

OPEN MEETING ITEM  
ORIGINAL



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COMMISSIONERS  
MIKE GLEASON - Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

ARIZONA CORPORATION COMMISSION

2a

DATE: APRIL 14, 2008  
DOCKET NO: T-04004A-01-0259  
TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Belinda Martin. The recommendation has been filed in the form of an Order on:

ACC vs. TOTAL CALL INTERNATIONAL, INC.  
(ORDER TO SHOW CAUSE)

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 **4:00** p.m. on or before:

APRIL 23, 2008

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:

MAY 6, 2008 and MAY 7, 2008

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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AZ CORP COMMISSION  
DOCKET CONTROL

BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

Arizona Corporation Commission  
**DOCKETED**  
APR 14 2008

DOCKETED BY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON, Chairman  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 KRISTIN K. MAYES  
7 GARY PIERCE

8 STAFF OF THE UTILITIES DIVISION,  
9 COMPLAINANT,  
10 vs.  
11 TOTAL CALL INTERNATIONAL, INC.,  
12 RESPONDENT.

DOCKET NO. T-04004A-01-0259

13 DECISION NO: \_\_\_\_\_

14 **ORDER**

15 Open Meeting  
16 May 6 and 7, 2008  
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

19 Having considered the entire record herein and being fully advised in the premises, the  
20 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

21 **FINDINGS OF FACT**

22 1. On March 27, 2001, Total Call International, Inc. ("Total Call" or "Company") filed  
23 with the Arizona Corporation Commission ("Commission") an application for a Certificate of  
24 Convenience and Necessity ("Certificate") to provide competitive resold interexchange  
25 telecommunications services within the State of Arizona.

26 2. On October 4, 2001, the Commission granted the Company its Certificate pursuant to  
27 Decision No. 64065 ("Decision").

28 3. A condition of the Certificate was that Total Call was to obtain a performance bond of  
\$10,000 in order to cover customer prepayments, advances and/or deposits collected by the  
Company. Proof of the bond was to be filed within 90 days of the effective date of the Decision or 30  
days prior to the provision of service, whichever came first.

1           4.     The Company notified the Commission on December 20, 2001, that it would begin  
2 providing service in Arizona on January 20, 2002.

3           5.     To date, the Company is still conducting business in Arizona.

4           6.     On August 29, 2007, Total Call filed a Motion for Waiver of Arizona Administrative  
5 Code ("A.A.C.") R-14-2-1105.D, requesting waiver of the \$10,000 performance bond ("Motion")  
6 required by the Decision.

7           7.     On October 4, 2007, the Commission's Utilities Division Staff ("Staff") filed its  
8 "Response to Motion for Waiver of ACC R14-2-1105.D," recommending denial of the Company's  
9 Motion. Contemporaneously with the Response, Staff filed a Complaint and Petition for an Order to  
10 Show Cause ("OSC"). The OSC directed Total Call to appear before the Commission to explain why,  
11 among other things, it failed to comply with the terms of the Decision requiring the performance  
12 bond.

13          8.     On October 22, 2007, Total Call filed its Response to the OSC. In that response, the  
14 Company stated that its current financial condition does not justify a bond. To support this assertion,  
15 the Company attached to the response as Exhibit 'B' a copy of its most recent financial statement.  
16 Further, the Company noted that, in the six years since receiving authority to operate in Arizona,  
17 there have been no complaints, inquiries or opinions filed against it. Total Call concluded by asking  
18 that the Commission cancel the bond or, in the alternative, allow Total Call to substitute an  
19 Irrevocable Sight Draft Letter of Credit ("ISDLOC") for the bond.

20          9.     On October 30, 2007, the Commission issued Decision No. 69954, an OSC, which  
21 opened the issue of why the Company failed to file its performance bond.

22          10.    On November 9, 2007, the Company filed correspondence noting that the entities  
23 hired by Total Call failed to handle properly various compliance issues.

24          11.    On December 13, 2007, a telephonic Procedural Conference was held in this docket.  
25 The parties indicated that they wished to enter into negotiations to arrive at a possible settlement in  
26 this matter.

27          12.    On January 30, 2008, the Company filed a Motion to Amend Decision No. 64065. The  
28 Company requested that the Commission amend the Decision, as permitted under A.R.S. § 40-252 to

1 allow the Company to file a \$10,000 ISDLOC in lieu of a performance bond.

2 13. On January 31, 2008, a Procedural Conference was held during which Staff stated they  
3 would file a written response to the Company's Motion to Amend Decision No. 64065,  
4 recommending approval of the Motion to Amend.

5 14. On February 4, 2008, Staff filed a Letter of Compliance stating that Total Call had  
6 filed an ISDLOC on January 25, 2008.

7 15. On February 15, 2008, Total Call filed with the Commission Notice of Filing of an  
8 ISDLOC in the amount of \$10,000. The Company filed the ISDLOC as a substitute for the previously  
9 ordered performance bond.

10 16. On March 21, 2008, Staff filed its Motion to Withdraw Complaint and Order to Show  
11 Cause and Response to Applicant's Motion ("Withdrawal Motion"). Staff's position in its  
12 Withdrawal Motion is that the bond and the ISDLOC provide the same level of assurance to the  
13 Company's customers with respect to customer prepayments, advances and/or deposits collected by  
14 the Company. As such, Staff did not object to the Motion to Amend.

15 17. The Company's request to substitute an ISDLOC for a performance bond is  
16 reasonable and will be granted.

17 18. Further, Staff stated that if the Commission agreed to allow the substitution of an  
18 ISDLOC for the performance bond, the OSC issued against the Company would no longer be  
19 necessary and the OSC would be withdrawn.

20 19. Staff's Motion to Withdraw Complaint and Order to Show Cause and Response to  
21 Applicant's Motion is reasonable and will be granted.

### 22 CONCLUSIONS OF LAW

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

25 2. The Commission has jurisdiction over Total Call and the subject matter of the  
26 Application.

27 3. Allowing the substitution of an ISDLOC for the performance bond is in the public  
28 interest.

1 4. Staff's Motion to Withdraw Complaint and Order to Show Cause and Response to  
2 Applicant's Motion is reasonable and will be granted.

3 **ORDER**

4 IT IS THEREFORE ORDERED that Decision No. 64065 in Docket No. T-04004A-01-0259,  
5 requiring Total Call International, Inc. to file a \$10,000 Performance Bond is satisfied by its February  
6 15, 2008, Notice of Filing an Irrevocable Sight Draft Letter of Credit in the amount of \$10,000.

7 IT IS FURTHER ORDERED that the Complaint and Order to Show Cause issued against  
8 Total Call International, Inc. is hereby withdrawn.

9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

10  
11  
12 CHAIRMAN

COMMISSIONER

13  
14 COMMISSIONER

COMMISSIONER

COMMISSIONER

15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
16 Director of the Arizona Corporation Commission, have  
17 hereunto set my hand and caused the official seal of the  
18 Commission to be affixed at the Capitol, in the City of Phoenix,  
19 this \_\_\_\_ day of \_\_\_\_\_, 2008.

20 BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

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

22  
23 DISSENT \_\_\_\_\_

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SERVICE LIST FOR: TOTAL CALL INTERNATIONAL, INC.

DOCKET NO.: T-04004A-07-0259

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