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MEMORANDUM
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Arizona Corporation Commission

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TO: Docket Control 2008 FEB 26 P 3: 40 J
FROM: Ernest G. Johnson SA for EGT
Director AZ CORP COMMISSION
Utilities Division DOCKET CONTROL

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DATE: February 26, 2008

RE: **UPDATED STAFF REPORT** – IN THE MATTER OF THE APPLICATION OF GRINGO PASS INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE PAY TELEPHONE SERVICE (DOCKET NO. T-04191A-03-0482)

On July 14, 2003, Gringo Pass Inc. (“GPI”) filed an application with the Arizona Corporation Commission (“Commission”) for a Certificate of Convenience and Necessity (“CC&N”) to provide customer owned pay telephone (“COPT”) service in the State of Arizona. On July 17, 2003, the Commission’s Utilities Division (“Staff”) sent a set of data requests to GPI. On July 21, 2003, GPI acknowledged receiving Staff’s first set of data requests by signing and returning the certified mail “green card”.

On December 20, 2005 the Hearing Division issued a Procedural Order that required Staff to file an update on the status of this matter no later than January 20, 2006 and indicate whether the matter should be administratively closed. On December 23, 2005, Staff contacted GPI by telephone and was advised by GPI to fax the first set of data requests to GPI.

On January 5, 2006, GPI filed its responses to Staff’s First Set of Data Requests. As required by the December 20, 2005 Procedural Order, Staff filed an update on the status of this matter on January 20, 2006. Staff recommended that this docket remain open until all issues associated with this matter are resolved.

On February 14, 2006, Staff received a non-docketed letter from A.E. Gay which stated that he was anxiously waiting for what was required to obtain telephone service in Lukeville, Arizona. On March 9, 2006, Staff filed a Memorandum recommending that GPI’s CC&N application be approved. On March 20, 2006, a Recommended Order was filed by the Hearing Division for the April 2006 Open Meeting.

GPI’s President, A.E. Gay, filed a letter requesting a 90-day postponement of GPI’s application on March 30, 2006. On March 31, 2006, “Barry Thompson for A.E. Gay” faxed a letter to the Commission to confirm that GPI’s matter would be put on hold until Mr. Gay requested that the docket be reactivated. On April 12, 2006, A.E. Gay filed a letter stating

that Mr. Gay and his wife had intended for ABC Gringo, Inc. to obtain the CC&N to manage the pay telephone operation.

On November 7, 2007, the Hearing Division issued a Procedural Order that required Staff and GPI to file a document updating the status of GPI's application and indicating when the Recommended Order filed on March 20, 2006 should be scheduled for consideration at an open meeting, and if not, why not.

On November 8, 2007, Staff contacted Mr. Gay to confirm his desire to reactivate his CC&N application using the name ABC Gringo, Inc. in place of Gringo Pass, Inc. Mr. Gay owns ABC Gringo, Inc. and Gringo Pass, Inc. and he wants ABC Gringo, Inc. to obtain the CC&N to manage the pay telephone operation. Staff was advised by the Consumer Services Section of the Utilities Division that ABC Gringo, Inc. is in good standing with the Corporations Division. On November 21, 2007, Staff filed an Update Report stating that Mr. Gay wants to reactivate his CC&N application using the name ABC Gringo. In addition, Staff stated that the Recommended Order filed on March 20, 2006 should not be scheduled for consideration at an Open Meeting this time because Staff had recommended that Mr. Gay be required to file an amended and updated application with the appropriate business entity as the Applicant.

On December 7, 2007 the Hearing Division issued a Procedural Order which ordered that a telephonic procedural conference be held on December 13, 2007. As a result of the telephonic procedural conference, Staff was ordered to mail to GPI, and file with Docket Control a set of data requests by December 20, 2007. In addition, Staff was ordered to file with Docket Control, by December 20, 2007, a document memorializing Mr. Gay's verbal responses to Staff's data requests. Staff sent its second set of data requests to Mr. Gay on December 13, 2007. Staff obtained and confirmed Mr. Gay's verbal responses to Staff's second set of data requests on December 19, 2007. On December 20, 2007, Staff filed with Docket Control a document memorializing Mr. Gay's verbal responses to Staff's second set of data requests. On December 21, 2007, Staff informed Ms. Annie Vejar that Staff had mailed its Third Set of Data Requests to Mr. Gay.

Mr. Gay's customer information placard was not available to either Mr. Gay or Ms. Vejar at the time Staff inquired about the list of services provided or to be provided by the pay telephone and the proposed rates to be charged (See Response to Staff Data Request JFB 2-6). A list of services and some rates are listed on the customer information placard. In Staff Data Request JFB 2-4, Ms. Vejar stated that Table Top would be the local exchange carrier ("LEC") provider. According to the response to Staff Data Request JFB 2-7, there is no difference between the customer of record and the premises owner since Mr. Gay owns both the public telephone and the location where the telephone is installed or to be installed.

Staff contacted Table Top Telephone Company, Inc.'s Customer Service Manager, Ms. Lisa Rossi, on December 18, 2007, to determine whether ABC Gringo, Inc., Gringo Pass, Inc., Mr. A.E. Gay or Ms. Annie Vejar had applied or obtained an access line to be a COPT provider. Ms. Rossi stated that none of the names mentioned had applied for or obtained an access line to be a COPT provider.

On January 4, 2006, Mr. Gay provided Staff with a copy of his customer placard that Staff requested by fax on December 23, 2005. The customer information placard furnished by Mr. Gay identifies Pacific Communications as the operator of the pay telephone. On December 18, 2007, Staff contacted Mr. Thomas Bade, President of Pacific Communications, LLC. Mr. Bade stated that Pacific Communications, LLC previously provided telephone service in Lukeville, Arizona but did not provide service there at that time.

On January 3, 2008, Mr. Gay filed his responses to Staff's Third Set of Data Requests. In its Third Set of Data Requests, Staff requested information related to the existence and operation of Mr. Gay's pay telephones and solicited any other information about Mr. Gay's public telephone that he wished to provide. In his response, Mr. Gay stated that he had received \$21.64 from Pacific Communications, LLC in 2006, that he received no income from Pacific Communications in 2007 and that Lukeville has been without a pay telephone for at least six months. Mr. Gay further responded that Staff's questions concerning the whereabouts of Mr. Gay's public telephone "... have no bearing on our July 2003 Application."¹

Based on Mr. Gay's responses to Staff's data requests and information obtained from Table Top Telephone Company, Inc. and Pacific Communications, LLC, Staff believes that Gringo Pass, Inc.'s customer information placard provided as part of the application does not reflect current and accurate information.

On January 31, 2008, Staff received a docketed document from Mr. Gay that appears to be a response to Staff Data Request JFB 3-1. On February 7, 2008, Staff received another docketed document from Mr. Gay. Staff assumes that this document is GPI's response to Staff's Updated Staff Report filed on January 16, 2008. Staff reviewed the information contained in both documents and concluded that the material provided by Mr. Gay does not provide any significant information that would alter Staff's findings and recommendations contained in Staff's January 16, 2008 Updated Staff Report.

Staff recommends that the Commission deny Gringo Pass Inc.'s application to obtain a CC&N to provide COPT telephone service in Arizona. Staff recommends that he file a new COPT application using the appropriate name of the business entity as the Applicant and

¹ Refer to Mr Gay's response to Staff's Third Set of Data Requests JFB3-1 docketed on January 3, 2008.

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include the appropriate updated customer information placard if Mr. Gay wants a CC&N to provide public pay telephone service.

EGJ:JFB:red

Originator: John F. Bostwick

Attachment: Original and Thirteen Copies

SERVICE LIST FOR: GRINGO PASS INC.
DOCKET NO. T-04191A-03-0482

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Mr. Thomas Bade, President
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