

P.S.C. MO. TARIFF NO. 1  
AIRNEX COMMUNICATIONS, INC.

Missouri Public Service Commission ORIGINAL SHEET 1

REC'D FEB 22 1999

TITLE SHEET

MISSOURI INTEREXCHANGE TELECOMMUNICATIONS TARIFF

OF

AIRNEX COMMUNICATIONS, INC.

This tariff contains the descriptions, regulations, and rates applicable to the furnishing of service or facilities for Telecommunications Services furnished by Airnex Communications, Inc. ("ACI"), with principal offices at 3000 Executive Parkway, Suite 111, San Ramon, California 94583, toll free telephone number 800-801-1120. This tariff applies for services furnished within the State of Missouri. This tariff is on file with the Missouri Public Service Commission, and copies may be inspected, during normal business hours, at the company's principal place of business.

Airnex Communications, Inc., operates as a competitive telecommunications company as defined by Case No. TO-88-142 within the State of Missouri.

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Missouri Public Service Commission  
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WAIVER OF RULES AND REGULATIONS

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392.240 (1)	Rates-reasonable average return on investment.
392.270	Property valuation.
392.280	Depreciation rates.
392.290	Issuance of stocks and bonds.
392.310	Issuance of stocks and bonds.
392.320	Issuance of stocks and bonds.
392.330	Issuance of stocks and bonds.
392.340	Reorganization.
4 CSR 240-10.020	Income on depreciation fund investments.
4 CSR 240-30.010 (2) (C)	Posting exchange rates at central offices.
4 CSR 240-32.030 (1) (B)	Exchange boundary maps.
4 CSR 240-32.030 (1) (C)	Record of access lines.
4 CSR 240-32.030 (2)	Records kept within state.
4 CSR 240-32.050 (3-6)	Telephone directories.
4 CSR 240-32.070 (4)	Coin telephones.
4 CSR 240-33.030	Inform customers of lowest priced service.
4 CSR 240-33.040 (5)	Finance Fee.
4 CSR 240-30.040	Uniform System of Accounts

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AIRNEX COMMUNICATIONS, INC. P.S.C. MO. TARIFF NO. 1

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RESERVED FOR FUTURE USE Missouri Public Service Commission

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TARIFF FORMAT

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A. Sheet Numbering: Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between pages 11 and 12 would be page 11.1.

B. Sheet Revision Numbers: Revision numbers also appear in the upper right corner of each sheet where applicable. These numbers are used to indicate the most current page version on file with the Commission. For example, 4th Revised Sheet 13 cancels 3rd Revised Sheet 13. Consult the Check Sheet for the sheets currently in effect.

C. Paragraph Numbering Sequence: There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

2.  
2.1  
2.1.1  
2.1.1.A  
2.1.1.A.1  
2.1.1.A.1.(a)  
2.1.1.A.1.(a).I  
2.1.1.A.1.(a).I.(i)  
2.1.1.A.1.(a).I.(i).(1)

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SYMBOLS

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The following are the only symbols used for the purposes indicated below:

- (C) to signify change in regulation
- (D) to signify a deletion
- (I) to signify a rate increase
- (L) to signify material relocated in the tariff
- (N) to signify a new rate or regulation
- (R) to signify a rate reduction
- (T) to signify a change in text, but no change in rate or regulation

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS

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Access Line - An arrangement from a local exchange telephone company or other common carrier, using either dedicated or switched access, which connects a Customer's location to location or switching center.

Authorization Code - A numerical code, one or more of which may be assigned to a Customer, to enable ACI to identify the origin of the Customer so it may rate and bill the call. Automatic number identification (ANI) is used as the authorization code wherever possible.

Commission - Used throughout this tariff to mean the Missouri Public Service Commission.

Company or ACI - Used throughout this tariff to mean Airnex Communications, Inc., a California Corporation.

Customer - The person, firm, corporation or other legal entity which orders the services of ACI or purchases a ACI Prepaid Calling Card and/or originates prepaid calls using such cards, and is responsible for the payment of charges and for compliance with the Company's tariff regulations.

Dedicated Access - The Customer gains entry to the Company's services by a direct path from the Customer's location to the Company's point of presence.

Holiday - New Year's Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Holidays shall be billed at the evening rate from 8 a.m. to 11 p.m. After 11 p.m., the lower night rate shall go into effect.

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Prepaid Account - An inventory of Telecom Units purchased in advance by the Customer, and associated with one and only one Authorization Code as contained in a specific Prepaid Calling Card.

Prepaid Calling Card - A card issued by the Company, containing an Authorization Code which identifies a specific Prepaid Account of Telecom Units, which enables calls to be processed, account activity to be logged, and balances to be maintained, on a prepayment basis.

Switched Access - The Customer gains entry to the Company's services by a transmission line that is switched through the local exchange carrier to reach the Company's point of presence.

Telecom Unit - A measurement of telecommunications service equivalent to one minute of usage between any two points within the State of Missouri.

Telecommunications - The transmission of voice communications or, subject to the transmission capabilities of the services, the transmission of data, facsimile, signaling, metering, or other similar communications.

Underlying Carrier - The telecommunications carrier whose network facilities provide the technical capability and capacity necessary for the transmission and reception of Customer telecommunications traffic.

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SECTION 2 - RULES AND REGULATIONS

2.1 Undertaking of the Company

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This tariff contains the regulations and rates applicable to intrastate resale telecommunications services provided by ACI for telecommunications between points within the State of Missouri. Resale services are furnished subject to the availability of facilities and subject to the terms and conditions of this tariff in compliance with limitations set forth in the Commission's rules. The Company's services are provided on a statewide basis and are not intended to be limited geographically. The Company offers service to all those who desire to purchase service from the Company consistent with all of the provisions of this tariff. Customers interested in the Company's services shall file a service application with the Company which fully identifies the Customer, the services requested and other information requested by the Company. The Company reserves the right to examine the credit record and check the references of all applicants and Customers prior to accepting the service order. The service application shall not in itself obligate the Company to provide services or to continue to provide service if a later check of applicant's credit record is, in the opinion of the Company, contrary to the best interest of the Company. The Company may act as the Customer's agent for ordering access connection facilities provided by other carriers or entities when authorized by the Customer, to allow connection of a Customer's location to a service provided by the Company. The Customer shall be responsible for all charges due for such service arrangement.

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- 2.1.1 The services provided by ACI are not part of a joint undertaking with any other entity providing telecommunications channels, facilities, or services, but may involve the resale of the Message Toll Services (MTS) and Wide Area Telecommunications Services (WATS) of underlying common carriers subject to the jurisdiction of this Commission.
- 2.1.2 The rates and regulations contained in this tariff apply only to the resale services furnished by ACI and do not apply, unless otherwise specified, to the lines, facilities, or services provided by a local exchange telephone company or other common carriers for use in accessing the services of ACI.
- 2.1.3 The Company reserves the right to limit the length of communications, to discontinue furnishing services, or limit the use of service necessitated by conditions beyond its control, including, without limitation: lack of satellite or other transmission medium capacity; the revision, alteration or repricing of the Underlying Carrier's tariffed offerings; or when the use of service becomes or is in violation of the law or the provisions of this tariff.

## 2.2 Use of Services

- 2.2.1 Services may be used for any lawful purpose consistent with the transmission and switching parameters of the telecommunications facilities utilized in the provision of services, subject to any limitations set forth in this Section 2.2.
- 2.2.2 The use of services to make calls which might reasonably be expected to frighten, abuse, torment, or harass another or in such a way as to unreasonably interfere with use by others is prohibited.
- 2.2.3 The use of services without payment for service or attempting to avoid payment for service by fraudulent means or devices, schemes, false or invalid numbers, or false calling or credit cards is prohibited.

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- 2.2.4 Services are available for use 24 hours per day, seven days per week.
- 2.2.5 ACI does not transmit messages, but the services may be used for that purpose.
- 2.2.6 Services may be denied for nonpayment of undisputed charges or for other violations of this tariff.
- 2.2.7 Customers shall not use the service provided under this tariff for any unlawful purpose.
- 2.2.8 The Customer is responsible for notifying the Company immediately of any unauthorized use of services.

**2.3 Liability of the Company**

- 2.3.1 The Company shall not be liable for any claim, loss, expense or damage for any interruption, delay, error, omission, or defect in any service, facility or transmission provided under this tariff, if caused by the Underlying Carrier, an act of God, fire, war, civil disturbance, act of government, or due to any other causes beyond the Company's control.
- 2.3.2 The Company shall not be liable for, and shall be fully indemnified and held harmless by the Customer against any claim, loss, expense, or damage for defamation, libel, slander, invasion, infringement of copyright or patent, unauthorized use of any trademark, trade name or service mark, proprietary or creative right, or any other injury to any person, property or entity arising out of the material, data or information transmitted.
- 2.3.3 No agent or employee of any other carrier or entity shall be deemed to be an agent or employee of the Company.

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- 2.3.4 The Company's liability for damages, resulting in whole or in part from or arising in connection with the furnishing of service under this tariff, including but not limited to mistakes, omissions, interruptions, delays, errors, or other defects or misrepresentations shall not exceed an amount equal to the charges provided for under this tariff for the long distance call for the period during which the call was affected. No other liability in any event shall attach to the Company.
- 2.3.5 The Company shall not be liable for and shall be indemnified and saved harmless by any Customer or by any other entity from any and all loss, claims, demands, suits, or other action or any liability whatsoever, whether suffered, made, instituted, or asserted by any Customer or any other entity for any personal injury to, or death of, any person or persons, and for any loss, damage, defacement or destruction of the premises of any Customer or any other entity or any other property whether owned or controlled by the Customer or others.
- 2.3.6 The Company shall not be liable for any indirect, special, incidental, or consequential damages under this tariff including, but not limited to, loss of revenue or profits, for any reason whatsoever, including the breakdown of facilities associated with the service, or for any mistakes, omissions, delays, errors, or defects in transmission occurring during the course of furnishing service.

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- 2.3.7 The remedies set forth herein are exclusive and in lieu of all other warranties and remedies, whether express, implied, or statutory, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**2.4 Responsibilities of the Customer**

- 2.4.1 The Customer is responsible for placing any necessary orders and complying with tariff regulations. The Customer is also responsible for the payment of charges for services provided under this tariff.
- 2.4.2 The Customer is responsible for charges incurred for special construction and/or special facilities which the Customer requests and which are ordered by ACI on the Customer's behalf.
- 2.4.3 If required for the provision of services, the Customer must provide any equipment space, supporting structure, conduit and electrical power without charge to ACI.
- 2.4.4 The Customer is responsible for arranging access to its premises at times mutually agreeable to ACI and the Customer when required for ACI personnel to install, repair, maintain, program, inspect or remove equipment associated with the provision of services.
- 2.4.5 The Customer shall cause the temperature and relative humidity in the equipment space provided by Customer for the installation of equipment to be maintained within the range normally provided for the operation of microcomputers.

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- 2.4.6 The Customer shall ensure that the equipment and/or system is properly interfaced with facilities or services, that the signals emitted into network are of the proper mode, bandwidth, power and signal level for the intended use of the subscriber and in compliance with criteria set forth in this tariff, and that the signals do not damage equipment, injure personnel, or degrade service to other Customers. If the Federal Communications Commission or some other appropriate certifying body certifies terminal equipment as being technically acceptable for direct electrical connection with interstate communications service, ACI will permit such equipment to be connected with its channels without the use of protective interface devices. If the Customer fails to maintain the equipment and/or the system properly, with resulting imminent harm to ACI equipment, personnel or the quality of service to other Customers, ACI may, upon written notice, require the use of protective equipment at the Customer's expense. If this fails to produce satisfactory quality and safety, ACI may, upon written notice, terminate the Customer's service.
- 2.4.7 The Customer must pay ACI for replacement or repair of damage to the equipment or facilities of ACI caused by negligence or willful act of the Customer or others, by improper use of the services, or by use of equipment provided by Customer or others.
- 2.4.8 The Customer must pay for the loss through theft of any ACI equipment installed at Customer's premises.
- 2.4.9 If ACI installs equipment at Customer's premises, the Customer shall be responsible for payment of any applicable installation charge.

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- 2.4.10 The Customer must use the services offered in this tariff in a manner consistent with the terms of this tariff and the policies and regulations of all state, federal and local authorities having jurisdiction over the service.

**2.5 Cancellation or Interruption of Services**

- 2.5.1 Without incurring liability, upon five (5) working days' (defined as any day on which the company's business office is open and the U.S. Mail is delivered) written notice to the Customer, ACI may immediately discontinue services to a Customer or may withhold the provision of ordered or contracted services:
- 2.5.1.A For nonpayment of any undisputed sum due ACI for more than thirty (30) days after issuance of the bill for the amount due,
- 2.5.1.B For violation of any of the provisions of this tariff,
- 2.5.1.C For violation of any law, rule, regulation, policy of any governing authority having jurisdiction over services, or
- 2.5.1.D By reason of any order or decision of a court, public service commission or federal regulatory body or other governing authority prohibiting ACI from furnishing its services.

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- 2.5.2 Without incurring liability, ACI may interrupt the provision of services at any time in order to perform tests and inspections to assure compliance with tariff regulations and the proper installation and operation of Customer and equipment and facilities and may continue such interruption until any items of noncompliance or improper equipment operation so identified are rectified.
- 2.5.3 Service may be discontinued by ACI without notice to the Customer, by blocking traffic to certain NXX exchanges, or by blocking calls using certain Customer authorization codes, when ACI deems it necessary to take such action to prevent unlawful use of its service. ACI will restore service as soon as it can be provided without undue risk, and will, upon request by the Customer affected, assign a new authorization code to replace the one that has been deactivated.
- 2.5.4 The Customer may terminate service upon thirty (30) days written or oral notice for the Company's standard month to month contract. Customer will be liable for all usage on any of the Company's service offerings until the Customer actually leaves the service. Customers will continue to have Company usage until the Customer notifies its local exchange carrier and changes its long distance carrier. Until the Customer so notifies its local exchange carrier, it shall continue to generate and be responsible for long distance usage.

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2.6 Credit Allowance

- 2.6.1 Credit may be given for disputed calls, on a per call basis.
- 2.6.2 Credit shall not be issued for unavailability of long distance services.

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2.7 Restoration of Service

The use and restoration of service shall be in accordance with the priority system specified in part 64, Subpart D of the Rules and Regulations of the Federal Communications Commission.

2.8 Deposit

The Company does not require a deposit to commence service.

2.9 Advance Payments

The Company does not require advance payments.

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**2.10 Payment and Billing**

- 2.10.1 Service is provided and billed on a billing cycle basis, beginning on the date that service becomes effective. Billing is payable upon receipt. A late fee of 1.5% per month, or the amount otherwise authorized by law, whichever is lower, will be assessed upon any unpaid amount commencing 30 days after rendition of bills.
- 2.10.2 The customer is responsible for payment of all charges for services furnished to the Customer, as well as to all persons using the Customer's codes, exchange lines, facilities, or equipment, with or without the knowledge or consent of the Customer. The security of the Customer's Authorization Codes, presubscribed exchange lines, and direct connect facilities is the responsibility of the Customer. All calls placed using direct connect facilities, presubscribed exchange lines, or Authorization Codes will be billed to and must be paid by the Customer. Recurring charges and non-recurring charges are billed in advance. Charges based on actual usage during a month and any accrued interest will be billed monthly in arrears.
- 2.10.3 Reserved for Future Use.

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2.11 Reserved for Future Use

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2.12 Taxes

All federal, state and local taxes, including sales taxes, use taxes, gross receipts taxes, and municipal utilities taxes, are billed as separate line items and are not included in the rates quoted herein. All charges other than taxes and franchise fees shall be submitted to the Commission for approval.

2.13 Reserved for Future Use

2.14 Returned Check Charge

A fee will be charged whenever a check or draft presented for payment for service is not accepted by the institution on which it is written.

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SECTION 3 - DESCRIPTION OF SERVICE **Missouri Public Service Commission**

3.1 Computation of Charges

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- 3.1.1 The total charge for each completed call may be a variable measured charge dependent on the duration, distance and time of day of the call. The total charge for each completed call may also be dependent only on the duration of the call, i.e. a statewide flat rate per minute charge. The variable measured charge is specified as a rate per minute which is applied to each minute. All calls are measured in increments as set forth in the Rates Section of this tariff. All calls are rounded up to the next whole increment.
- 3.1.2 Where mileage bands appear in a rate table, rates for all calls are based upon the airline distance between the originating and terminating points of the call, as determined by the vertical and horizontal coordinates associated with the exchange (the area code and three digit central office code) associated with the originating and terminating telephone numbers. If the Customer obtains access to the Company's network by a dedicated access circuit, that circuit will be assigned an exchange for rating purposes based upon the Customer's main telephone number at the location where the dedicated access circuit terminates. The vertical and horizontal (V & H) coordinates for each exchange and the airline distance between them will be determined according to industry standards.

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3.1.3 Timing begins when the called station is answered and two way communication is possible, as determined by standard industry methods generally in use for ascertaining answer, including hardware answer supervision in which the local telephone company sends a signal to the switch or the software utilizing audio tone detection. Recognition of answer supervision is the responsibility of the Underlying Carrier. Timing for each call ends when either party hangs up. ACI will not bill for uncompleted calls.

**3.2 Customer Complaints and/or Billing Disputes**

Customer inquiries or complaints regarding service or accounting may be made in writing or by telephone to the Company at:

3000 Executive Parkway, Suite 111  
San Ramon, California 94583  
(800) 801-1120

Any objection to billed charges should be reported promptly to ACI. Adjustments to Customers' bills shall be made to the extent that records are available and/or circumstances exist which reasonably indicate that such charges are not in accordance with approved rates or that an adjustment may otherwise be appropriate. Where overbilling of a subscriber occurs, due either to Company or subscriber error, no liability exists which will require the Company to pay any interest, dividend or other compensation on the amount overbilled.

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If a Customer accumulates more than One Dollar of undisputed delinquent ACI 800 Service charges, the ACI Resp. Org. reserves the right not to honor that Customer's request for a Resp. Org. change until such undisputed charges are paid in full.

3.3 Level of Service

A Customer can expect end to end network availability of not less than 99% at all times for all services.

3.4 Billing Entity Conditions

When billing functions on behalf of ACI or its intermediary are performed by local exchange telephone companies or others, the payment of charge conditions and regulations of such companies and any regulations imposed upon these companies by regulatory bodies having jurisdiction apply. name and toll-free telephone number will appear on the Customer's bill.

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3.5 Service Offerings

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3.5.1 1+ Dialing

This service permits Customers to originate call via switched or dedicated access lines, and to terminate intrastate calls. The Customer dials "1+" followed by "ten digits" or dials "101XXXX" followed by "1+ ten digits".

3.5.2 Travel Cards

The Customer utilizes an 11 digit "toll-free" access number established by the Company to access a terminal. Upon receiving a voice prompt, the Customer uses push button dialing to enter an identification code assigned by the Company, and the ten digit number of the called party.

3.5.3 800 Service (Toll-Free)

This service is inbound calling only where an 800, 888 or other toll-free prefix number rings into a Customer's premise routed to a specific telephone number or terminated over a dedicated facility.

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San Ramon, California 94583

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## 3.5.4 ACI Prepaid Calling Cards

This service permits use of Prepaid Calling Cards for placing long distance calls. Customers may purchase ACI Prepaid Calling Cards at a variety of retail outlets or through other distribution channels. ACI Prepaid Calling Cards are available at a variety of face values ranging from five dollars (\$5.00), in one dollar (\$1.00) increments. ACI Prepaid Calling Card service is accessed using the ACI toll-free number printed on the card. The caller is prompted by an automated voice response system to enter his/her Authorization Code, and then to enter the terminating telephone number. ACI's processor tracks the call duration on a real time basis to determine the number of Telecom Units consumed. The total consumed Telecom Units for each call is deducted from the remaining Telecom Unit balance on the Customer's ACI Prepaid Calling Card.

All calls must be charged against Prepaid Calling Card that has a sufficient Telecom Unit balance. A Customer's call will be interrupted with an announcement when the balance is about to be depleted.

In order to continue the call, the Customer can either call the toll-free number on the back of the ACI Prepaid Calling Card and "recharge" the balance on the card using a nationally recognized credit card, or the Customer can throw the card away and purchase a new one. Calls in progress will be terminated by the Company if the balance on the ACI Prepaid Calling Card is insufficient to continue the call and the Customer fails to enter the number of another valid ACI Prepaid Calling Card prior to termination.

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A card will expire on the date indicated on the card, or if no date is specified, 12 months from the date of purchase, or the date of last recharge, whichever is later. The Company will not refund unused balances.

A credit allowance for ACI Prepaid Calling Card Service is applicable to calls that are interrupted due to poor transmission, one-way transmission, or involuntary disconnection of a call. To receive the proper credit, the Customer must notify the Company at the designated toll-free customer service number printed on the ACI Prepaid Calling Card and furnish the called number, the trouble experienced (e.g. cut-off, noisy circuit, etc.), and the approximate time that the call was placed.

When a call charged to an ACI Prepaid Calling Card is interrupted due to cut-off, one-way transmission, or poor transmission conditions, the Customer will receive a credit equivalent of one Telecom Unit.

Credit allowances for calls pursuant to ACI Prepaid Card Service do not apply for interruptions not reported promptly to the Company or interruptions that are due to the failure of power, equipment or systems not provided by the Company.

Credit for failure of service shall be allowed only when such failure is caused by or occurs due to causes within the control of the Company.

The Company will block all calls beginning with the NPA "900" and NXX "976" calls, therefore such calls can not be completed.

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3.5.5 Directory Assistance.

Access to long distance directory assistance is obtained by dialing 1 + 555-1212 for listings within the originating area code and 1 + (area code) + 555-1212 for other listings. When more than one number is requested in a single call, a charge will apply for each number requested. A charge will be applicable for each number requested, whether or not the number is listed or published.

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3.5.6 Reserved for Future Use.

3.5.7 Emergency Call Handling Procedures

Emergency "911" calls are not routed to company, but are completed through the local network at no charge.

3.5.8 Promotional Offerings

The Company may, from time to time, make promotional offerings to enhance the marketing of its services. These offerings may be limited to certain dates, times and locations. The Company will notify the Commission of such offerings as required by Commission rules and regulations. These promotions will be subject to prior notification and approval by the Commission.

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AIRNEX COMMUNICATIONS, INC.

SECTION 4 - RATES

4.1 1+ Dialing

\$0.241 per minute

Billed in one minute increments.

4.2 Travel Cards

\$0.2499 per minute

Billed in one minute increments.

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4.3 Toll Free

\$0.241 per minute

Billed in one minute increments.

4.4 Prepaid Calling Cards

\$.2499 Per Telecom Unit

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4.5 Directory Assistance

\$.95 (maximum 2 numbers)

4.6 Returned Check Charge

\$20.00

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**4.7 Rate Periods**

	Monday - Friday	Sat.	Sun.
8 a.m. to 5 p.m.*	Daytime Rate Period	Evening Rate Period	
5 p.m. to 11 p.m.*	Evening Rate Period		
11 p.m. to 8 a.m.*	Night/Weekend Rate Period		

\* To, but not including

When a message spans more than one rate period, total charges for the minutes in each rate period are calculated and the results for each rate period are totaled to obtain the total message charge. If the calculation results in a fractional charge, the amount will be rounded down to the lower cent.

**4.8 Payphone Dial Around Surcharge**

A surcharge applies on all completed intrastate toll-free and 10XXX/101XXXX access code calls, including any 800/888 or travel card calls, originating from a pay telephone. This surcharge is applied in addition to any other applicable service charges or surcharges. The surcharge does not apply to: calls paid for by inserting coins at the pay telephone; or calls placed from stations other than a pay telephone.

Surcharge Rate                      \$0.35 per call

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