

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PROVISION OF OPERATOR SERVICES)
BY AMERICALL SYSTEMS OF LOUISVILLE) CASE NO. 89-132

O R D E R

This matter arising upon petition of AmeriCall Systems of Louisville ("AmeriCall") filed June 21, 1989 pursuant to 807 KAR 5:001, Section 7, for confidential protection of certain information filed with this Commission in accordance with an Order of June 15, 1989, and it appearing to the Commission as follows:

On June 15, 1989, this Commission entered an Order directing AmeriCall to furnish certain information relating to its operation. AmeriCall petitioned this Commission to protect the information as confidential on the grounds that it constitutes trade secrets or other confidential commercial information protected from disclosure under Kentucky law, that it is confidential information by analogy to the Freedom Of Information Act, that it falls squarely within the contemplation of the Commission when it adopted 807 KAR 5:001, that it is information that was developed by AmeriCall at its own expense, that it is information not known outside of AmeriCall and is not disseminated within AmeriCall except to those with a need to know the information for business purposes, and that it is information if disclosed to its competitors would likely cause substantial harm to the competitive position of AmeriCall.

In support of its motion, AmeriCall reviews at great length the reasons underlying the statutes and regulations which afford confidential protection to certain information. Essentially, 807 KAR 5:001, Section 7, protects information as confidential only when it is established that disclosure will result in competitive injury to the person possessing the information. Thus, if the information sought to be protected, would be of substantial value to AmeriCall's competitors and would erode AmeriCall's competitive position, then it is entitled to confidential treatment.

Subsection (2)(a) of Section 7 of the regulation provides that any person seeking to protect information from disclosure shall file a written petition identifying the material and "setting forth the specific facts, reasons, or other grounds" relied upon as the basis for the petition. While AmeriCall has satisfied that part of the regulation that the material to be protected be identified, nowhere in the petition does it state "facts, reasons, or other grounds" that explains how or why disclosure of the information sought to be protected would result in competitive injury to AmeriCall. Therefore, AmeriCall has not established that such information is entitled to protection.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition by AmeriCall for confidential protection of the information furnished in response to the June 15, 1989 Order shall be held in abeyance an additional 10 days to allow AmeriCall to supplement its petition with a statement setting forth, with specificity, the reasons why disclosure of the information sought

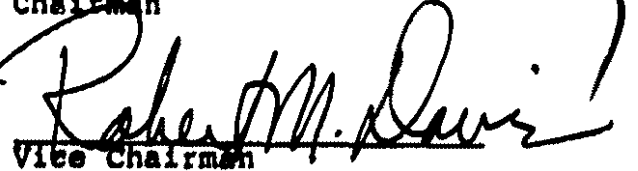
to be protected will cause AmeriCall substantial competitive injury.

2. If such a statement is not filed within the time described, the petition for confidentiality shall, without further Orders herein, be denied.

Done at Frankfort, Kentucky, this 28th day of August, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director