

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition
of Total Call Mobile, Inc.,
for Limited Designation as an
Eligible Telecommunications Carrier

Docket No. 12-2561-01

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HEARING PROCEEDINGS  
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TAKEN AT: Public Service Commission
Hearing Room 451
160 East 300 South
Salt Lake City, Utah

DATE: Thursday, April 4, 2013

TIME: 9:03 a.m.

REPORTED BY: Scott M. Knight, RPR

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APPEARANCES

ADMINISTRATIVE LAW JUDGE:

MELANIE A. REIF

FOR DIVISION OF PUBLIC UTILITIES:

PATRICIA E. SCHMID, ESQ.,

ASSISTANT ATTORNEY GENERAL

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FOR OFFICE OF CONSUMER SERVICES:

Cheryl Murray

FOR TOTAL CALL MOBILE, INC.:

NATHANIEL LAW, ESQ.,

AMY INAGAKI, ESQ.,

TOTAL CALL MOBILE, INC.

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Hearing Proceedings

April 4, 2013

PROCEEDINGS

THE HEARING OFFICER: All right. Very well.

Good morning, everyone. I'm Melanie Reif, administrative law judge for the Utah Public Service Commission. And this morning we have the hearing docketed for Docket No. 12-2561-01. And this is the amended hearing notice pertaining to In the Matter of Petition of Total Call Mobile, Inc., for Limited Designation as an Eligible Telecommunications Carrier.

And let's move now to taking appearances, starting with the applicant, who is joining us by phone.

MR. LAW: I am Nathaniel Law of Total Call Mobile. N-a-t-h-a-n-i-e-l. Last name, L-a-w.

THE HEARING OFFICER: And Mr. Law, could you identify your position with Total Call.

MR. LAW: I am the associate general counsel of Total Call Mobile.

MS. INAGAKI: And--

THE HEARING OFFICER: Go ahead, please.

MS. INAGAKI: My name is Amy Inagaki. A-m-y, I-n-a-g-a-k-i.

THE HEARING OFFICER: And Ms. Inagaki, could you please identify your position?

MS. INAGAKI: I'm an attorney with Total Call

1 Mobile.

2 THE HEARING OFFICER: Okay. And will either of
3 you be calling our witness today?

4 Ms. Inagaki, will you be testifying on behalf of Total
5 Call?

6 MS. INAGAKI: No.

7 THE HEARING OFFICER: Mr. Law, do you intend
8 to call a witness?

9 MR. LAW: I will be the witness on behalf of Total
10 Call Mobile.

11 THE HEARING OFFICER: Okay. Let's go off the
12 record for just a second.

13 (A discussion was held off the record.)

14 THE HEARING OFFICER: We will be back on the
15 record.

16 And just for clarification, Mr. Nathaniel Law, who is
17 serving as general counsel, has also made it clear he will be
18 testifying for Total Call in this hearing.

19 Ms. Schmid, your appearance, please.

20 MS. SCHMID: Thank you. Patricia E. Schmid with
21 the Utah Attorney General's office on behalf of the Utah Division
22 of Public Utilities. And with me as the Division's witness is Mr.
23 Casey J. Coleman.

24 THE HEARING OFFICER: Okay. Thank you very
25 much.

1 Ms. Murray.

2 MS. MURRAY: My name is Cheryl Murray. I'm with
3 the Office of Consumer Services. And I'm appearing without
4 counsel today.

5 THE HEARING OFFICER: Okay. And would you do
6 me a favor and please make sure your microphone is on and
7 you're speaking right into it and everyone can hear, especially
8 those on the telephone.

9 MS. MURRAY: Yes. Thank you.

10 THE HEARING OFFICER: Thank you, everyone, for
11 joining us today.

12 Mr. Law, I'm going to turn to you now. This is your
13 application, and to the extent that you're testifying, I'd also like
14 to swear you in. This is a little bit of an awkward situation for
15 the reason being that you are not only counsel, but also serving
16 as a witness in this case. But nevertheless, are you prepared to
17 testify today?

18 MR. LAW: Yes.

19 THE HEARING OFFICER: And would you please
20 raise your right hand. And do you swear that the testimony that
21 you're about to give today is the truth?

22 MR. LAW: Yes.

23 THE HEARING OFFICER: Okay. Thank you.
24 Understanding that you're under oath, sir, you may proceed.

25 TESTIMONY OF NATHANIEL LAW

1 MR. LAW: I--thank you. I would just like to state
2 that the--DPU and Total Call Mobile have agreed upon a
3 stipulation and settlement agreement--

4 THE REPORTER: I'm sorry. I'm having a really
5 hard time hearing.

6 THE HEARING OFFICER: Mr. Law--Mr. Law, I'm
7 having a hard time hearing you. And I'm really close to the
8 phone. And the court reporter cannot hear you at all, so--

9 MR. LAW: I apologize. Is this better?

10 THE HEARING OFFICER: That is much better.
11 Thank you.

12 MR. LAW: Okay. I--I have no other testimony
13 other than the application that we have submitted. I also would
14 like to state for the record that Total Call Mobile, as well as the
15 Division of Public Utilities and the Office of Consumer Services,
16 has agreed upon a stipulation and settlement agreement in this
17 docket.

18 THE HEARING OFFICER: Do you have anything
19 further to add, sir?

20 MR. LAW: Other than the documents that are on
21 record, I do not.

22 THE HEARING OFFICER: Okay. And let's address
23 those. But before we get to those, inasmuch as you're serving
24 as counsel today but you are not admitted to practice in the
25 state of Utah, is there a particular waiver that you're looking to

1 seek?

2 MR. LAW: Yes. For--for this purpose of this
3 docket only, I am requesting a waiver of Utah Administrative
4 Code Rule R-746-106.

5 THE HEARING OFFICER: Very good, sir. The
6 actual rule is 746-100-6. So it's 746-100-6, just for clarification.

7 MR. LAW: Oh.

8 THE HEARING OFFICER: And your request for
9 waiver is granted, assuming no opposition.

10 MS. SCHMID: The Division has no objection.

11 THE HEARING OFFICER: Okay. All right. Thank
12 you, sir.

13 And with respect to your documents, let's get to
14 those real quick here. I know that they are in the docket, but I
15 would like to address them inasmuch as we'll take administrative
16 notice of them. Would you like to identify those for the
17 Commission.

18 MR. LAW: The document on file with the
19 Commission is the petition, the original petition by Total Call
20 Mobile, which was filed on November 6, 2012, originally.
21 There's also an amended petition of Total Call Mobile filed on
22 December 26th, 2012. There is the--also the direct testimony of
23 Mr. Hideki Kato, the chief operating officer of Total Call Mobile,
24 also filed on December 26th, 2012. And finally, the stipulation
25 and settlement agreement between Total Call Mobile and the

1 Division--Department of Public Utilities and the Utah Office of
2 Consumer Services--

3 THE HEARING OFFICER: Okay.

4 MR. LAW: --dated March 21st, 2013.

5 THE HEARING OFFICER: Thank you, Mr. Law.

6 Is there any objection to the Commission taking
7 administrative notice of those documents referenced?

8 MS. SCHMID: No objection.

9 MS. MURRAY: No objection.

10 THE HEARING OFFICER: Okay. Thank you, Mr.
11 Law.

12 I do want to make one quick note with respect to
13 the petition that was originally filed. The stamp that I have on
14 that indicates that it was filed on the 14th of November, so
15 that's the date it was actually taken in by the Commission. I--I
16 don't have an earlier date on that.

17 Also, if I--if I might add just for suggestion and/or
18 inquiry, is there a reason why Mr. Kato is not joining us today?

19 MR. LAW: He's actually out of the office, and so
20 I'm sitting in in his stead.

21 THE HEARING OFFICER: Okay. For future
22 reference, it would be real helpful if we could make sure that the
23 person who's filing testimony is also available at the hearing in
24 case there are any questions or cross-examination that needs to
25 take place. And that would also relieve you of being --being put

1 in an awkward position of having to serve not only as counsel
2 but also as witness.

3 MR. LAW: Understood.

4 THE HEARING OFFICER: Okay. So just going
5 forward, that would be--that would be terrific.

6 Mr. Law, I'm going to ask counsel who's present
7 here today if they have any questions for you, and then I may
8 have questions. So I'll turn now to the Division.

9 MS. SCHMID: The Division has no questions.

10 THE HEARING OFFICER: Okay. And Ms. Murray?

11 MS. MURRAY: The Office has no questions.

12 THE HEARING OFFICER: Okay. Thank you both.

13 Mr. Law, as you know, there are a couple of
14 intervenors in this case, and they are the Utah Rural Telecom
15 Association, as well as the Salt Lake Community Action
16 Program. It's my understanding, based on your filing the
17 stipulation and settlement agreement which was filed with the
18 Commission on March 26th, that those two parties are aware of
19 your meeting to discuss the stipulation and settlement
20 agreement.

21 MR. LAW: Okay.

22 THE HEARING OFFICER: And--do you know
23 whether those individuals received a copy of the settlement and
24 stipulation agreement?

25 MR. LAW: Let me . . .

1 I am not aware at the time; however, I can
2 investigate further.

3 THE HEARING OFFICER: Do you know of any
4 approval or objection that they have shared with you regarding
5 this stipulation and settlement agreement?

6 MR. LAW: I am not aware of any.

7 THE HEARING OFFICER: Okay. Very good.

8 MS. MURRAY: Your Honor?

9 THE HEARING OFFICER: Yes, Ms. Murray.

10 MS. MURRAY: Excuse me. I received a call this
11 morning from Ms. Wolf, representing Salt Lake Community
12 Action Program, and she said I could represent they have no
13 objection to the stipulation.

14 THE HEARING OFFICER: Okay. Thank you very
15 much.

16 Mr. Law, did you hear that?

17 MR. LAW: I believe--I heard part of it. I know that
18 it was from the Salt Lake Community Action.

19 THE HEARING OFFICER: Yes. Salt Lake
20 Community Action Program contacted the Office of Consumer
21 Services this morning to note that they do not object. So my
22 next question is, does--does anybody present have any--any
23 information as far as URTA, the Utah Rural Telecom?

24 MS. SCHMID: The Division does. Would you like
25 that to be presented through Division's witness or through

1 counsel?

2 THE HEARING OFFICER: We'll wait. Thank you
3 very much.

4 Okay. Mr. Law, is there anything further that you
5 would like to add with respect to your--your application?

6 MR. LAW: I do not.

7 THE HEARING OFFICER: Okay. And before we
8 move to the Division, just one bit of clarification: Is it--is it
9 correct that you are seeking the ETC designation for
10 USF--federal USF but you're not seeking state USF? Is that
11 correct?

12 MR. LAW: That is correct. We are only seeking
13 federal USF support.

14 THE HEARING OFFICER: Okay. All right. Thank
15 you very much for answering my questions.

16 And I'm going to turn now to the Division and allow
17 them to make their presentation.

18 MS. SCHMID: Thank you. The Division would like
19 to call Mr. Coleman as its witness. Could Mr. Coleman please
20 be sworn?

21 THE HEARING OFFICER: Yes.

22 Mr. Coleman, would you please raise your right
23 hand. And do you swear that the testimony you're about to give
24 is the truth?

25 MR. COLEMAN: Yes.

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THE HEARING OFFICER: Thank you.

CASEY J. COLEMAN, being first duly sworn, was examined and testified as follows:

TESTIMONY OF CASEY COLEMAN

EXAMINATION

BY-MS.SCHMID:

Q. Good morning. Could you please state your name, by whom you are employed, and business address for the record?

A. Casey J. Coleman. I work for the Division of Public Utilities. Business address is 160 East 300 South, Salt Lake City, Utah 84114.

Q. Have you participated in this docket on behalf of the Division?

A. Yes.

Q. Did you participate in the settlement discussions that resulted in the filed stipulation?

A. Yes.

Q. Could you please tell me if URTA, Utah Rural Telecom Association, also participated in those discussions?

A. Yes, they did.

Q. Do you have a statement--a brief statement in support of the stipulation to offer?

A. Yeah. The Division has reviewed the application and the information that's been provided by Total Call, and we

1 support the stipulation in that we believe that Total Call should
2 be approved as an ETC.

3 We also know that the information was provided or
4 at least reviewed by URTA and they don't object to the
5 stipulation as well, so--the information we have there. We
6 believe it will allow another competitor to enter into the prepaid
7 wireless and wireless market for Lifeline customers.

8 Q. Does the stipulation provide that Total Call is not
9 currently seeking any Utah USF?

10 A. Yes, it does.

11 Q. And does the stipulation provide that if Total Call
12 decides to seek Utah USF in the future, it will file a separate
13 application requesting such state support?

14 A. Yes, that's correct.

15 MS. SCHMID: That is all from the Division. He's
16 now available for questions.

17 THE HEARING OFFICER: Thank you.

18 Mr. Law, do you have any questions for Mr.
19 Coleman?

20 MR. LAW: I do not.

21 THE HEARING OFFICER: Ms. Murray, any
22 questions?

23 MS. MURRAY: No, I do not.

24 THE HEARING OFFICER: Mr. Coleman, just a
25 couple of follow-up questions.

1 THE WITNESS: Sure.

2 THE HEARING OFFICER: You indicated that URTA
3 did participate in the discussion, in the settlement discussion.
4 And have they given you their authority to represent that they do
5 not object?

6 THE WITNESS: It's--generally, I know that they are
7 not opposed to the stipulation that's out there. Did they
8 explicitly say that I could represent that? I wouldn't--I wouldn't
9 say that I had that authority, but having conversations with the
10 counsel and having done this before, I know that they're not
11 opposed to the stipulation and what--what it says, so . . .

12 THE HEARING OFFICER: Okay. And URTA is not
13 here today?

14 THE WITNESS: Correct.

15 THE HEARING OFFICER: Just making note.

16 THE WITNESS: But there were e-mails sent out to
17 them with the stipulation and also with this so that they were
18 aware of the proceeding and what was happening, so . . .

19 THE HEARING OFFICER: Okay. Thank you. Is it
20 the Division's position that the settlement as proposed is just
21 and reasonable in result?

22 THE WITNESS: Yes.

23 THE HEARING OFFICER: Okay. Thank you, Mr.
24 Coleman. No further questions.

25 Ms. Murray?

1 MS. MURRAY: Do you want to swear me?

2 THE HEARING OFFICER: Sure. Do you--
3 do you swear that the testimony you're about to give is the
4 truth?

5 MS. MURRAY: Yes.

6 THE HEARING OFFICER: Thank you. Please
7 proceed.

8 TESTIMONY OF CHERYL MURRAY

9 MS. MURRAY: The Office analyzed the application
10 of Total Call Mobile from the impact it would have on the
11 ratepayers that we represent--
12 residential, small commercial, irrigators. We asked some data
13 requests to clarify some of the information in the application,
14 participated in the settlement discussion, where there were
15 further clarifications provided. And we believe that the
16 settlement as presented, the stipulation as presented today, is
17 in the public interest and will result in just and reasonable rates.

18 THE HEARING OFFICER: Thank you, Ms. Murray.
19 Ms. Murray, earlier you mentioned that you were notified this
20 morning by Betsy Wolf of the Salt Lake Community Action
21 Program. And your--
22 information that you shared during that time, you were not
23 actually under oath. Does that represent a true statement?

24 MS. MURRAY: Yes. She did call me, say she
25 would be unable this morning--or unable to make the hearing,

1 and said I could represent that they did not oppose the
2 stipulation.

3 THE HEARING OFFICER: Okay. Thank you for
4 that clarification.

5 Mr. Law, I jumped ahead a little bit. You're
6 welcome to ask any questions you have of Ms. Murray from the
7 Office of Consumer Services.

8 MR. LAW: I have no questions for Ms. Murray.

9 THE HEARING OFFICER: Okay. Ms. Schmid, do
10 you have questions?

11 MS. SCHMID: No questions.

12 THE HEARING OFFICER: Okay. Before we
13 conclude, Mr. Law, let me ask you one final thing just to make
14 sure we have it on the record. With respect to the settlement
15 proposal that you have filed with the Commission, is it your
16 position, as the applicant, that the settlement as proposed is
17 just and reasonable in result?

18 MR. LAW: Yes, that is my position.

19 THE HEARING OFFICER: Okay. Thank you very
20 much. Are there any questions before we adjourn?

21 MS. SCHMID: Nothing further from the Division.

22 THE HEARING OFFICER: Okay.

23 MS. MURRAY: Nothing from the Office.

24 THE HEARING OFFICER: Okay. Mr. Law, is there
25 anything that--that you have a question on?

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MR. LAW: Nothing further, your Honor.

THE HEARING OFFICER: Okay. Very good.

Thank you for your time today. And an order on this will be produced in short order. Okay. Thank you. Have a good day.

(Proceedings adjourned at 9:23 a.m.)