

COMMONWEALTH OF KENTUCKY  
UTILITY REGULATORY COMMISSION

In the Matter of:

ADJUSTMENT OF RATES OF )  
GENERAL TELEPHONE COMPANY ) CASE NO. 7669  
OF KENTUCKY, INC. )

ORDER

On March 12, 1980, the Commission entered an order in Case No. 7669 denying Interconnect Telecommunications Systems, Inc. and the Kentucky Interconnect Telephone Association's (collectively referred to as "Intervenors") Motion to Compel Discovery. However, the order sustained the motion of the Attorney General to compel response to certain document requests and interrogatories insofar as the response to the Attorney General's third set of interrogatories could be submitted in the format which the Commission prescribed. General Telephone was ordered to file the information with the Commission in that format by March 19, 1980, with all parties to this proceeding to receive a copy. The Attorney General's motion regarding questions 40(c), 41(c), 43(b) and 53(b) of the second set of interrogatories was denied.

On March 17, 1980, the Intervenors filed a motion to vacate or alter or amend the Commission's March 12, 1980 order denying the Intervenors' motion to compel discovery. In support of their motion, the Intervenors contend that the Commission's findings are not supported by the record and, in particular, claim that General Telephone made no showing that its private competitive interests cannot be adequately protected by the protective procedure advocated by the Intervenors. It should be noted, however, that the party proposing the procedure bore the burden of showing it was an acceptable method of protecting the confidential information, and this burden did not shift to General Telephone simply because the Intervenors filed such a procedure with the Commission.

The Intervenors also claim that the Commission's order grants the Attorney General access to certain confidential information while denying the Intervenors access to the same information. The Intervenors are mistaken on this point since the order clearly states at pages 4-5 that General Telephone must file the information requested by the Attorney General in the prescribed format with the Commission by March 19, 1980, with copies being sent to all parties of record.

The Intervenors have also argued that they cannot adequately prepare their case in this proceeding because the Commission has denied the Intervenors access to the information found confidential, although the information was supplied to the Commission's staff. There is clearly a difference between providing the Commission staff with "secret" information and valid cost information which is found to be "confidential". Absent the finding of confidentiality made by the Commission, the Intervenors claim and need for the information would be valid. However, the interest of maintaining the private, competitive interests of General Telephone in this information, found to be confidential, is the superior interest and has been recognized as such when the Commission weighed the public interest in disclosure against the harm to the private interest resulting from disclosure. The Commission obviously disagreed with the Intervenors' contention that the weight of authority supported disclosure.

Lastly, the Intervenors claim that since there was no showing of competitive harm made by General that the Intervenors' proposal to protect the information should be accepted. However, the record is clear that Mr. William Frey testified to this very point at the March 4, 1980 hearing. (T.E., pp. 34-40). The Commission stated this fact in its order of March 12, 1980, which formed the basis of the Commission's finding of "irreparable damage" to "the private, competitive interests of General Telephone and its ratepayers" if disclosure were allowed.

The validity of the Commission's action in its March 12, 1980 order was further buttressed by a recent decision from the Franklin Circuit Court in Case Nos. 86946, 87419, 87420 and 88038 issued March 20, 1980. Therein, the Court affirmed previous Commission orders in which "trade secret" status had been accorded cost studies containing financial data about General Telephone's competitive services confidential status. The Commission orders involved in the above-mentioned cases had required the cost studies to be supplied to the Commission staff only and General Telephone was not required to provide any cost information to the various Intervenors, including the Attorney General. The Court held that the Commission acted reasonably and lawfully in ordering the cost studies to be held confidential because the Commission's findings were supported by substantial evidence. In light of this recent ruling, the Commission's order of March 12, 1980 (which was clearly more liberal to the Intervenors than those orders recently affirmed by the Franklin Circuit Court) is fully substantiated and unquestionably sound.

Accordingly, the Commission having reviewed the record, including scrutinizing the cost studies themselves, and being sufficiently advised, FINDS and concludes:

1. That there is no need for a hearing on the motion by the Intervenors since the record is already complete on all the issues raised by the Intervenors.

2. That the Commission's order of March 12, 1980, in this proceeding is supported by substantial evidence giving rise to the findings and conclusions contained therein.

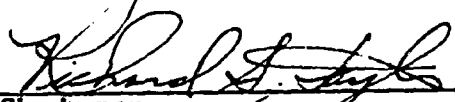
3. That the Intervenors have not asserted any adequate ground for vacating, altering or amending the Commission's order of March 12, 1980, as discussed previously herein.

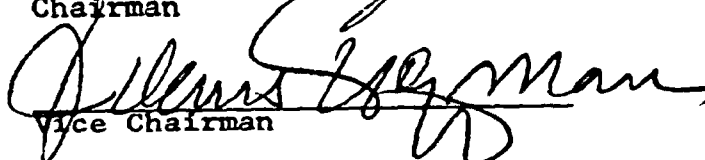
Based upon the above-stated findings, it is hereby ORDERED that the motion of the Intervenors for a hearing by the full Commission on the Intervenors' motion to vacate the Commission's order of March 12, 1980, be, and it hereby is, denied.

IT IS FURTHER ORDERED that the Intervenor's motion to vacate or alter or amend the Commission's order of March 12, 1980, is denied.

Done at Frankfort, Kentucky, this 16th day of April, 1980.

UTILITY REGULATORY COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Secretary