

ORDER NO. 11 390
ENTERED OCT 04 2011

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

CP 1126

In the Matter of

X5 PDX LLC

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DISPOSITION: CANCELLATION ORDER RESCINDED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 20, 2003, the Commission granted a certificate of authority to X5 PDX, LLC (X5 PDX) to provide telecommunications service in Oregon as a competitive provider. See Order No. 03-167.

Oregon telecommunications providers are required to provide requested information to the Commission. After investigation, the Commission found that X5 PDX failed to pay the 1st Quarter 2011 OUS2 contribution and late payment penalty and interest to comply with Oregon Universal Service Fund requirements per ORS 759.425. 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.

At the July 26, 2011, public meeting, the Commission determined that X5 PDX's certificate of authority should be canceled. X5 PDX's certificate of authority was canceled in Order No. 11-318. On August 29, 2011, X5 PDX filed a request to suspend Order No. 11-318, claiming it had complied with the Commission's rules and regulations. A review of the Commission's records indicates that X5 PDX filed the requested information but too late to prevent being canceled. However, given that the information is now up-to-date, the cancellation order should be rescinded.

The Commission has canceled a previous certificate of authority. X5 PDX's certificate of authority was canceled for the first time at the August 2, 2005, public meeting, for failing to pay a late payment penalty for the 2004 annual revenue statement and fees. See Order No. 05-940. Staff of the Public Utility Commission of Oregon immediately filed a request to rescind Order No. 05-940. Due to a posting error, the late payment penalty was applied to the Oregon Universal Service Fund account instead of its revenue fees account. X5 PDX's certificate of authority was reinstated in Order No. 05-1033.

The Commission reminds the company that the granting of a certificate places responsibility on the company to fully comply with Commission rules. The company must undertake a plan to prevent the certificate being canceled again. If X5 PDX 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 Commission expects all companies to comply with the requirements of certification, including submitting all reports and payments on time. The Commission notes that this is the second time that the company's certificate of authority has been canceled and rescinded. 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. A detailed plan of action, including specific measures the company has put in place to prevent future noncompliance and the name and contact information of the responsible party;
3. Proof of payment of all outstanding revenue fees, including late payment fees, owed for each calendar year of operation pursuant to ORS 756.310(a), in accordance with Commission requirements;
4. Proof of compliance with Oregon Universal Service Fund requirements pursuant to ORS 759.425; and
5. Proof of filing of any outstanding annual reports pursuant to OAR 860-032-0060.

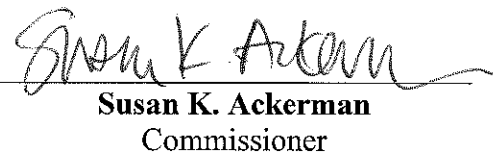
ORDER

IT IS ORDERED that Order No. 11-318 canceling the certificate of authority of X5 PDX, LLC is rescinded.

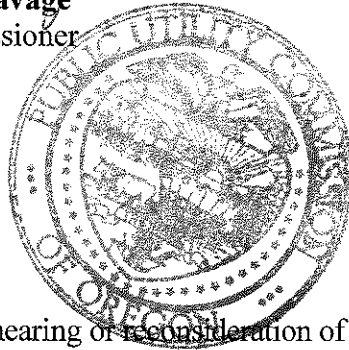
Made, entered, and effective OCT 04 2011.



John Savage
Commissioner



Susan K. Ackerman
Commissioner



A party may request rehearing or reconsideration of this order under 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 proceedings as provided in 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.