

# WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

## NOTICE OF PENALTIES INCURRED AND DUE FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: UT-071291

PENALTY AMOUNT: \$200

Airnex Communications, Inc.  
3000 Executive Parkway, Suite 230  
San Ramon, California 94583

The Washington Utilities and Transportation Commission (Commission) believes that you have committed a violation of Washington Administrative Code 480-120-382 which requires competitive telecommunications companies to file annual reports with the Commission by May 1 each year. You are classified as such a company. Commission records show that you did not make the filing by the required date of May 1, 2007. Revised Code of Washington (RCW) 80.04.405 allows penalties of \$100 for every such violation. Each and every such violation shall be a separate and distinct offense and, in the case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation.

As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount \$200, as follows:

On March 8, 2007, the Commission mailed 2006 Annual Report forms and 2007 Regulatory Fee packets to competitive telecommunications companies registered in Washington State. A letter from Executive Secretary Carole Washburn instructed companies to file annual reports and pay regulatory fees by May 1, 2007. Further, the letter stated failure to file the annual report by May 1 would result in a penalty and possible cancellation of the company's registration to operate in Washington. Those companies wishing to request an extension to file the annual report were asked to do so prior to May 1, providing a reason for the requested extension. You did not request an extension.

On April 6, 2007, the Commission mailed a notice to all competitive telecommunication companies reminding them that 2006 annual reports and 2007 regulatory fees were due by May 1, 2007.

On May 15, 2007, the Commission sent letters to those companies that had not yet filed their reports. The letter, signed by Carole Washburn, gave an extension to companies to file their reports by May 31, 2007. In the letter, Ms. Washburn stated the Commission would not seek a fine or move to revoke the

registration of any company with a report received by the Commission postmarked no later than May 31.

As of June 29, 2007, Airnex Communications, Inc. has failed to file the 2006 annual report.

In addition, Airnex Communications, Inc. failed to timely file its 2005 annual report last year and was assessed a penalty in Docket UT-060977. Under RCW 80.04.405, the Commission may assess penalties of up to \$100 a day for continuing violations. Where a company has repeated violations of WAC 480-120-382 and is more than one day late in filing its report for the current year, the Commission will assess escalating penalties for continued violations of the rule.

This information, if proved at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violation did not occur, you may request a hearing to contest the penalty assessment. If there is a reason for the violation that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty. See RCW 80.04.405.

You have the right to present your request for review or mitigation at a hearing, but you are not required to do so. If you do, the Commission will review the evidence supporting your request in an informal hearing, called a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider your plea and notify you of his or her decision.

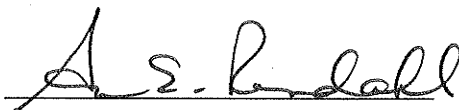
**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

**If you do not act within 15 days**, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective July 1, 2007.

A handwritten signature in cursive script that reads "Ann E. Rendahl". The signature is written in black ink and is positioned above a horizontal line.

Ann E. Rendahl  
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-071291

**PLEASE NOTE:** You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

- 1. **Payment of penalty.** I admit that the violation occurred and enclose \$200 in payment of the penalty.
  
- 2. **Request for a hearing.** I believe that the alleged violation did not occur, based on the following information, and request a hearing for a decision by an administrative law judge:
  
  
- 3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reason(s) set out below.
  - a) I ask for a hearing for a decision by an administrative law judge
  - OR  b) I waive a hearing and ask for an administrative decision on the information I present here:

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: \_\_\_\_\_ [month/day/year], at \_\_\_\_\_ [city, state]

\_\_\_\_\_  
Name of Respondent (company) – please print

\_\_\_\_\_  
Signature of Applicant

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RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”