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22 OPEN MEETING ITEM



WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

ARIZONA CORPORATION COMMISSION

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DATE: September 17, 2001

DOCKET NO: T-04004A-01-0259

TO ALL PARTIES:

AZ CORP COMMISSION  
DOCUMENT CONTROL

# 64065

Enclosed please find the recommendation of Administrative Law Judge Philip J. Dion III. The recommendation has been filed in the form of an Order on:

TOTAL CALL INTERNATIONAL, INC.  
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **12:00** p.m. on or before:

SEPTEMBER 26, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

OCTOBER 2 AND 3, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission  
**DOCKETED**

SEP 17 2001

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BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL  
CHAIRMAN

3 JIM IRVIN  
COMMISSIONER

4 MARC SPITZER  
COMMISSIONER

5  
6 IN THE MATTER OF THE APPLICATION OF  
TOTAL CALL INTERNATIONAL, INC. FOR A  
7 CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE COMPETITIVE  
8 RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES

DOCKET NO. T-04004A-01-0259

DECISION NO. \_\_\_\_\_

**ORDER**

9 Open Meeting  
10 October 2 & 3, 2001  
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 Having considered the entire record herein and being fully advised in the premises, the  
14 Commission finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. On March 27, 2001, Total Call International, Inc. ("Total Call" or "Applicant") filed  
17 with the Arizona Corporation Commission ("Commission") an application for a Certificate of  
18 Convenience and Necessity ("Certificate") to provide competitive resold interexchange  
19 telecommunications services within the State of Arizona.

20 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold  
21 telecommunications providers ("resellers") were public service corporations subject to the  
22 jurisdiction of the Commission.

23 3. Applicant is a California corporation, authorized to do business in Arizona since  
24 March of 2001.

25 4. Applicant is a switchless reseller, which purchases telecommunications services from  
26 a variety of carriers.

27 5. On June 1, 2001, Applicant filed Affidavits of Publication indicating compliance with  
28 the Commission's notice requirements.

1           6.     On April 17, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff  
2 Report recommending approval of the application with some conditions, without a hearing.

3           7.     In its Staff Report, Staff stated that Total Call provided financial statements for the  
4 period ending April 30, 2000. These financial statements list assets of \$725,003, negative equity of  
5 (\$136,487), and a net loss of (\$151,487). Based on the foregoing, Staff believes that Applicant lacks  
6 adequate financial resources to be allowed to charge customers any prepayments, advances, and/or  
7 deposits without posting a surety bond to cover such prepayments, advances, and/or deposits.

8           8.     Staff believes that if the Applicant experiences financial difficulty, there should be  
9 minimal impact to its customers. Customers are able to choose another reseller or a facilities-based  
10 provider.

11          9.     The Staff Report also stated that Applicant has no market power and the  
12 reasonableness of its rates would be evaluated in a market with numerous competitors.

13          10.    Staff recommended approval of the application subject to the following conditions,  
14 that:

15           (a)    The Applicant should be ordered to comply with all Commission rules, orders,  
16 and other requirements relevant to the provision of intrastate telecommunications  
17 service;

18           (b)    The Applicant should be ordered to maintain its accounts and records as  
19 required by the Commission;

20           (c)    The Applicant should be ordered to file with the Commission all financial and  
21 other reports that the Commission may require, and in a form and at such times as the  
22 Commission may designate;

23           (d)    The Applicant should be ordered to maintain on file with the Commission all  
24 current tariffs and rates, and any service standards that the Commission may require;

25           (e)    The Applicant should be ordered to comply with the Commission's rules and  
26 modify its tariffs to conform to these rules if it is determined that there is a conflict  
27 between the Applicant's tariffs and the Commission's rules;

28           (f)    The Applicant should be ordered to cooperate with Commission investigations  
of customers complaints;

          (g)    The Applicant should be ordered to participate in and contribute to a universal  
service fund, as required by the Commission;

1 (h) The Applicant should be ordered to notify the Commission immediately upon  
2 changes to the Applicant's address or telephone number;

3 (i) The Applicant's intrastate interexchange service offerings should be classified  
4 as competitive;

5 (j) The Applicant's competitive services should be priced at the rates proposed by  
6 the Applicant in its most recently filed tariffs. Those rates should be approved on an  
7 interim basis. The maximum rates for these services should be the maximum rates  
8 proposed by the Applicant in its proposed tariffs. The minimum rates for the  
9 Applicant's competitive services should be the Applicant's total service long run  
10 incremental costs of providing those services; and

11 (k) In the event that the Applicant states only one rate in its proposed tariff for a  
12 competitive service, the rate stated should be the effective (actual) price to be charged  
13 for the service as well as the service's maximum rate.

14 11. Staff further recommended approval of Total Call's application subject to--the  
15 following conditions:

16 (a) That the Applicant file conforming tariffs within 30 days of an Order in this  
17 matter, and in accordance with the Decision;

18 (b) That the Applicant file in this Docket, within 18 months of the date it first  
19 provides service following certification, sufficient information for Staff  
20 analysis and recommendation for a fair value finding, as well as for an analysis  
21 and recommendation for permanent tariff approval. This information must  
22 include, at a minimum, the following:

23 1. A dollar amount representing the total revenue for the first twelve months  
24 of telecommunications service provided to Arizona customers by United  
25 following certification, adjusted to reflect the maximum rates that the  
26 Applicant has requested in its tariff. This adjusted total revenue figure  
27 could be calculated as the number of units sold for all services offered  
28 times the maximum charge per unit;

2. The total actual operating expenses for the first twelve months of  
telecommunications service provided to Arizona customers by the  
Applicant following certification;

3. The value of all assets, listed by major category, including a description of  
the assets, used for the first twelve months of telecommunications services  
provided to Arizona customers by the Applicant following certification.  
Assets are not limited to plant and equipment. Items such as office  
equipment and office supplies should be included in this list;

1 (c) Applicant's failure to meet the condition to timely file sufficient information  
2 for a fair value finding and analysis and recommendation of permanent tariffs  
and of the tariffs; and

3 (d) In order to protect the Applicant's customers,

4 1. Applicant should be ordered to procure a performance bond equal to  
5 \$10,000. The minimum bond amount of \$10,000 should be increased if  
6 at any time it would be insufficient to cover prepayments, advances,  
and/or deposits collected from the Applicant's customers;

7 2. Proof of the performance bond should be docketed within 90 days of  
8 the effective date of an order in this matter or 30 days prior to the  
provision of service, whichever comes first; and

9 3. After one year of operation under the CC&N granted by the  
10 Commission, Staff recommends that the Applicant be allowed to file a  
11 request for cancellation of its established performance bond. Such  
12 request should be accompanied by information demonstrating the  
Applicant's financial viability. Upon receipt of such filing and after  
13 Staff review, Staff will forward its recommendation to the Commission  
for a Decision that the requested cancellation is in the public interest.

14 12. No exceptions were filed to the Staff Report, nor did any party request that a hearing  
15 be set.

16 13. On August 29, 2000, the Arizona Court issued its Opinion in US WEST  
17 Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding that "the  
18 Arizona Constitution requires the Commission to determine fair value rate bases for all public service  
19 corporations in Arizona prior to setting their rates and charges."

20 14. On October 26, 2000, the Commission filed a Petition for Review to the Supreme  
21 Court.

22 15. On February 16, 2001, the Commission's Petition was granted.

23 **CONCLUSIONS OF LAW**

24 1. Applicant is a public service corporation within the meaning of Article XV of the  
25 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

26 2. The Commission has jurisdiction over Applicant and the subject matter of the  
27 application.



1 IT IS FURTHER ORDERED that if Total Call International, Inc. desires to discontinue  
2 service, it shall file an application to discontinue service with the Commission. At least sixty (60)  
3 days prior to filing an application to discontinue service, Total Call International, Inc. shall notify  
4 each of its customers and the Commission of its intent to discontinue service. Any failure to comply  
5 with this ordering paragraph may result in the forfeiture of Total Call International, Inc.'s  
6 performance bond.

7 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

8  
9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

10  
11  
12 CHAIRMAN

COMMISSIONER

COMMISSIONER

13  
14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
15 Secretary of the Arizona Corporation Commission, have  
16 hereunto set my hand and caused the official seal of the  
17 Commission to be affixed at the Capitol, in the City of Phoenix,  
18 this \_\_\_\_ day of \_\_\_\_\_, 2001.

19  
20 \_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

21 DISSENT \_\_\_\_\_

22 PD:mlj  
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28

1 SERVICE LIST FOR: TOTAL CALL INTERNATIONAL, INC.

2 DOCKET NO.: T-04004A-01-0259

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