

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF TON SERVICES, INC.)	
FOR REINSTATEMENT OF)	CASE NO. 2005-00122
AUTHORITY TO PROVIDE)	
TELECOMMUNICATIONS SERVICE)	

O R D E R

The Commission establishes this case for the purpose of considering the application of TON Services, Inc. ("TON") to resubmit its tariff and for authorization to provide telecommunication services within the Commonwealth of Kentucky.

By Order dated October 8, 2003, in Case No. 2003-00370,¹ TON's 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. It now appears from the record that TON properly filed its report concerning gross annual revenues, but failed to make the payments regarding annual assessments necessary to comply with the Commission's October 8, 2003 Order. TON has now made proper payment to the Kentucky Revenue Department.

¹ Case No. 2003-00370, Investigation of the Failure of Certain Non-Dominant Telecommunications Providers to File Reports of Gross Operating Revenues or to Pay Assessments Pursuant KRS 278.140.

Currently TON offers prepaid debit cards and payphone services only, which are services that the Commission does not regulate. Because the Commission does not regulate these services, TON is neither required to maintain a tariff on file with the Commission nor obtain Commission approval to offer those services in Kentucky. Regardless of the fact that TON does not need Commission approval to operate in Kentucky for the services it currently offers, TON has petitioned the Commission to be reinstated for authority to provide telecommunications service in Kentucky.

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 TON did not respond to an Order fully describing its lack of compliance and the resulting imminent loss of its authorization to operate in Kentucky. Typically the Commission requires a cash offer of settlement, in addition to the annual assessment, before allowing a non-dominant telecommunications provider to receive authorization after its previous authority had been revoked. However, because TON currently does not provide services that the Commission regulates, and because TON's actions upon realizing its errors indicate that TON is prepared to comply with Kentucky law, the Commission finds good cause to grant TON's request for reinstatement.

IT IS THEREFORE ORDERED that

1. TON is authorized to provide telecommunications service in Kentucky.
2. This case is closed and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 28th day of March, 2005.

By the Commission

Commissioner W. Gregory Coker did not participate in the deliberations or decision concerning this case.

ATTEST:



Executive Director