (“Peerless”), by its counsel, respectfully submits these comments in response to the Public Notice issued by the Technology Transitions Policy Task Force (“Task Force”) seeking comment on potential trials.\(^1\) While the Task Force seeks comments on several potential trials and encourages commenters to suggest other potential trials, Peerless limits its comments to the Task Force’s proposed VoIP Interconnection trial.\(^2\)

VoIP Interconnection trials are not required to facilitate carriers’ transition from TDM to all-IP networks, and will not spur the industry’s transition to an all-IP network. Instead, the Commission should squarely declare – in unambiguous terms – that Sections 251 and 252 of the Act apply to IP-to-IP interconnection.\(^3\) Such a Commission declaration would do more to facilitate a transition to all-IP networks than VoIP Interconnection trials. Nevertheless, Peerless makes two requests should the Commission proceed with a proposed VoIP trial: 1) The Commission should require that the ILECs in the trial markets offer tandem-to-tandem interconnection on nondiscriminatory rates, terms and conditions, including a term allowing competing carriers, cable, wireless and competitive LECs to subtend their end offices to a non-ILEC tandem in the trial markets; and 2) The Commission should gather information on the rates, terms and conditions charged by the ILEC and its affiliates for IP interconnection in the trial markets.

I. **Peerless Network and Other Carriers Already SIP Interconnect.**

Peerless is a competitive local exchange carrier that provides interconnection services through the United States. Based in Chicago, Illinois, Peerless relies on IP technology to provide signaling and call setup support for calls originating, terminating or traversing its network, and


\(^{2}\) Public Notice, at 3-6.

\(^{3}\) See 47 U.S.C. §§ 251, 252, and corresponding regulations.
operates as a competitive LEC, competitive tandem provider and long distance company throughout the United States. Peerless has invested nearly $30 million in over 40 major markets across the country to provide non-ILEC interconnection options to carriers. Peerless provides a combined TDM and IP network connected to nearly every major domestic carrier offering call origination and termination services in over 100 LATAs (Local Access Transport Areas) and 30 MTAs (Major Trading Areas).

Peerless provides a full range of voice services through a mix of legacy/TDM services and IP trunking services to both wholesale and retail customers. Peerless also “peers” or directly connects with many carriers for voice services, and as a result, directly connects to virtually every major carrier (competitive LEC, ILEC, Interconnected VoIP, IXC, Mobility, etc.) in the markets in which it operates. Under this structure, Peerless is able to reduce intermediate carrier charges, and a call on Peerless’ network never traverses more than two of its switching elements, regardless of distance or jurisdiction. Peerless’ network has driven costs down in the markets in which it provides service. For example, in Chicago, Peerless’ rates for local transit service are 70-90% lower than current ILEC rates.

However, ILECs have constrained Peerless’ ability to exchange traffic at lower costs by not offering nondiscriminatory SIP interconnection. ILECs have yet to offer any form of direct IP-to-IP interconnection, and still require competing carriers to interconnect to most (and sometimes to all) of their tandem switches in each LATA before agreeing to route traffic to subtending end offices, or require expensive trunk groups for various types of traffic to each end office. And, ILECs have refused to recognize third-party tandem providers, such as Peerless, as a homing tandem for competitive LECs and other carriers.
Should the Commission proceed with an IP interconnection trial in some markets, the Commission should first create the conditions in those markets that will permit competing carriers to exchange traffic with the ILEC in IP format.

II. **The Commission Should First Declare that ILEC IP Interconnection Is Already Required By 47 U.S.C. §§ 251 And 252, And The Commission’s Rules.**

As explained in Peerless’ comments in the *TDM-to-IP Transition* Docket, AT&T uses its market dominance of its wireless, long distance and local exchange services to impose unreasonable terms and conditions for IP interconnection. Peerless cited as an example, AT&T’s requirement that Peerless purchase AT&T Long Distance’s “Voice Over IP Connect Service” (“AVOICS”) product as a precondition to exchange local traffic with AT&T Wireless affiliates in IP format. AT&T’s misuse of its regulated and unregulated affiliates distorts the ability of competitive LECs, wireless providers and cable operators to negotiate fair and reasonable IP interconnection terms. VoIP interconnection trials will not change this dynamic. However, a clear declaration from the Commission that Sections 251 and 252 of the Act apply to IP-to-IP interconnection will.

Peerless’ *TDM-to-IP Transition* Docket comments also cited to Sprint Wireless’ efforts to interconnect to the AT&T incumbent LEC in Illinois as an example of ILECs’ resistance to IP interconnection. In the *Sprint Illinois Arbitration* ICC Docket, AT&T testified that Sprint

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5 *Id.* at 8-9.

should not be permitted to include IP-to-IP interconnection in its proposed interconnection agreement because (1) “section 251(c)(2) of the Telecommunications Act of 1996 (‘1996 Act’) . . . does not encompass or require IP-to-IP interconnection” and (2) Illinois Bell “does not have an IP network, i.e., does not have IP-capable equipment with which Sprint could interconnect.”

The Illinois Commerce Commission ultimately concluded that “the legal question of whether IP Interconnection can be compelled pursuant to Section 251 has not been decided by the FCC.”

However, the facts of the case also demonstrate that Illinois Bell has an existing IP network infrastructure which its customers use, but refuses to make this infrastructure available to competing carriers for interconnection.

The Order in *Sprint Illinois Arbitration* and AT&T’s arguments in that ICC Docket demonstrate why only an unambiguous declaration by the Commission that Sections 251 and 252 of the Act apply to IP-to-IP interconnection will spur a transition to an all-IP network.

First, as the Public Notice points out, many commenters have explained that Section 251(a) and 251(c)(2) are technologically agnostic and apply regardless of the technology used to exchange the voice traffic. Section 251(c)(2) requires ILECs like AT&T’s incumbent in Illinois (Illinois Bell) to provide interconnection “at any technically feasible point” to “any requesting

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8 Arbitration Decision, *Sprint Illinois Arbitration* (ICC rel. Jun. 26, 2013), at 34. The Order goes on to question if the Illinois Commerce Commission (“ICC”) has the authority to “order IP interconnection” and “stops short” of recommending that Sprint be given the right to IP interconnection. (extracts attached as Exhibit B).

9 Public Notice, at 4 fn. 16; see also Comments of Cablevision Systems Corporation, *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket No. 12-353 (filed Jan. 28, 2013), at 6-7; Comments of COMPTEL, *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket No. 12-353 (filed Jan. 28, 2013), at 4 (“As COMPTEL has previously stated, the most important step the Commission can take to promote the transition to an all-IP PSTN is to confirm that SIP interconnection is subject to Sections 251 and 252 of the Act.”).
telecommunications carriers . . . for the transmission and routing of telephone exchange service or exchange access.” Section 251(c)(2) therefore allows Sprint – or any competitive carrier – to demand IP interconnection with incumbent LECs like Illinois Bell. There is nothing in the statute that excludes the exchange of IP voice traffic, and the Commission rules plainly suggest an expansive interpretation of the statute.\(^\text{10}\) Section 251(a) and (c) are technologically agnostic and impose a regulatory burden on AT&T’s incumbent LEC affiliates to interconnect with competing carriers to exchange voice traffic regardless the technology used. The Commission should declare that competing LECs, wireless providers and cable providers can arbitrate IP interconnection with incumbent LECs.

Second, it is clear from the record of the *Sprint Illinois Arbitration* that Illinois Bell (the ILEC) already owns IP network infrastructure, and merely provides it to its unregulated affiliate AT&T Corp.\(^\text{11}\) Illinois Bell describes that its U-verse IP product is routed from an Illinois Bell consumer’s home to AT&T Corp. for processing in a diagram.\(^\text{12}\) The first node in the chain between an Illinois Bell consumer’s home is a piece of equipment labeled “FTTN,” which is an IP Digital Subscriber Line Access Multiplexer (“IP DSLAM”) owned by AT&T Corp. but which is “part of [Illinois Bell’s] outside plant ‘local loop’ network.”\(^\text{13}\) When an IP call is multiplexed at the IP DSLAM (owned by AT&T Corp.), the Illinois Bell’s U-verse consumer voice IP call is routed through Illinois Bell’s existing “Central Offices, Intermediate Offices and the Video Hub Office (VHO) used to aggregate the IP data stream. . .”\(^\text{14}\) Illinois Bell “provides the transport and

\(^{10}\) See, e.g., 47 C.F.R. §51.305 (where the Commission uses the expansive “at a minimum” language to provide examples of “technically feasible” points of interconnection).

\(^{11}\) Albright Direct Testimony, 8:205-9:218.

\(^{12}\) *Sprint Illinois Arbitration*, Illinois Bell Exh. 2.1, Schedule CCA-9 (Exhibit C).

\(^{13}\) Albright Direct Testimony, 8:206-209.

\(^{14}\) Id. at 8:209-9:211.
aggregation for the IP data stream” that is routed to AT&T Corp. Through this testimony, AT&T admits that the equipment at the Central Office (labeled ALU 7450 on Diagram CCA-9), the intermediate office (labeled ALU 7770 on Diagram CCA-9) the VHO (labeled ALU 7450 on Diagram CCA-9), and the fiber connections between this equipment, are owned by the incumbent LEC Illinois Bell.

The Commission has already required Illinois Bell to allow competing carriers to interconnect their own DLSAMs with Illinois Bell’s network. Moreover, AT&T (and likely other ILECs) already offers SIP trunking to its enterprise customers. ILECs can and should be required to provision their network in such a way that permits more than just its affiliate to exchange traffic in IP format.

A trial of VoIP interconnection to examine data about the technical or industry standards ignores the fact that there is already an IP network in place owned by the ILECs, with which competitive carriers should be able to directly connect. In addition, many competitive LECs and unregulated entities have already worked through the technical issues raised in the Public Notice and currently interconnect in IP format. Competitive carriers have difficulty only with directly connecting in IP format with ILECS and their affiliates.

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15 Id. at 9:214.
16 In the matter of Joint Application by SBC Communications, Inc., et al., for Authorization to Provide In-Region InterLATA Services in Illinois, Indiana, Michigan, Ohio and Wisconsin, Memorandum Opinion and Order, WC Docket No. 03-167, FCC 03-243, 18 FCC Rcd. 21543 (rel. Oct. 15, 2003), ¶150.
18 Public Notice, at 5.
III. Should The Commission Proceed With Trials, The Commission Should Require The ILEC In Each Trial Market To Interconnect With Competing Carriers’ Tandems And Recognize End Offices As Subtended To Those Tandems.

Even as ILECs refuse IP interconnection, they refuse other viable alternatives as well. Peerless Network and other carriers offer SIP interconnection to exchange traffic in IP format throughout most of the United States. Peerless has hundreds of SIP interconnections with dozens of other carriers in dozens of LATAs across the country. However, ILECs in these LATAs do not recognize other carriers’ end offices subtended to non-ILEC tandems. ILECs typically require competing carriers to directly connect to the ILEC in each LATA to exchange the ILEC’s own local traffic.

Should the Commission determine that it will conduct a trial, the Commission should permit carriers other than the ILEC in the test market be a homing tandem recognized by other carriers, including the ILEC, for the exchange of local traffic. Currently, virtually all competitive carriers’ end offices within a LATA are subtended (or homed) to an ILEC tandem switch for local exchange traffic. Peerless has proposed to have end office switches from other carriers subtended or homed to a Peerless tandem within a LATA for local calls. Peerless also has made efforts through the Telecommunications Routing Administration to require ILECs to recognize non-ILEC tandems as the homing tandem for competitive carrier switches. However, ILECs have rebuked these efforts, forcing competing carriers to directly connect to an ILEC in each LATA to receive traffic from the ILECs’ subscribers.

Should the Commission proceed with a trial on IP interconnection, the Commission should require the ILECs in each market to recognize non-ILEC tandems as the homing tandem for end offices of other carriers without requiring each carrier to directly connect to the ILEC in the trial market. This would require minimal modifications to the Local Exchange Routing
Guide (“LERG”) to permit end offices be subtended to non-ILEC tandems, and permit NPA-NXX number assignments be assigned through the non-ILEC homing tandem.

In addition, the Commission should require the ILEC in the test market to route traffic from their subscribers (or other carriers that send them traffic) destined to other carriers through the non-ILEC tandem, and require the exchange of this traffic at nondiscriminatory rates, terms and conditions.

Peerless currently provides a homing tandem solution for interLATA calls, which allows competitive carriers to directly connect to Peerless in TDM or IP format to exchange traffic with other carriers, also in TDM or IP format. Peerless would be willing and able to provide this same functionality to carriers in the trial market for local traffic, if the FCC were to require the ILEC to recognize the Peerless tandem as the homing tandem for subtended end offices. In addition, Peerless is willing to negotiate the tandem-to-tandem interconnection agreement with the ILEC in the test market. To ensure that the terms of the tandem-to-tandem interconnection agreement is nondiscriminatory, the Commission should state clearly that either the Commission or the applicable state public service commission retains jurisdiction to resolve disputes regarding the terms of any such interconnection agreement.


The Commission’s Public Notice also requests that parties identify what data the Commission should gather in the proposed trials “to guide sound policymaking regarding the ongoing technological transitions.”

Peerless urges the Commission to gather information from

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19 Public Notice, at 3.
the ILEC in each test market on the rates, terms and conditions that the ILEC exchanges traffic with its affiliates, and with other carriers.

Peerless has requested direct SIP interconnection with AT&T Mobility, AT&T Long Distance (for the exchange of interLATA traffic), TCG and AT&T ILECs. AT&T has refused, and has instead offered only that Peerless may directly connect with AT&T Services for the exchange of IP traffic with its affiliates.AT&T has offered to allow Peerless to purchase interconnection with these entities via its retail AVOICS service for IP interconnection. But AVOICS is not an effective service because it is exclusively a termination service and does not permit a carrier to receive traffic in IP format.

Peerless also noted that AT&T leverages its market dominance to obtain more favorable terms for its own affiliates than it would in a purely competitive market, while denying the equivalent benefits to its competing interconnecting partners. As one example, Peerless described how, despite the FCC’s framework that intraMTA traffic destined to AT&T Mobility is subject to bill and keep, AT&T requires Peerless to route SIP interconnection traffic through AT&T Corp., and requires Peerless to pay a fee for traffic destined to AT&T Mobility.

The prices that AT&T charges its affiliates are also different than what AT&T offers to competitors. For example, AT&T ILECs have an agreement with AT&T Mobility to provide transit service a rate based on volume from $0.0020 per MOU. On the contrary, Illinois Bell offered Sprint the rate of $0.005034 per MOU.

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20 Peerless TDM-to-IP Transition Initial Comments, at 8-14.
21 Id. at 8-9.
22 Id. at 10-11.
23 Id. at 12.
These are just several examples of how AT&T uses AT&T Services, commercial agreements, and its affiliated corporate entities to either impose unreasonable interconnection terms where its ILEC affiliate is bound by Section 251(c)(2) obligations, or grant more favorable terms to its competitive affiliates.

In order to make a decision on whether IP interconnection can succeed in the market, and to develop sound policies associated with IP interconnection, the Commission should require each ILEC and its affiliates to disclose to interested parties the rates, terms and conditions by which it exchanges IP traffic with carriers in each trial market.

Wherefore, Peerless requests that the Commission declare that ILECs are required to directly connect to competitive carriers pursuant to 47 U.S.C. § 251 and § 252 in IP format. In the alternative, should the Commission proceed with a VoIP trial, Peerless requests that the Commission permit non-ILEC homing tandems be established in the test market for the exchange of local traffic, without requiring each competing carrier to also directly connect to the ILEC. In addition, the Commission should require the ILEC in each market to disclose to interested parties the rates, terms and conditions by which it exchanges IP traffic with carriers in the test market.

Submitted: July 8, 2013

Respectfully submitted,

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