

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO WHETHER WATS
RESELLERS SHOULD BE INCLUDED IN
THE ULAS ALLOCATION PROCESS

) ADMINISTRATIVE
) CASE NO. 328
)

O R D E R

This matter arising upon petition of AmeriCall Systems of Louisville ("AmeriCall") filed November 3, 1989, pursuant to 807 KAR 5:001, Section 7, for confidential protection of certain information filed in response to the Commission's data requests of May 1, 1989 on the grounds that public disclosure is likely to cause AmeriCall competitive injury, South Central Bell Telephone, a party hereto, having filed a response to the petition on November 15, 1989, and it appearing to this Commission as follows:

AmeriCall seeks to protect from public disclosure the information contained in Exhibit II of its response to data request 2(c), the information contained in Exhibit III of its response to data request 9, and the information contained in its responses to data request 10(a), 10(b), 10(c), and 10 (d), on the grounds that the information is not known outside AmeriCall, is known only by employees of AmeriCall with a need to know and have access to the information, and if disclosed could result in irreparable harm and injury to AmeriCall with no corresponding benefit to the general public.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure will result in competitive injury to the person possessing the information in that it will provide the possessor's competitors with an unfair business advantage. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Exhibit II of the response to the data request 2(c) contains schematic diagrams of the services rendered to end-users. The methods used to provide these services are generally similar from one company to another, and disclosure of this information will not give competitors of AmeriCall an unfair business advantage. Therefore, the petition to protect this information should be denied.

Data request 9 requires AmeriCall to provide the percentage of interstate traffic which it carries in each feature group, or as a composite of the whole. The response contained in Exhibit III does not provide the actual volume of such traffic; therefore, disclosure would not result in competitive injury to AmeriCall, and the petition for confidential protection of the information should be denied.

Data requests 10(a), 10(b), 10(c), and 10(d) require AmeriCall to furnish information concerning the facilities leased by AmeriCall from the facilities-based carriers and used in its offerings. Here again, AmeriCall can only purchase a limited

number of those services which are available to it under a certificate of convenience and necessity and these services are purchased according to published tariffs which are matters of public record. Disclosure of this information, therefore, will not give AmeriCall's competitors an unfair business advantage, and the petition to protect this information from disclosure should be denied.

This Commission being otherwise sufficiently advised,

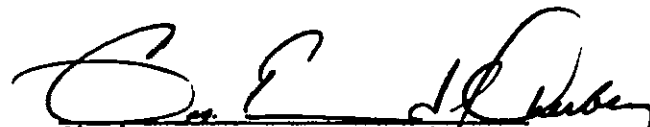
IT IS ORDERED that:

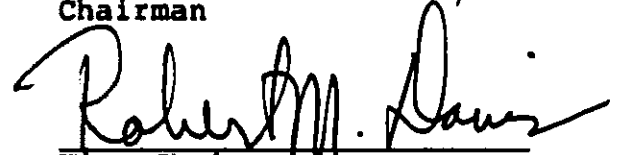
1. The petition to protect from disclosure the information contained Exhibit II of the response to data request 2(c), the information contained in Exhibit III of the response to data request 9, and information contained in the responses to data requests 10(a), 10(b), 10(c), and 10(d) be and is hereby denied.

2. The information sought to be protected shall be held as confidential and proprietary for a period of 5 working days from the date of this Order, at the expiration of which time it shall be placed in the public record.

Done at Frankfort, Kentucky, this 16th day of March, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director

Commissioner