

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NOTICE AND PROPOSED TARIFF)	
OF TRANSWORLD NETWORK, CORP.)	
TO PROVIDE INTER-EXCHANGE)	CASE NO. 2004-00138
LONG DISTANCE AND PRIVATE LINE)	
SERVICES IN THE COMMONWEALTH)	
OF KENTUCKY)	

O R D E R

On March 17, 2004, TransWorld Network, Corp. ("TransWorld") filed with the Commission an Offer of Settlement to settle any claims arising out of TransWorld's unauthorized provision of intrastate telecommunications service in Kentucky. TransWorld is offering \$1,500 to resolve any unintentional violations of Commission statutes or regulations. By this Order, the Commission accepts the settlement offer, but with the addition of certain conditions.

BACKGROUND

TransWorld is a Minnesota corporation and an Inter-exchange Telecommunications Carrier that provides, among other services, long-distance, dial-up Internet and dedicated-access services. Prior to this year, TransWorld was not authorized to provide telecommunications services in Kentucky. Transworld first began providing service in Kentucky in 1998. Transworld claims that in 2000 it contracted with a firm that performed marketing for electrical cooperatives in Indiana. This marketing firm mistakenly marketed Transworld's service to Kentucky rural electric cooperative

members as well. TransWorld estimates that between 1998 and April 27, 2004 (when it was authorized to provide telecommunications services in Kentucky), it billed \$212,996.23 in gross interstate and intrastate traffic in Kentucky. TransWorld did not keep detailed records of how much of the revenue was interstate and how much was intrastate, but TransWorld estimates that 45 percent of its traffic is intrastate traffic; therefore, utilizing this estimation, TransWorld billed approximately \$99,347.10 for intrastate traffic from 1998 until April 27, 2004.

TransWorld claims that in late 2001 and early 2002 it took steps to address problems caused by significant employee turnover. It appears that TransWorld discovered only recently that it was providing service in Kentucky when it filed its tariff and applied for authority to provide service in Kentucky.

DISCUSSION

KRS 278.160 requires that a utility charge its tariffed rates to all of its customers. If a utility does not have a certain charge or rate on file, the utility is not authorized to charge the rate.

TransWorld claims that to calculate the amount of revenue actually collected from the provision of telecommunications service in Kentucky, it would have to manually harvest each customer's account to separate interstate revenue from intrastate revenue. TransWorld asserts that it would be impossible to undertake such calculations in a cost-effective manner. TransWorld is serving or has served approximately 1,600 customers in Kentucky, but many are no longer TransWorld customers, and some likely have moved from their original billing addresses. Thus, TransWorld states that it would be unable to refund all of the intrastate revenues to each customer who was provided

that service. In the instant case, the record supports a conclusion that the costs associated with compliance with KRS 278.160 would greatly exceed the costs of the amount refunded to the customers.

As discussed herein, upon application to the Commission for its authority to operate, TransWorld admitted its prior non-compliance, expended resources by attending an informal conference, acknowledged the significance of its oversight by offering a settlement, and has continued to be responsive and forthright with Staff. TransWorld appears to be a desirable addition to the Kentucky telecommunications market.

The Commission finds that it is reasonable to penalize TransWorld \$1500 for violating KRS 278.160 and also to require TransWorld to pay its estimated annual assessments for intrastate revenue from 1998 until it received authorization to provide service in Kentucky.

IT IS THEREFORE ORDERED that:

1. TransWorld's offer of settlement is accepted with additional conditions.
2. Within 60 days of the date of this Order, TransWorld shall make two payments, one of \$1,500 and the other of TransWorld's estimated annual assessments for intrastate revenue from 1998 until April 27, 2004. These payments shall be in the form of separate cashier's checks made payable to the Kentucky State Treasurer and shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602. Upon receipt of these payments, this case shall be deemed satisfied and shall be removed from the Commission's docket.

3. Should TransWorld object to the Commission's additional conditions, TransWorld shall file with the Commission, within 30 days of the date of this Order, a request for a hearing at which TransWorld shall show cause why it should not be penalized for the violations described herein.

Done at Frankfort, Kentucky, this 19th day of October, 2005.

By the Commission

ATTEST:



Executive Director