

The Staff of the Missouri Public
Service Commission,

Complainant,
v.

Air Nex Communications, Inc.,

Respondent.

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File No.: TC-2019-0281

NOTICE OF CONTESTED CASE AND ORDER DIRECTING FILING

Issue Date: March 22, 2019

Effective Date: March 22, 2019

On March 21, 2019, the Commission's Staff filed a Complaint against Air Nex Communications, Inc., a copy of which is attached. The filing of a Complaint requires the Commission to set a hearing.¹ The requirement of a hearing on such issues signifies a contested case.² A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities and a decision without an evidentiary hearing, including by stipulation and agreement.³ The Commission's regulations provide for discovery at 4 CSR 240-2.090.

THE COMMISSION ORDERS THAT:

1. Air Nex Communications, Inc. shall file an answer to the Complaint no later than April 21, 2019.

¹ Section 392.240, RSSMO 2016

² Section 536.010(4), RSMO 2016.

³ Section 536.060, RSMO 2016; 4 CSR 240-2.115.

2. The Commission's data center shall serve a copy of this order and the Complaint upon the Company, by certified mail, postage prepaid, at:

Arnold R. Marasigan
Annual Report Representative
Air Nex Communications, Inc.
121 W. Lexington Dr.
Glendale, CA 91203

Registered Agent:
Missouri Secretary of State
600 W. Main
Jefferson City, MO 65101

3. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in dark ink, reading "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Paul T. Graham, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 22nd day of March, 2019.

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
)	
v.)	<u>Case No. TC-2019-XXXX</u>
)	
Air Nex Communications, Inc.,)	
)	
Respondent.)	

3. Respondent Company is located at 121 W. Lexington Dr., Glendale, CA, 91203. Respondent Company's annual report representative, per EFIS,

is Arnold R. Marasigan. Respondent Company provides intrastate interexchange telecommunications services statewide.

4. The Missouri Secretary of State on information and belief is the registered agent of Respondent Company.

General Allegations

5. Respondent is a “telecommunications company” to the public for gain as defined by § 386.020(52) and is thus a “public utility” as defined by § 386.020(43), RSMo, and thus is subject to the jurisdiction of this Commission pursuant to § 386.250(3), RSMo.

6. Section 386.390.1, RSMo authorizes the Commission to entertain a complaint “setting forth any act or thing done or omitted to be done by any...public utility...in violation, or claimed to be in violation, of any provision of law, or of any rule, or order or decision of the commission.”

7. Section 386.600, RSMo provides, “an action to recover a penalty...under this chapter or to enforce the powers of the commission under this or any other law may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the commission.”

Jurisdiction

8. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs 1 through 7, above.

9. Section 392.210(1) RSMo, states:

Every telecommunications company shall file with the commission an annual report at a time and covering the yearly period fixed by the commission. Such annual report shall be verified by the oath of the president, treasurer, general manager or receiver, if any, of any of such companies, or by the person required to file the same. Verification shall be made by the official holding office at the time of the filing of such report, and if not made upon the knowledge of the person verifying, the same shall set forth in general terms the sources of his information and the grounds for his belief as to any matters not stated to be verified on his knowledge. The commission shall prescribe the form of such reports and the character of the information to be contained therein and may, from time to time, make such changes and additions in regard to form and contents thereof as it may deem proper, and shall furnish a blank form for such annual reports to every telecommunications company required to make the same. The form of such reports shall follow, as nearly as may be, the form prescribed by the Federal Communications Commission. When the report of any telecommunications company is defective or erroneous, the commission shall notify the company to amend the same within a time prescribed by the commission. Such reports shall be preserved in the office of the commission. The commission may require of any telecommunications company specific answers to questions upon which the commission may desire information. If any telecommunications company shall fail to make and file its annual report as and when required or within such extended time as the commission may allow, or shall fail to make specific answers to any question within the period specified by the commission for the making and filing of such answers, such company shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by the commission in the name of the state of Missouri. The amount recovered in any such action shall be paid to the public school fund of the state. The commission may, when it deems it advisable, exempt any telecommunications company from the necessity of filing annual reports until the further order of the commission.

10. Commission Rule 4 CSR 240-28.012(1)(A) provides in pertinent part:

Any company registered to provide IVolP service or with a certificate of service authority to provide non-switched local, basic local, or interexchange telecommunications service shall file an annual report.

11. Commission Rule 4 CSR 240-28.012(1)(C) states:

The deadline for a company to submit a completed annual report is April 15.

Facts and Cause of Action

12. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs 1 through 11, above.

13. Respondent Company's 2017 Annual Report was due on April 15, 2018. Respondent neither filed the required report nor requested an extension of the due date.

14. Respondent is therefore in violation of § 392.210(1), RSMo and Commission Rule 4 CSR 240-28.012(1)(A) and (C).

WHEREFORE, Staff respectfully requests the Commission give notice to the Respondent as required by law and, after the opportunity for hearing, issue an order that finds the Respondent has violated § 392.210(1), RSMo, and Commission Rule 4 CSR 240-28.012(1)(A) and (C) as set out above, and thereupon authorize its General Counsel to seek in Circuit Court the penalties allowed by law; and grant such further relief as is just under the circumstances.

Respectfully submitted,

/s/ Travis J. Pringle

Legal Counsel

Missouri Bar No. 71128

Attorney for the Staff of the
Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 751-4140 (Telephone)

(573) 751-9265 (Fax)

Travis.Pringle@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were mailed, electronically mailed, or hand-delivered to all counsel of record this 21st day of March 2019.

/s/ Travis J. Pringle

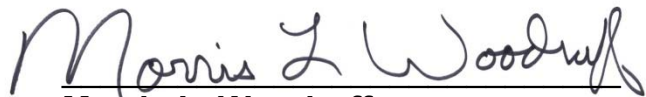
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 22nd day of March 2019.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

March 22, 2019

File/Case No. TC-2019-0281

**Missouri Public Service
Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opc@psc.mo.gov

Airnex Communications, Inc.

Legal Department
P.O. Box 11357
Pleasanton, CA 94588

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.