

ORDER NO. 18 362

ENTERED OCT 03 2018

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

CP 1395

In the Matter of the Cancellation of the
Certificate of Authority Held by AIRNEX
COMMUNICATIONS, INC.

ORDER

DISPOSITION: CERTIFICATE OF AUTHORITY CANCELED

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

Airnex has failed to comply with Oregon Universal Service Fund (OUSF) requirements for 2nd Quarter 2018 per ORS 759.425 and OAR 860-100-0001 through 860-100-0200.

Airnex has also failed to pay 2017 annual revenue fees as required by ORS 756.310 and OAR 860-032-0095.

Commission staff has made numerous attempts to notify Airnex of the delinquencies and potential cancellation. Airnex failed to respond, and cannot be reached through any of its official contact information.

ORS 756.515(4) provides that the Commission may, after investigation, but without hearing, make such findings and orders as deemed justified by the results of the investigation. In view of the foregoing, the Commission determined at its September 25, 2018, Public Meeting that Airnex has failed to comply with Commission rules and terms of the certificate. Airnex's certificate of authority to provide telecommunications service should be canceled, per OAR 860-032-0008(2). Airnex is reminded that because it had a certificate of authority for one or more days during 2018, it is required to file an annual fee statement and pay a minimum of \$100 for that year.

This is the fourth time the Commission has had to cancel a certificate held by Airnex since its certificate of authority to provide telecommunications services as a competitive provider in Oregon was issued in April 1998 (*see* Order No. 98-148, Docket CP 436). The first cancellation was in April 2001, for failure to comply with OUSF requirements (*see* Order No. 01-374). Airnex did not request reconsideration, but later applied for and was granted a new certificate of authority in August 2002 after all delinquent reports and fees had been filed and paid (*see* Order No. 02-575, Docket CP 1074). This certificate was canceled in February 2005, again for failure to comply with OUSF requirements (*see*

Order No. 05-084). Again, Airnex did not request reconsideration, but later applied for and was granted a new certificate of authority in March 2008 after filing and paying all delinquent reports and fees (*see* Order No. 08-158, Docket CP 1395). This certificate was canceled in February 2010 for failure to comply with OUSF requirements (*see* Order No. 10-059). This time, Airnex filed and paid the delinquent reports and fees, as well as a comprehensive plan of action for remaining in compliance, within the reconsideration period. Accordingly, Airnex's cancellation was rescinded in April 2011 (*see* Order No. 11-116). Airnex has now once again failed to comply with OUSF (as well as annual revenue fee) requirements.

Repeated failure to comply with Commission rules is a serious offense. A company that continually fails to comply with Commission rules forces a question of whether it is in the public interest to grant that company further authority to provide service. This is the fourth time Airnex has had its certificate of authority canceled due to failure to comply with Commission rules. The Commission expects all companies to comply with the requirements of certification, including submitting all reports and payments on time. Airnex is no exception. 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 to Airnex's specific circumstances):

1. An explanation of why the company was unable to comply with Commission rules, and why the previously submitted corrective plan failed to ensure compliance;
2. A statement of why it is in the public interest for the Commission to reconsider or grant new authority since the company has repeatedly failed to comply with Commission rules;
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(4)(a) and OAR 860-032-0095, in accordance with Commission requirements;
4. Proof of compliance with OUSF requirements pursuant to ORS 759.425 and OAR 860-100-0100 through 860-100-0160;
5. Proof of filing of any outstanding annual reports pursuant to OAR 860-032-0060; and
6. Proof of compliance with Residential Service Protection Fund (RSPF) requirements pursuant to ORS chapter 290, section 7, Oregon Laws 1987, and OAR 860-033-0006.

If Airnex fails to include these items with its application, the Commission will deem the application incomplete.

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IT IS ORDERED that the certificate of authority held by Airnex Communications, Inc is canceled.

Made, entered, and effective OCT 03 2018

BY THE COMMISSION:



A handwritten signature in blue ink, appearing to read "Michael Dougherty", is written over a horizontal line.

Michael Dougherty
Chief Operating Officer

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.