

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF THE FAILURE)
OF CERTAIN NON-DOMINANT)
TELECOMMUNICATIONS PROVIDERS)
TO FILE REPORTS OF GROSS) CASE NO. 2003-00370
OPERATING REVENUES OR TO)
PAY ASSESSMENTS PURSUANT)
TO KRS 278.140)

O R D E R

The Commission reopens this case for the purpose of considering the application of Momentum Telecom, Inc. ("Momentum") (formerly Momentum Business Solutions, Inc.) to resubmit its tariff and for authorization to provide telecommunication services within the Commonwealth of Kentucky.

By Order dated October 8, 2003, Momentum's tariff was removed from Commission files and its name was stricken from the Commission's list of utilities authorized to provide service in Kentucky. That Order provided that certain utilities that had failed to comply with KRS 278.130 through KRS 278.150 should show cause why they should not be subject to penalties for such failure. The Order further provided that, in the absence of such showing made within 30 days, the utilities' authorization to provide service in Kentucky would be revoked without further Order. Momentum did not respond to the Order.

On March 3, 2004, Momentum filed a petition for reinstatement to provide service in Kentucky. In the petition Momentum also requested a conference with Commission Staff. In its petition, Momentum explains that it did not act upon the October 8, 2003 Order because the Order allegedly was not received by its regulatory office.

On March 4, 2004, at Momentum's request, Commission Staff met with Momentum at the Commission's offices.¹ Momentum reiterated its grounds for reinstatement, emphasizing the steps it has taken to ensure better compliance.²

Momentum has proposed to pay its annual assessment of \$1,527.06. Momentum has also proposed an additional voluntary payment of \$1,000.00 in full settlement of the issues raised herein.

The Commission does not take lightly the failure of any regulated utility to comply with Kentucky law. In this case, it is particularly disturbing that Momentum did not respond to an Order fully describing its lack of compliance and the resulting imminent loss of its authorization to operate in Kentucky. However, Momentum's proffered offer of settlement and its prompt action upon realizing its errors indicate that Momentum is prepared to comply with Kentucky law.

IT IS THEREFORE ORDERED that:

1. Momentum's offer of settlement is accepted.
2. After receipt by the Commission of a cashier's check in the amount of \$2,527.06 made payable to "Kentucky State Treasurer," and after Momentum's tariff,

¹ A memorandum of this conference is attached as Appendix A.

² This includes creating a permanent regulatory liaison position.

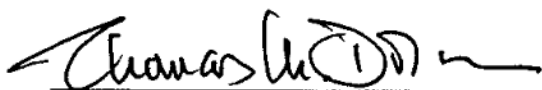
with appropriate signature and effective date, is filed with the Commission, Momentum shall be authorized to provide service in Kentucky.

3. This case is closed and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 2nd day of April, 2004.

By the Commission

ATTEST:

A handwritten signature in black ink, appearing to read "Thomas H. [unclear]", written over a horizontal line.

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2003-00370 DATED APRIL 2, 2004

INTRA-AGENCY MEMORANDUM
KENTUCKY PUBLIC SERVICE COMMISSION

TO: Main Case File 2003-00370
FROM: J.E.B. Pinney, Staff Attorney
DATE: March 29, 2004
SUBJECT: Informal Conference
Momentum Telecom, Inc.

On March 4, 2004, representatives for Momentum Telecom, Inc. ("Momentum") met with Commission Staff at the Commission's offices to discuss Momentum's petition for reinstatement. Kent Hatfield and David Benck represented Momentum. J.E.B. Pinney, Jim Stevens and Renee Smith attended the meeting on behalf of the Commission.

At the meeting, Momentum apologized for failing to comply with the October 8, 2003 Order, explaining that the Order was not forwarded to the proper Momentum employees. Since the incident, Momentum has hired a regulatory liaison to prevent a recurrence of this nature.

Momentum also emphasized that it believed it was in good standing with the Commission at all times. Momentum had appeared and participated in proceedings before the Commission, unaware that it was named as a party in Case No. 2003-00370. Momentum also made several filings during this period of time.

Momentum also noted that it is in compliance with 49 other state regulatory agencies, further illustrating Momentum's omission as an oversight.

Momentum continued to assure the Commission that such an oversight would not occur again.

Thereafter the conference adjourned.