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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF
GRINGO PASS, INC. FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO
PROVIDE CUSTOMER-OWNED PAY
TELEPHONE SERVICES.

DOCKET NO. T-04191A-03-0482

PROCEDURAL ORDER

BY THE COMMISSION:

On July 14, 2003, Gringo Pass, Inc. ("GPI") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("CC&N") to provide customer-owned pay telephone ("COPT") services in the State of Arizona.

On July 17, 2003, the Commission's Utilities Division Staff ("Staff") filed a Letter of Insufficiency and First Set of Data Requests.

On December 20, 2005, a Procedural Order was issued in this matter indicating that no filing had been made since Staff's data request and requiring Staff, no later than January 20, 2006, to make a filing updating the Commission on the status of the matter and indicating whether the matter should be administratively closed.

On January 20, 2006, Staff filed a Status Report stating that, after Staff contacted GPI by telephone and faxed GPI the First Set of Data Requests on December 23, 2005, GPI filed its response to Staff's First Set of Data Requests on January 5, 2006. Staff recommended that the docket remain open pending Staff's review of GPI's response and until all issues associated with this matter are resolved. GPI's response was apparently not filed with Docket Control.

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 consideration at the April 2006 Open Meeting. The Recommended Order was pulled from the April

1 2006 Open Meeting agenda at the request of GPI.

2 On November 7, 2007, by Procedural Order, Staff and GPI were each required to file, by
3 November 19, 2007, a document updating the status of GPI's application for a CC&N to provide
4 COPT services and indicating when the Recommended Order filed on March 20, 2006, should be
5 scheduled for consideration at an open meeting or, if either believed that the Recommended Order
6 should not be scheduled for consideration at an open meeting, explaining why and providing a
7 recommendation as to what action should be taken to resolve the matter.

8 GPI and Staff both made filings in November 2007. The filings contained some contradictory
9 information regarding whether GPI's President and owner, A.E. Gay, desired for the application to
10 proceed under the name of GPI or another corporation that he also owns, ABC Gringo, Inc.

11 On December 7, 2007, a Procedural Order was issued in this matter scheduling a telephonic
12 procedural conference for December 13, 2007.

13 On December 13, 2007, a telephonic procedural conference was held in this matter. Mr. Gay
14 appeared on behalf of GPI, and Staff appeared through counsel. During the procedural conference,
15 Mr. Gay indicated a strong desire for GPI's application to move forward as soon as possible so that
16 GPI can provide COPT services. Counsel for Staff indicated that Staff desired to obtain updated
17 information through another set of data requests to GPI; that Staff was ready to issue the data requests
18 on December 13, 2007; and that Staff would initially obtain GPI's responses from Mr. Gay
19 telephonically, with hard copy of the data requests also to be sent to GPI. Staff agreed to
20 memorialize GPI's verbal responses and to file them with Docket Control. Mr. Gay agreed to this
21 and also agreed to file written responses to Staff's data requests with Docket Control. After the
22 procedural conference, a Procedural Order was issued reflecting this course of action and also
23 requiring Staff to file an updated Staff Report.

24 On December 13, 2007, Staff filed a Letter of Insufficiency and Second Set of Data Requests.

25 On December 20, 2007, Staff filed a document memorializing Ms. Annie Vejar's verbal
26 responses to Staff's Second Set of Data Requests, along with a faxed copy of the memorialized
27 responses that had been signed by Mr. Gay and Ms. Vejar indicating that the responses represented
28 their replies to the Data Requests. According to the responses, Mr. Gay had requested that Staff

1 allow Ms. Vejar, his secretary, to respond to the questions.

2 On December 21, 2007, Staff filed a Letter of Insufficiency and Third Set of Data Requests.

3 On January 3, 2008, GPI filed responses to Staff's Third Set of Data Requests.

4 On January 16, 2008, Staff filed an Updated Staff Report, recommending that GPI's
5 application be denied based on information obtained from Mr. Gay, Table Top Telephone Company,
6 Inc. ("Table Top"), and Pacific Communications, LLC ("Pacific") that caused Staff to believe that
7 GPI's customer information placard does not reflect current and accurate conditions of the
8 application. Staff suggested that, if Mr. Gay desires to obtain a CC&N to provide COPT services, he
9 should contact the local exchange carrier to apply for or obtain an access line to be a COPT provider,
10 provide an updated customer information placard, and file a new COPT application in the name of
11 the appropriate business entity.

12 On January 31, 2008, the Hearing Division received a document from GPI that appears to be a
13 response to a data request for JFB3-1. The Hearing Division docketed the document. The document
14 indicates that GPI desires to obtain a CC&N for COPT services per its original application; that GPI
15 has never asked to change its application to another entity; that Table Top is the only company that
16 services Lukeville; that Table Top has telephone lines available for COPT; and, among other things,
17 that GPI has been advised by AT&T, Table Top, and others that obtaining the CC&N is the first step
18 to provide COPT services.

19 On February 1, 2008, a Procedural Order was issued requiring GPI to file, by February 14,
20 2008, a response to the Updated Staff Report that included a response to Staff's statements therein
21 and indicated whether GPI desires to withdraw its application, to have a hearing on its application, or
22 to allow the Commission to make a decision on its application without a hearing. The Procedural
23 Order also required Staff to file, by February 26, 2008, a response to GPI's response for JFB3-1 and
24 to GPI's response to the Updated Staff Report, including any changes in Staff's recommendations
25 expressed in the Updated Staff Report.

26 On February 7, 2008, GPI filed a document stating that GPI had not filed an application
27 changing GPI's application to ABC Gringo, Inc.; that if Staff received a request for the application to
28 be changed to ABC Gringo, Inc. in November 2007, that was an error and never should have been

1 done; that GPI still desires for its application to be approved; that Mr. Gay had requested Staff to ask
2 for Ms. Vejar when telephoning so that she could give the message to Mr. Gay and he could phone
3 back and answer the request; that the only person who gives responses is Mr. Gay; that Mr. Gay will
4 not make business dealings with Pacific; and that GPI requests that the Commission make a decision
5 on GPI's application without a hearing.

6 On February 26, 2008, Staff filed another Updated Staff Report. In it, Staff stated that after
7 reviewing GPI's response to JFB3-1 and its February 7, 2008, filing, Staff has concluded that GPI has
8 not provide any significant information that would alter Staff's findings and recommendations in its
9 January 16, 2008, Updated Staff Report. Staff recommended that the Commission deny GPI's
10 application and that Mr. Gay file a new COPT application using the appropriate name of the business
11 entity as the applicant and including the appropriate updated customer information placard.

12 It appears that Staff may continue to believe that Mr. Gay desires for the CC&N to be issued
13 to ABC Gringo, Inc. rather than GPI, although Mr. Gay has refuted that several times. In addition, it
14 appears that GPI has not provided Staff an updated customer information placard to review. Given
15 Staff's recommendation to deny the application based on the lack of an updated customer information
16 placard, it is reasonable to allow GPI 60 days to file an updated customer information placard.

17 **IT IS THEREFORE ORDERED that GPI shall file, by April 28, 2008, an updated**
18 **customer information placard** that includes information reflecting GPI's actual intentions for
19 providing COPT services and that complies with the Commission's COPT Generic Tariff, attached as
20 Exhibit A and incorporated herein.

21 **IT IS FURTHER ORDERED that Staff shall review the updated customer information**
22 **placard filed by GPI and shall, by May 19, 2008, file a document** analyzing the customer
23 information placard's compliance with the requirements of the Commission's COPT Generic Tariff
24 and, if appropriate, modifying Staff's recommendation for denial of GPI's application.

25 **IT IS FURTHER ORDERED** that all parties must comply with Rules 31 and 38 of the Rules
26 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
27 *pro hac vice*.

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IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 28th day of February, 2008.


SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this 28th day of February, 2008, to:

A. E. Gay
GRINGO PASS, INC.
P.O. Box 266
Lukeville, AZ 85341

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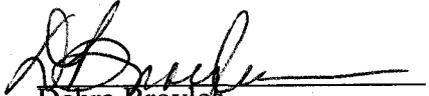
By: 
Debra Broyles
Secretary to Sarah N. Harpring

EXHIBIT "A"

Concurring COPT:

COPT Tariff No. 1

Concurrence Date:

Effective:

**CUSTOMER OWNED PAY TELEPHONE (COPT)
GENERIC TARIFF**

I. DESCRIPTION OF CUSTOMER OWNED PAY TELEPHONE SERVICE

- A. Customer Owned Pay Telephone (COPT) Service is public pay telephone service to end-users provided by entities other than the certificated local exchange telephone company. COPT service involves the resale of those local exchange and interexchange telecommunications services authorized for resale by the Arizona Corporation Commission (ACC) and provided through the facilities of public service corporations certificated to provide such services in the State of Arizona.
- B. COPT service is provided by interconnection with local exchange carriers through approved local exchange company tariffs under which COPT providers are authorized to obtain access to the local and interexchange telecommunications network.
- C. COPT service is subject to all restrictions imposed by the Arizona Corporation Commission on the intrastate transmission of telecommunications services.

II. SERVICE OFFERED

- A. The following services may be provided to end-users under this tariff:

- 1. Local Message Service - Provides callers with the ability to complete calls to other locations within the local (exchange) calling area.
- 2. Intrastate Message Toll Service - Provides callers with the ability to complete calls to locations outside the local (exchange) calling area.
- 3. Local Directory Assistance - Provides callers with telephone numbers for parties located within the local (exchange) calling area.
- 4. Intrastate Directory Assistance - Provides callers with telephone numbers for parties located outside the local (exchange) calling area.
- 5. Operator Services

- a. **Operator Assisted Station-to-Station Calls**

Provides for the completion of a call through the use of an operator with the caller paying for the call before it is completed.

- b. **Operator Assisted Person-to-Person Calls**

EXHIBIT "A"

Concurring COPT:

COPT Tariff No. 1

Concurrence Date:

Effective:

Provides for the completion of a call to a specified person through the use of an operator with the caller paying for the call before it is completed.

c. Operator Assisted Collect Calls

Provides for the completion of a call through the use of an operator with the called party billed for the call.

d. Operator Assisted Third Number Billed Calls

Provides for the completion of a call through the use of an operator with the call billed to a home or other telephone number.

e. Customer Dialed Calling Card and Credit Card Calls

Provides for the completion of a call without the use of an operator with the call billed to the calling card or credit card account.

- B. Services not described above may be offered only upon approval of the Arizona Corporation Commission under procedures established in A.R.S. Section 40-250.

III. REGULATIONS

- A. COPT Service is provided to all users on a non-discriminatory basis using Federal Communications Commission registered equipment, which has been installed and maintained in accordance with generally accepted telecommunications industry standards and applicable state and local codes.
- B. All COPT instruments are hearing-aid compatible and accessible to the disabled in compliance with federal and state laws.
- C. COPT instruments will be placed in well-lighted locations and will be maintained in good working order. The COPT provider will respond promptly to reports of equipment failure and other reasonable complaints. The COPT provider's name and telephone number of the COPT will be displayed prominently on each COPT instrument.
- D. Instructions on how to make a call, how to report malfunctions, and how to obtain refunds, will be posted at every COPT location in those languages required by the Commission.
- E. Access to emergency 911 service is provided free at all COPT locations, without the use of a coin and without time limitations. In those areas where 911 service is not available, access to the local emergency service providers will be provided free of charge and without time limitations.
- F. Coin-activated instruments will accept nickels, dimes, and quarters. Coins will be returned for uncompleted calls.
- G. Access to the end-user's preferred toll carriers will not be denied.

EXHIBIT "A"

Concurring COPT:

COPT Tariff No. 1

Concurrence Date:

Effective:

- H. Surcharges by premise owners for intrastate calls and/or operator services are prohibited unless specifically authorized by the Arizona Corporation Commission.
- I. Operator Services are provided by ACC certified operator services companies at Commission approved rates and charges. However, these services may be provided through the use of capabilities embedded in the COPT (Store and forward pay telephones). Specific regulations applicable to COPT provided operator service are contained in Section IV, below.
- J. Service limitations (e.g., local calling only, outgoing calls only) will be clearly posted at each COPT location. If service is limited to local calling, access to local operators will be provided.
- K. Access to Local Directory Assistance may be provided free of charge and without the use of a coin. Charges for Directory Assistance will be clearly posted at each COPT location.
- L. 1-800, 10XXX-0+ and 950 access will be provided at no charge to the calling party.
- M. Time limits on local calls without additional coins will not be less than three (3) minutes. Time limitations will be clearly posted.
- N. Service not in conformance with these regulations, or in violation of other rules and conditions of certification, may be terminated by Order of the ACC. The Commission reserves the right to enforce such Orders by denial of those services that COPTs are authorized to use to obtain access to the local and interexchange networks.

IV. REGULATIONS APPLICABLE TO COPT-PROVIDED OPERATOR SERVICES:

- A. The COPT operator service provided will identify itself at the outpulse of the terminating number which informs the end-user that the COPT provider's rates, operator service charges and surcharges apply to the call. This message will be provided before the end-user incurs any charge for the call, including a usage rate, operator service charge and surcharge.
- B. The COPT operator service provider will disclose immediately to the customer, upon request and at no charge to the caller, any of the following information:
 1. A quotation of rates, operator service charges and location-specific surcharges;
 2. The methods by which such rates, operator service charges and surcharges will be collected;
 3. The methods by which complaints concerning such rates, operator service charges and surcharges or collection practices will be resolved; and
 4. That the preferred carrier can be reached by access code or toll-free customer service number.

EXHIBIT "A"

Concurring COPT:

COPT Tariff No. 1

Concurrence Date:

Effective:

- C. The COPT operator service provider will post all of the following information, on or near the COPT, in plain view of the end-user:
1. The name, address, and toll-free telephone number of the COPT provider;
 2. A written disclosure that the rates, operator service charges and location specific surcharges of the COPT operator service provider apply for all operator-assisted calls;
 3. A statement that interLATA calls made with calling cards, including IXC cards, may be carried by the COPT service provider;
 4. Dialing instructions;
 5. A toll-free telephone number for billing inquiries;
 6. A description of complaint procedures; and
 7. That end-users have a right to obtain access to the interexchange carrier of their choice.
- D. The COPT operator service provider will not require or participate in blocking any end-users' access to a preferred carrier.
- E. COPT providers using store and forward technology shall route all zero-minus calls immediately to the originating LEC.
- F. Billing and Collection Requirements
1. The COPT will bill monthly for operator services rendered.
 2. Bills issued for the intrastate interLATA operator service provided by the COPT provider will include the minimum information required by A.A.C. R14-2-508(B), and identify the COPT service provider, to the extent the LEC has the capability to do so. In the absence of that capability, the identification of the billing agent or clearing house and its toll-free customer service telephone number are required.
 3. The LEC will not be required to process any billing for any intraLATA calls carried by the COPT provider, whether intentional or incidental, where the required compensation has not been paid to the LEC.
 4. Billing for COPT-provided operator services will comply with all of the following billing procedures:
 - a. The billing date will be printed on the bill and shall be the date the bill was issued;
 - b. The COPT provider will provide a full refund of any charge levied for an uncompleted call;

EXHIBIT "A"

Concurring COPT:

COPT Tariff No. 1

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Effective:

- c. COPT providers or their billing agents will not bill for calls which occur more than 60 days prior to the billing date; and
- d. COPT providers or their billing agents will not bill for any intraLATA call carried by the COPT provider, whether intentional or incidental, where the required compensation has not been paid to the LEC.

V. RATES AND CHARGES

A. COPT service will be provided at the following maximum rates and charges.

1. **Local Message Service** (3 minutes minimum time)

Rates for local message service may not exceed the rate approved by the ACC for the serving local exchange carrier's public telephones.

2. **Intrastate IntraLATA Message Toll Service**

Rates for intrastate intraLATA message toll service may not exceed the day rates set forth in the certified local exchange carrier's tariff.

3. **Intrastate InterLATA Message Toll Service**

Rates for intrastate interLATA message toll service may not exceed the day rates set forth in the tariffs of the certificated intrastate interLATA carrier whose facilities are used to carry the call.

4. **Local Directory Assistance**

Charges for local directory assistance may not exceed the rates set forth in the certificated local exchange carrier's tariff.

5. **Intrastate Long Distance Directory Assistance**

Charges for intrastate long distance directory assistance may not exceed the rates for such service set forth in the tariff for the certificated carrier whose facilities are used to provide intrastate interexchange directory assistance.

6. **Operator Handled Calls**

- a. Charges for Operator assisted calls may not exceed the rates and charges authorized for the ACC certified Operator Services provided that provides operator services to the COPT.

EXHIBIT "A"

Concurring COPT:

COPT Tariff No. 1

Concurrence Date:

Effective:

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- b. In those instances where operator services are provided through the use of capabilities embedded in the COPT:
- (1) Charges for intrastate intraLATA operator assisted, calling card and credit card calls may not exceed the rates for operator service set forth in the certificated local exchange carrier's tariff.
 - (2) Charges for intrastate interLATA operator assisted, calling card and credit card calls may not exceed the rates for operator service set forth in the tariffs for the certificated carrier whose facilities are used to provide intrastate interexchange service.
- B. Rates for COPT service may be discounted below these maximums at the discretion of the COPT service provider.
- C. Rates for services not included in this tariff are contained in other approved tariffs of the Company on file with the ACC.