



0000097661

216  
CD

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

- KRISTIN K. MAYES, Chairman
- GARY PIERCE
- PAUL NEWMAN
- SANDRA D. KENNEDY
- BOB STUMP

JUN 9 9 2009

DOCKETED BY	nr
-------------	----

IN THE MATTER OF THE APPLICATION OF  
 TOTAL HOLDINGS, INC., DBA GTC  
 COMMUNICATIONS, FOR A CERTIFICATE  
 OF CONVENIENCE AND NECESSITY TO  
 PROVIDE COMPETITIVE RESOLD LONG  
 DISTANCE TELECOMMUNICATIONS  
 SERVICES.

DOCKET NO. T-20630A-08-0494

DECISION NO. 71185

ORDER

Open Meeting  
 June 23 and 24, 2009  
 Phoenix, Arizona

**BY THE COMMISSION:**

\* \* \* \* \*

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

FINDINGS OF FACT

1. On September 26, 2008, Total Holdings, Inc., d/b/a GTC Communications ("THI"), filed with the Commission an application for a Certificate of Convenience and Necessity ("CC&N") to provide competitive resold long distance telecommunications services within a service area encompassing the entire State of Arizona.

2. On December 23, 2008, THI filed an Affidavit of Publication showing that notice of its application had been published in *The Arizona Republic* on December 5, 2008.

3. On February 9, 2009, the Commission's Utilities Division Staff ("Staff") filed its Staff Report recommending approval of THI's application.

Fitness and Properness to Obtain a CC&N

4. THI is a California "S" corporation, granted authority to do business in Arizona as a foreign corporation on June 23, 2008.

1           5.       THI is in good standing with the Commission's Corporations Division.

2           6.       THI does not currently hold a CC&N to provide telecommunications services in  
3 Arizona and is not providing telecommunications services in Arizona.

4           7.       THI has indicated that neither THI nor any of its officers, directors, partners, or  
5 managers have been or are currently involved in any civil or criminal investigations, have had  
6 judgments entered in any civil or criminal matter or levied by any administrative or regulatory  
7 agency, or have been convicted of any criminal acts within the past 10 years.

8           8.       THI has indicated that neither THI nor any of its officers, directors, partners, or  
9 managers have been or currently are involved in any formal or informal complaint proceedings  
10 pending before any state or federal regulatory commission, administrative agency, or law  
11 enforcement agency.

12          9.       Staff contacted the public utility commissions ("PUCs") in six of the eight states in  
13 which THI states it is currently authorized in order to verify that THI is certificated or registered to  
14 provide resold long distance services and to inquire as to consumer complaints. According to Staff,  
15 those jurisdictions reported no complaints.

16          10.      Finally, Staff notes that the Utilities Division's Consumer Services Section reported  
17 no complaints, inquiries, or opinions filed against it within Arizona through December 30, 2008.

18 **Technical Capabilities**

19          11.      THI intends to offer intrastate resold long distance telecommunications services of  
20 Sprint to subscribers in Arizona.

21          12.      THI's three key personnel have a combined 41 years of telecommunications  
22 experience.

23          13.      THI has authority to provide resold long distance telecommunications services similar  
24 to those it intends to offer in Arizona in eight states.

25          14.      Additionally, Staff notes that THI has two affiliates providing resold long distance  
26 telecommunications services in Arizona: Total Call International, Inc., and OPEX Communications.  
27 Both are authorized and operating in Arizona. A third affiliate, Total Call Mobile, Inc., is not  
28 certificated in Arizona.

1           15.    Based on its findings, Staff has determined that THI has sufficient technical  
2 capabilities to provide resold long distance telecommunications services in Arizona.

3 **Financial Resources**

4           16.    THI was formed in 2008, and it provided Staff with financial statements for the four  
5 months ending June 30, 2008. According to the Staff Report, THI's financial statement lists assets of  
6 \$394,841, total equity of \$95,841, and a net income of \$94,841.

7           17.    THI projects total revenues generated by the provision of telecommunications services  
8 to Arizona customers for the first 12 months of operations to be \$1,000, with operating expenses  
9 during that period of \$800.

10          18.    THI projects the net book value of all Arizona jurisdictional assets and the projected  
11 value of all Arizona assets after the first 12 months of operations to be zero.

12          19.    Staff stated that if THI were to experience financial difficulty, it would have only a  
13 minimal impact on its customers because many companies provide resold long distance  
14 telecommunications services, and facilities-based providers are also available. Staff also states that  
15 THI's customers will be able to access alternative toll service providers or resellers via 1+101XXXX  
16 access.

17 **Proposed Rates**

18          20.    Staff indicates that the rates proposed by THI are for competitive services and rates for  
19 competitive telecommunications services are generally not established according to rate-of-return  
20 regulation.

21          21.    Staff has determined that THI's fair value rate base ("FVRB") is zero. While Staff  
22 considered the FVRB information submitted by THI, Staff determined that the FVRB information  
23 should not be given substantial weight in its analysis.

24          22.    As a reseller of services purchased from other telecommunications companies, THI  
25 will have no market power and will have to compete with other providers to obtain subscribers to its  
26 services. In light of this competitive market, Staff believes that THI's proposed tariffs will be just  
27 and reasonable.

28          23.    Staff has reviewed THI's proposed rates and determined that they are just and

1 reasonable.

2       24.   THI's tariff indicates that it will not collect advance payments, deposits, and/or  
3 prepayments from its resold long distance customers. As such, Staff concludes that THI is not  
4 required to have a performance bond or irrevocable sight draft letter of credit.

5 **Regulatory Requirements**

6       25.   Commission rules require THI to file a tariff for each competitive service that states  
7 the maximum rate as well as the effective (actual) price that will be charged for the service. Under  
8 Arizona Administrative Code ("A.A.C.") R14-2-1109(A), the minimum rate for a service must not be  
9 below the total service long-run incremental cost of providing the service. Any change to THI's  
10 effective price for a service must comply with A.A.C. R14-2-1109, and any change to the maximum  
11 rate for a service in THI's tariff must comply with A.A.C. R14-2-1110.

12       26.   A.A.C. R14-2-1204(A) requires all telecommunications service providers that  
13 interconnect to the public switched network to provide funding for the Arizona Universal Service  
14 Fund ("AUSF"). A.A.C. R14-2-1204(B)(3)(a) requires new telecommunications service providers  
15 that begin providing toll service after April 26, 1996, to pay AUSF charges as provided under A.A.C.  
16 R14-2-1204(B)(2).

17       27.   A.A.C. R14-2-1901 et seq. establish requirements to protect Arizona consumers from  
18 unauthorized carrier changes ("slamming") and apply to each public service corporation providing  
19 telecommunications services within the State of Arizona and over which the Commission has  
20 jurisdiction.

21       28.   A.A.C. R14-2-2001 et seq. establish requirements to protect Arizona consumers from  
22 unauthorized carrier charges ("cramming") and apply to each public service corporation providing  
23 telecommunications services within the State of Arizona and over which the Commission has  
24 jurisdiction.

25       29.   A.A.C. R14-2-1107 requires a competitive telecommunications service provider to file  
26 an application for authorization with the Commission before it discontinues service; the rule also  
27 establishes customer notice requirements and other requirements related to discontinuance of service.  
28

1 Staff's Recommendations

2 30. Staff recommends approval of THI's application and further recommends:

- 3 a. That THI be ordered to comply with all Commission rules, orders, and other  
4 requirements relevant to the provision of intrastate telecommunications  
5 service;
- 6 b. That THI be ordered to maintain its accounts and records as required by the  
7 Commission;
- 8 c. That THI be ordered to file with the Commission all financial and other reports  
9 that the Commission may require, in a form and at such times as the  
10 Commission may designate;
- 11 d. That THI be ordered to maintain on file with the Commission all current tariffs  
12 and rates and any service standards that the Commission may require;
- 13 e. That THI be ordered to comply with the Commission's rules and to modify its  
14 tariffs to conform to those rules if it is determined that there is a conflict  
15 between THI's tariffs and Commission rules;
- 16 f. That THI be ordered to cooperate with Commission investigations, including  
17 but not limited to customer complaints;
- 18 g. That THI be ordered to participate in and contribute to the AUSF as required  
19 by the Commission;
- 20 h. That THI be ordered to notify the Commission immediately upon changes to  
21 its name, address, or telephone number;
- 22 i. That if THI wants to collect advances, deposits, and/or prepayments from its  
23 resold interexchange customers, THI should be required to file an application  
24 with the Commission for Commission approval. Such application must  
25 reference the Decision in this docket and must explain THI's plans for  
26 procuring its performance bond or irrevocable sight draft letter of credit;
- 27 j. That THI's intrastate interexchange service offerings be classified as  
28 competitive pursuant to A.A.C. R14-2-1108;
- k. That the maximum rates for THI's services be the maximum rates proposed by  
THI in its proposed tariffs;
- l. That the minimum rates for THI's services be the total service long-run  
incremental costs of providing those services, as set forth in A.A.C. R14-2-  
1109;
- m. If THI states only one rate for a service in its proposed tariff, that the rate  
stated be the effective (actual) price to be charged for the service as well as the  
service's maximum rate;
- n. That THI's FVRB is zero;
- o. That should THI request to discontinue and/or abandon its service area, THI  
must provide notice to both the Commission and its customers, in accordance

with A.A.C. R-14-2-1107; and

p. That THI be ordered to do the following and that its CC&N be rendered null and void, after due process, if it fails to do the following:

i. THI shall docket conforming tariffs for each service within its CC&N within 365 days from the date of an Order in this matter or 30 days before providing service, whichever comes first, and in accordance with this Decision.

31. Staff's recommendations are reasonable and should be adopted.

**CONCLUSIONS OF LAW**

1. Upon receiving a CC&N, THI will be a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over THI and the subject matter of the application.

3. A.R.S. § 40-282 allows a telecommunications company to file an application for a CC&N to provide competitive telecommunications services.

4. A.R.S. § 40-282 allows the Commission to grant a CC&N without first conducting a hearing if the CC&N is for resold telecommunications services.

5. Notice of THI's application was given in accordance with the law.

6. Pursuant to Article XV of the Arizona Constitution and the Arizona Revised Statutes, it is in the public interest for THI to provide the telecommunications services for which it has requested authorization in its application.

7. THI is a fit and proper entity to receive a CC&N authorizing it to provide resold long distance telecommunications services in the State of Arizona.

8. The telecommunications services that THI desires to provide are competitive in Arizona.

9. Pursuant to Article XV of the Arizona Constitution and 14 A.A.C. 2, Article 11, it is just and reasonable and in the public interest for THI to establish rates and charges for competitive services that are not less than THI's total service long-run incremental costs of providing the competitive services approved herein.

10. Staff's recommendations, as set forth in Findings of Fact No. 30 are reasonable and should be adopted.



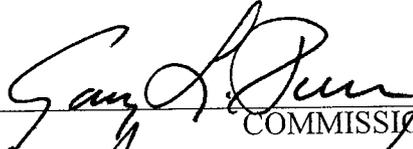
1 IT IS FURTHER ORDERED that if Total Holdings, Inc., d/b/a GTC Communications fails to  
2 meet the conditions outlined in Findings of Fact No. 30(p) within the timeframes therein, the  
3 Certificate of Convenience and Necessity conditionally granted herein shall become null and void  
4 after due process.

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

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7

8  \_\_\_\_\_

9 CHAIRMAN  \_\_\_\_\_

10  \_\_\_\_\_

11 COMMISSIONER  \_\_\_\_\_

12 COMMISSIONER  \_\_\_\_\_

13 COMMISSIONER

13 IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim  
14 Executive Director of the Arizona Corporation Commission,  
15 have hereunto set my hand and caused the official seal of the  
16 Commission to be affixed at the Capitol, in the City of Phoenix,  
17 this 30th day of JUNE, 2009.

18  \_\_\_\_\_

19 MICHAEL P. KEARNS  
20 INTERIM EXECUTIVE DIRECTOR

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

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

23  
24  
25  
26  
27  
28

1 SERVICE LIST FOR:

TOTAL HOLDINGS, INC., D/B/A GTC  
COMMUNICATIONS

2

3 DOCKET NO.:

T-20630A-08-0494

4

Mark Leafstedt  
TOTAL HOLDINGS, INC.  
707 Wilshire Boulevard, 12<sup>th</sup> Floor  
Los Angeles, California 90017

6

7

Nathaniel Law, Esq.  
TOTAL HOLDINGS, INC.  
707 Wilshire Boulevard, 12<sup>th</sup> Floor  
Los Angeles, California 90017

8

9

Janice Alward, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

10

11

12

Ernest G. Johnson, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28