

ORIGINAL



0000077525

~~MEMORANDUM~~  
RECEIVED

TO: Docket Control  
FROM: Ernest G. Johnson  
Director  
Utilities Division

2007 OCT -5 P 3:30  
EA  
AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

OCT 05 2007

DATE: October 5, 2007

DOCKETED BY

RE: **RESPONSE - IN THE MATTER OF THE APPLICATION OF TOTAL CALL INTERNATIONAL, INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE COMPETITIVE RESOLD INTEREXCHANGE TELECOMMUNICATIONS SERVICES (DOCKET NO. T-04004A-01-0259)**

On September 21, 2007, the Hearing Division issued a Procedural Order that required Staff to respond to Total Call International, Inc.'s ("Applicant" and "Company") Motion for Waiver of Arizona Administrative Code ("A.A.C.") R14-2-1105.D which states that in appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, or order that such advances or deposits be held in escrow or trust. The Motion for Waiver of A.A.C. R14-2-1105.D was filed with the Commission on August 29, 2007.

The Company has stated in its request that "As indicated in Tariff No. 1, section 2.8 and 2.9, page 18; it will not charge its Arizona customers for any prepayments, advances, or deposits before services are furnished." Staff's review of page 18, section 2.8 and 2.9, in Tariff No. 1 reveals that, while the company does not require "advance payments" or "deposits", "prepayments" are not addressed.

Further review of the Company's entire Tariff No. 1, Staff agrees that the Company does not require deposits and does not require advance payments. However, under Section 3.5.4 on Page 25 and 26 of Tariff No.1, the Company offers "Company Prepaid Calling Cards". A prepaid calling card represents a prepayment as indicated by the Company's definition of Prepaid Calling Cards in Section 1 on Page 7 of its tariff.

In Decision No. 64065 under Finding of Fact No. 11 (d), the Company was ordered to procure a minimum performance bond in the amount of \$10,000 to cover prepayments, advances, and/or deposits. The Compliance and Enforcement Section of the Utilities Division has stated that the Company has not procured a performance bond. Proof of the performance bond should have been docketed within 90 days of the effective date of Decision No. 64065 or 30 days prior to the provision of service, whichever occurred first. The Company has been operating a minimum of five years in Arizona. This is evidenced by

annual revenue reported by the Company in its Confidential Annual Report to the Utilities Division for the years 2002, 2003, 2004, 2005, and 2006.

Pursuant to Decision No. 64065, the Company is allowed to file a request for cancellation of its established performance bond after one year of operation under the CC&N granted by the Commission. Instead of requesting a cancellation of a performance bond, the Company asks for waiver to the procurement of a performance bond. No financial information was provided to Staff by the Company. The Company has not taken steps, as ordered by the Commission in Decision No. 64065, to protect its customers.

The Consumer Services Section of the Utilities Division reports that from January 1, 2001 through September 25, 2007, no complaints, inquiries, or opinions have been filed against the Company. Also, Consumer Services states that the Corporations Division reports that the Company is in good standing.

Based on Staff's review of Article 11, the Company's Tariff No. 1, and the Company's lack of compliance to Finding of Fact No. 11 (d) in Decision No. 64065, Staff recommends the Company's Motion for Waiver of A.A.C. R14-2-1105.D be denied. Currently, the Commission allows companies to obtain, at their discretion, either a performance bond or a sight draft Letter of Credit. Therefore, Staff further recommends that the Company file a request to substitute a sight draft Letter of Credit for the performance bond required in Decision No. 64065.

EGJ:JFB:tdp

Originator: John F. Bostwick

Attachment: Original and Thirteen Copies

SERVICE LIST FOR: Total Call International, Inc.  
DOCKET NO.: T-04004A-01-0259

Mr. Patrick D. Crocker  
Early, Lennon, Crocker & Bartosiewicz  
900 Comerica Building  
Kalamazoo, Michigan 49007

Mr. Christopher C. Kempley  
Chief Legal Counsel, Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Mr. Ernest G. Johnson  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Ms. Lyn Farmer  
Chief Administrative Law Judge, Hearing Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007