

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

CP 1395

In the Matter of)
AIRNEX COMMUNICATIONS INC.)
Application for a Certificate of Authority)
to Provide Telecommunications Service in)
Oregon and Classification as a Competitive)
Provider.)

ORDER

DISPOSITION: CANCELLATION ORDER RESCINDED

On March 8, 2008, the Commission granted a certificate of authority to Airnex Communications Inc. (Airnex) to provide telecommunications service in Oregon as a competitive provider. See Order No. 08-158.

Oregon telecommunications providers are required to provide requested information to the Commission. After investigation, the Commission found that Airnex failed to pay the 3rd Quarter 2009 Oregon Universal Service Fund (OUSF) contributions or submit the 3rd Quarter 2009 OUS2 worksheet to comply with OUSF requirements per ORS 759.425 and OAR 860-032-0008(2). The certificate of authority for Airnex was canceled at the January 19, 2010, public meeting. See Order No. 10-059. The responsibility to respond to Commission requests for information or comply with any Commission rule is clearly stated at the time a certificate is granted to a competitive provider. Failure to comply with this obligation may result in the company's certificate of authority being canceled. If a certificate of authority is canceled, a company has the statutory right to request reconsideration. On March 3, 2010, Airnex filed a request for reconsideration of Order No. 10-059 and on September 15, 2010, the company filed a comprehensive plan of action describing Airnex's procedures being put in place to prevent future cancellations.

HISTORY

Airnex has had two previous cancellations of its certificate of authority. This order rescinds the company's third cancellation. In the company's first docket, CP 436, at the January 10, 2001, public meeting, the Commission determined that Airnex's certificate of authority should be canceled. Airnex's certificate of authority was canceled in Order No. 01-374. Airnex did not file for reconsideration of cancellation order No. 01-374.

On June 14, 2002, Airnex filed a new application resulting in a second certificate of authority, docketed CP 1074. *See* granting Order No. 02-575. Again, at the January 25, 2005, public meeting, the Commission determined that Airnex's certificate of authority should be canceled for failure to comply with OUSF rules and regulations per ORS 759.425. Airnex's certificate of authority was canceled in docket CP 1074. *See* Order No. 05-084. The company did not request reconsideration of cancellation order No. 05-084.

Airnex again filed a new application for a certificate of authority which was granted in Order No. 08-158, docket CP 1395. Again, Airnex failed to pay the 3rd Quarter 2009 Oregon Universal Service Fund (OUSF) contributions or submit the 3rd Quarter 2009 worksheet to comply with OUSF requirement per ORS 759.425. As described above, the Commission determined that Airnex's certificate of authority should be canceled. The Commission's records indicate that Airnex did file the necessary information, but after the certificate was already canceled and after a considerable length of time had passed.

In each case, Airnex provided the information, but it was filed late thus prompting the cancellations. In each case, Airnex continued to provide telecommunications service to its customers in Oregon. It is not the Commission's intent to cause undue disruption to customers of canceled competitive providers. After discussion with Commission staff, Airnex provided a plan of action that provided the Commission with specific processes to assist Airnex in its effort to remain compliant with Commission rules and regulations. The company should be aware that repeated failure to comply with Commission rules is a serious matter and could result in the company being denied a certificate of authority to provide telecommunication service in Oregon. The granting of a certificate of authority places responsibility on the company to fully comply with Commission rules.

The company must adhere to its proposed plan to prevent the certificate being canceled a fourth time. If Airnex again fails to fulfill its regulatory obligations and the certificate is canceled, the Commission may conclude that it is not in the public interest to process a future application for re-certification as a competitive provider. The company may be required to appear before the Commission to respond to Commission inquiries and explain why a certificate should be issued or reconsideration should be granted to a company that repeatedly fails to comply with Commission rules. Should the company request reconsideration of this order or apply for new authority, it must fully comply with all Commission rules. Any future application or request for reconsideration must include as applicable:

1. An explanation of why the company was unable to comply with the Commission rules.
2. An explanation of why the previously submitted corrective plan failed to prevent compliance.
3. A statement of why it is in the public interest for the Commission to reconsider or grant new authority given that the company has repeatedly failed to comply with Commission rules.

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ORDER NO.

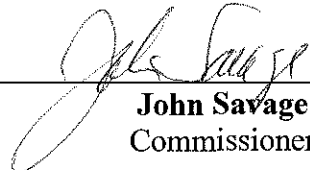
- 4. Proof of payment of all outstanding revenue fees, including late payment fees owed for each calendar year of operation pursuant to ORS 756.310(6)(a), in accordance with Commission requirements.
- 5. Proof of compliance with Oregon Universal Service Fund requirements pursuant to ORS 759.425.
- 6. Proof of filing of any outstanding annual reports pursuant to OAR 860-032-0060

Additionally, the company may be required to appear before the Commission.

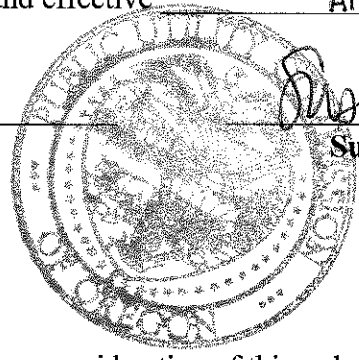
ORDER


IT IS ORDERED that Order No. 10-059 canceling the certificate of authority of Airnex Communications Inc. is rescinded.

Made, entered, and effective APR 11 2011



John Savage
 Commissioner





Susan K. Ackerman
 Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceeding as provided by OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.