

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION  
NASHVILLE, TENNESSEE**

Joint Application of

Peerless Network Holdings, Inc. and  
OpenMarket Inc.

Concerning a Transfer of Control

Docket No. 21- 00137

**JOINT APPLICATION OF PEERLESS NETWORK HOLDINGS, INC. AND  
OPENMARKET INC. CONCERNING A TRANSFER OF CONTROL**

Pursuant to sections 65-4-112 and 65-4-113 of the Tennessee Code Peerless Network Holdings, Inc. (“Peerless Holdings” or “Transferor”) and OpenMarket Inc. (“OpenMarket” or “Transferee” and, together with Transferor, “Applicants”) respectfully submit this application (“Joint Application”) to request that the Tennessee Public Utility Commission (the “Commission”) grant authority to enable the Applicants to consummate a transaction (“Proposed Transaction”) whereby OpenMarket will acquire Peerless Holdings and its subsidiaries, with the result that OpenMarket will hold a 100% indirect interest in Peerless Network of Tennessee, LLC (“PTN”), and Airus, Inc. (“Airus”) (collectively, “Licensees”). In support thereof, the Applicants represent the following:

**I. PRELIMINARY STATEMENT**

On October 29, 2021, Peerless Holdings and OpenMarket entered into an Agreement and Plan of Merger in principle pursuant to which OpenMarket will acquire Peerless Holdings. The acquisition will occur through a merger of a special purpose subsidiary of OpenMarket with and into Peerless Holdings, with Peerless Holdings as the surviving entity. As a result of this merger, Peerless Holdings will become a wholly owned direct subsidiary of OpenMarket, and Licensees will become indirectly wholly owned by OpenMarket. The Proposed Transaction

will effectuate a transfer of control with no disruption to Licensees' day-to-day operations or service offerings.

## **II. DESCRIPTION OF THE APPLICANTS**

### **A. Transferor and Licensees**

Peerless Holdings, a Delaware corporation, does not provide telecommunications services, but its subsidiaries operate as competitive local exchange carriers ("CLECs") in 49 states and the District of Columbia and provide interconnection services for carriers and noncarriers for all types of traffic via innovative end office, tandem, and advanced routing services. Peerless Holdings' subsidiaries provide originating and terminating calling services for telecommunications companies, service providers, resellers and enterprises in the United States. They offer local transit, switched access, long distance termination, toll free termination, direct inward dial enabled text messaging, Internet protocol control, and hosted least cost routing services. In this regard, Peerless Network, Inc. ("PNI"), a direct wholly owned subsidiary of Peerless Holdings and the direct parent to Licensees, is authorized by the Federal Communications Commission to provide domestic and international telecommunications services.<sup>1</sup> Peerless Holdings' subsidiaries also provide Session Initiated Protocol ("SIP") trunking services for unified communications, Voice over Internet Protocol ("VoIP") services, circuits, internet access, low baud and legacy time-division multiplexing ("TDM") services, and resold service. Peerless Holdings' subsidiaries do not provide service to residential customers. Peerless Holdings has data centers in Atlanta and Chicago.

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<sup>1</sup> PNI is authorized to operate as a global or limited global facilities-based and resale carrier. *See* File No. ITC-214-200080304-00146. Consistent with 47 C.F.R. § 63.21(h), PNT and Airus operate pursuant to PNI's international Section 214 authorization.

PTN is a Tennessee company. In Tennessee, PTN holds a CPCN to operate as a facilities-based provider and reseller of telephone service, with authority to provide local exchange service and interexchange service.<sup>2</sup>

Airus is a Delaware corporation. In Tennessee, Airus holds a CPCN to operate as a facilities-based provider and reseller of telephone service, with authority to provide local exchange service and interexchange service.<sup>3</sup>

## **B. Transferee**

OpenMarket, a Michigan corporation, provides business communications and messaging services to mobile operators, messaging apps, banks, social networks, tech companies, and aggregators in the United States. OpenMarket leverages the global cloud communications platform of its parent company, Infobip Limited (“Infobip”), which is incorporated and headquartered in the United Kingdom. Infobip, as of the date of submission of this Joint Application, has more than 3,100 employees and more than 70 offices in over 50 countries, with revenues of approximately \$1.16 billion.

Infobip offers platforms for global cloud communications and customer engagement to enable businesses to build connected customer experiences through a single interface that is scalable and easy to use. This in-house-developed, full-stack offering provides businesses with one seamless Application Programming Interface or web-based interface connection to their

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<sup>2</sup> See Docket No. 08-00084, *In Re Petition of Peerless Network of Tennessee, LLC for a CCN to Provide Competing Local and Interexchange Telecommunications Services*, Initial Order Granting Certificate of Public Convenience and Necessity (July 29, 2008).

<sup>3</sup> See Docket No. 09-00201, *In Re Application of Intelepeer, Inc. for a CCN to Provide Facilities-Based and Resold Competing Local Telecommunications Services and Facilities-Based and Resold Interexchange Telecommunications Services in Tennessee*, Order Granting Certificate of Public Convenience and Necessity (Sept. 3, 2010).

customers through a broad range of messaging channels, including Short Message Service (SMS), Rich Communications Service (RCS), voice, video, email and other chat applications.

Infobip's mobile operators portfolio combines network monitoring and filtering solutions with sales, consultancy and support services to increase revenue generated in the Application to Person (A2P) SMS messaging. The Infobip Communications Platform as a Service (CPaaS) business solutions model enables mobile network operators to create new revenue streams, accelerate time to market, and build new enterprise relations.

The company serves and partners with leading mobile operators, messaging apps, banks, social networks, tech companies, and aggregators. Key clients include internet companies and mobile apps makers, banks and financial services providers, developers, mobile network operators, technology companies, and other corporate customers.

### **III. DESIGNATED CONTACTS**

#### **A. Communications and Correspondence**

All communications with respect to this Joint Application should be addressed or directed as set forth below:

*Transferor and Licensees Contact Information:*

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With a copy to:

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#### **IV. TRANSACTION OVERVIEW**

On October 29, 2021, Peerless Holdings and OpenMarket entered into an Agreement and Plan of Merger pursuant to which OpenMarket will acquire Peerless Holdings. The acquisition will occur through a merger of a special purpose subsidiary of OpenMarket with and into Peerless Holdings, with Peerless Holdings as the surviving entity. As a result of this merger, Peerless Holdings will become a wholly owned direct subsidiary of OpenMarket, and Licensees will become indirectly wholly owned by OpenMarket. The Proposed Transaction

will effectuate a transfer of control with no disruption to Licensees' day-to-day operations or service offerings.

## **V. PUBLIC INTEREST CONSIDERATIONS**

The Proposed Transaction furthers the public interest, convenience, and necessity. OpenMarket and its owners are managerially, technically, and financially well-qualified to complete the Proposed Transaction and assume indirect ownership and control of Licensees. OpenMarket and its owners are experienced managers and operators of communications service providers in the U.S. and globally, as demonstrated by the description above regarding the market and financial position of OpenMarket. The Proposed Transaction will strengthen the financial position of Licensees by providing access to capital from new funding sources, enabling accelerated investment in the companies' networks and the deployment of expanded services to customers. As a result, Licensees would be better able to meet the needs of their customers, to expand its service offerings, and to compete for new customers. Thus, the infusion of new capital would drive growth that can strengthen the companies and enhance competition in the marketplace. In addition, the Proposed Transaction would enable the increase and improvement of the products and services available to the client bases of both Licensees and OpenMarket. In particular, the Proposed Transaction would combine Licensees' voice-service infrastructure and extensive expertise in the U.S. telecommunications industry with Infobip's global distribution channels and core expertise in messaging platforms and other IP-based communication channels, facilitating greater efficiency and the introduction of new offerings.

Moreover, because the proposed change in ownership will occur at the holding company level and will not disrupt any of the operations or the legal entity of the Licensee, the Proposed

Transaction will be entirely seamless to consumers. Licensees will continue to provide high-quality communications services to customers without interruption, as it will not result in a change of carrier for any customer, and OpenMarket has no plans to discontinue any existing services or to terminate agreements currently in place with PNI's customers.

Further, while the Proposed Transaction will maintain and enhance Licensees' capabilities, it will not cause any diminution in competition since it will not remove a telecommunications service provider from the market. Moreover, neither OpenMarket nor its owners provide any competing telecommunications service or hold an attributable interest in any provider of telecommunications services in Tennessee. Therefore, the Proposed Transaction does not pose any threat of anticompetitive effects in connection with any telecommunications service. To the contrary, by enabling Licensees to continue delivering their high-quality services and to enhance competition with other providers, the Proposed Transaction will be pro-competitive.

Finally, the Proposed Transaction will supplement Licensees' existing management team with the managerial capabilities and financial and other resources of OpenMarket and Infobip. This infusion of additional expertise will help steer the companies toward a long-term growth strategy for their core business.

For these reasons, the Proposed Transaction will serve the public interest by preserving and enhancing Licensees' strengths without posing any threat of anticompetitive effects or other public interest harm, as well as being entirely transparent to consumers. Accordingly, the Commission should grant the Proposed Transaction.

## VI. CONCLUSION

For the reasons stated above, Applicants submit that the public interest, convenience and necessity will be furthered by approval of this Joint Application.

Respectfully submitted this 18<sup>th</sup> day of November 2021.

/s/ Nancy J. Victory

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*Counsel to Peerless Network  
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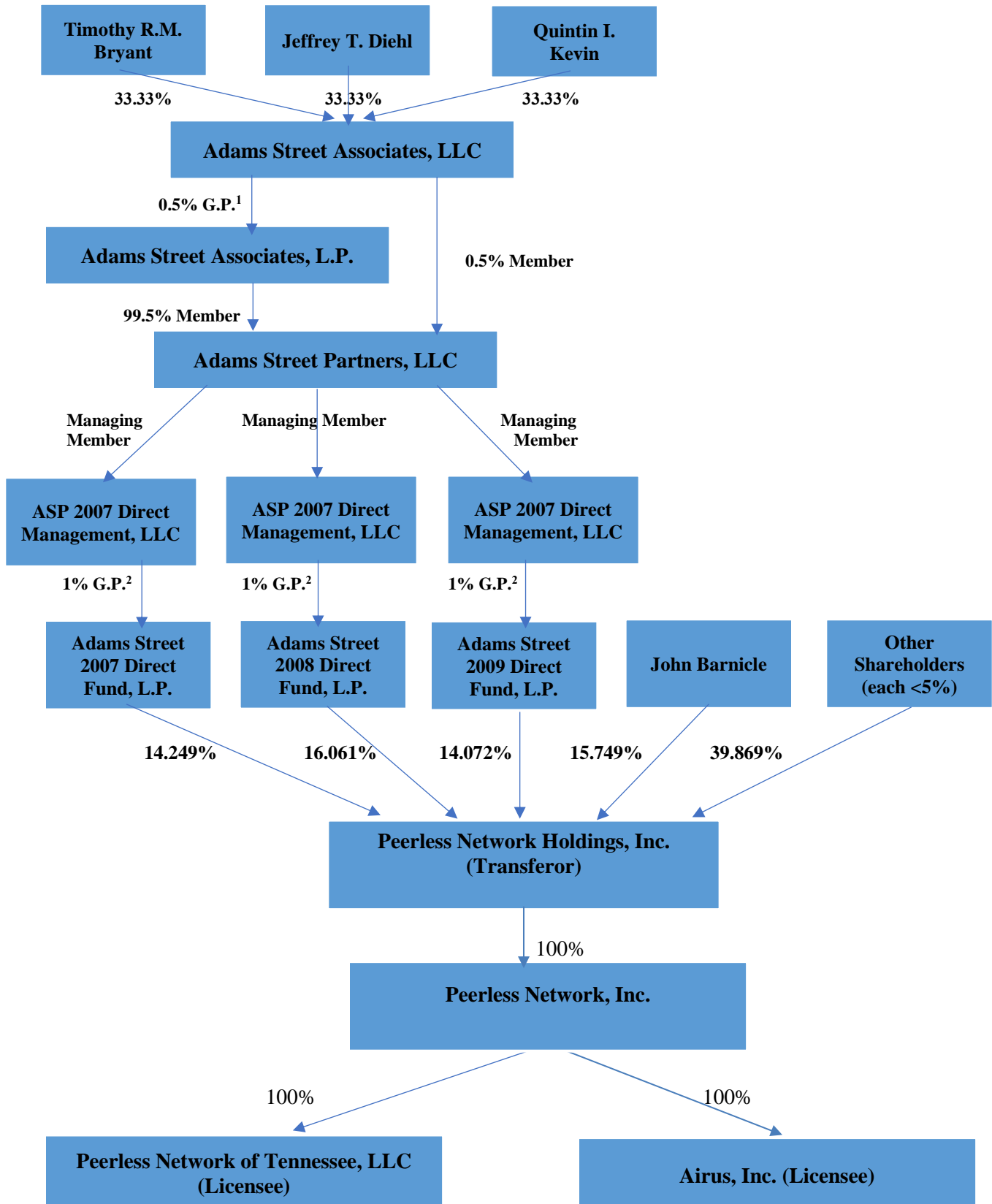
/s/ James H. Barker

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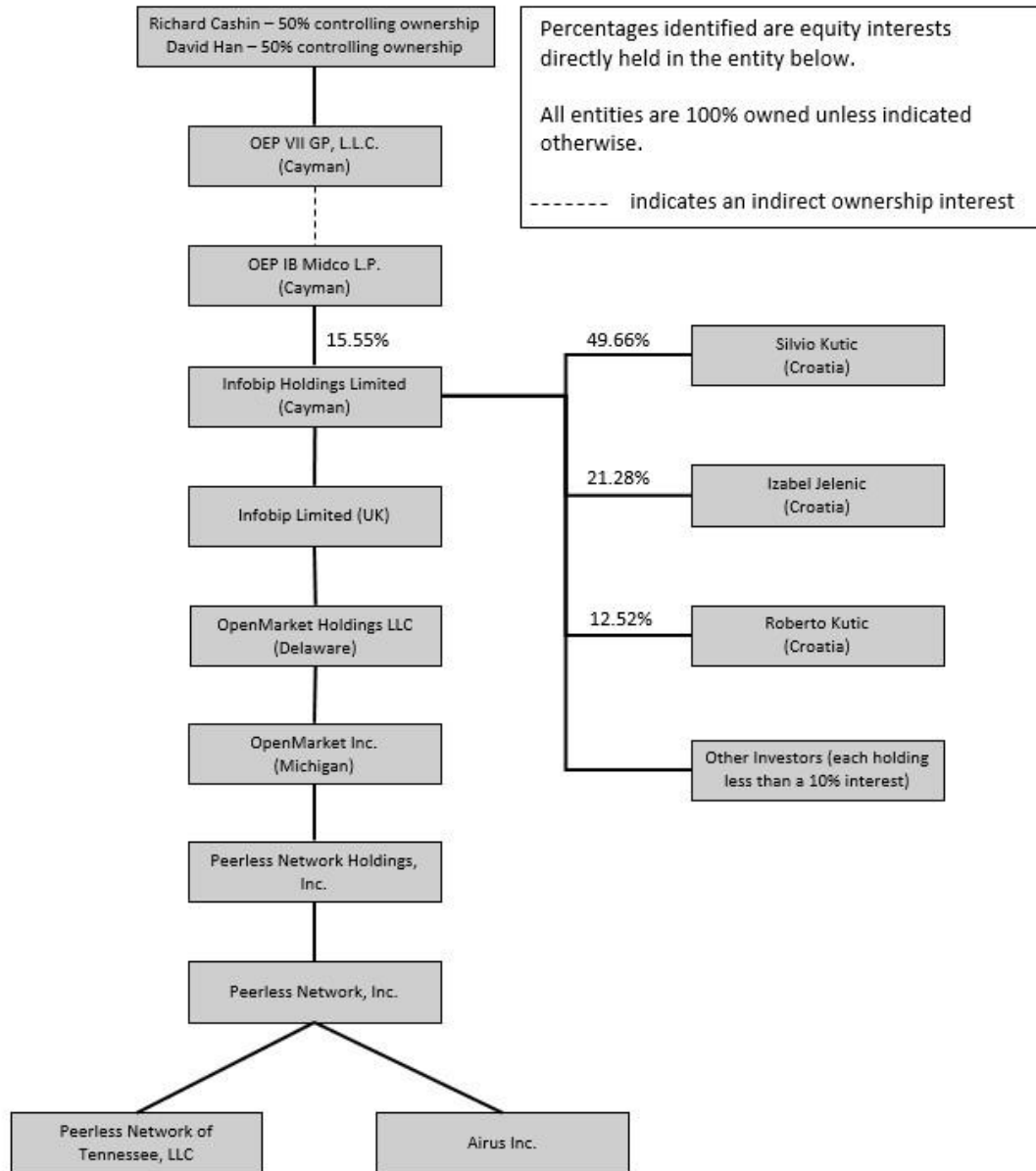
*Counsel to OpenMarket Inc.*



## Pre-Transaction Ownership



## Post-Transaction Ownership




## **Verification**

**State of Illinois**

**County of Cook**

I, John Barnicle, state that I am President and Chief Executive Officer of Peerless Network Holdings, Inc.; that I am authorized to represent the Company and to make this Verification on its behalf. I have read the foregoing filing, and the statements with respect to Peerless Network Holdings, Inc. and its subsidiaries are true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
**John Barnicle**  
**President and Chief Executive Officer**  
**Peerless Network Holdings, Inc.**

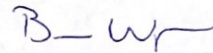
**[Tennessee]**

**VERIFICATION**

State of Tennessee

Public Utility Commission

I, Brandon Wayman, state that I am Secretary of OpenMarket Inc.; that I am authorized to represent OpenMarket Inc. and to make this Verification on its behalf. I have read the foregoing filing, and the statements with respect to OpenMarket Inc. and its subsidiaries are true and correct to the best of my knowledge, information and belief.

A handwritten signature in blue ink, appearing to read "B - W", is positioned above a horizontal line.

Brandon Wayman  
Secretary  
OpenMarket Inc.