

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 December 20, 1989 and supplemented on January 12, 1990, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the financial and network information contained in Exhibits A, B, C, and D to the information filed pursuant to the Commission's Order of December 8, 1989, on the grounds that disclosure of the information is likely to cause AmeriCall competitive injury and it appearing to this Commission as follows:

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure is likely to cause substantial competitive harm to the party from whom the information was obtained. 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 A is an income statement of VeriCall Services, Inc. for the five months ending May 31, 1988. AmeriCall contends that this information could be used to analyze the market for the purpose of determining whether to offer operator services. The Exhibit does not identify revenues from operator services, it does not identify which expenses are attributable to operator services, and it does not demonstrate with any specificity how and for what reason the expenses were incurred. Therefore, the exhibit does not contain sufficient information to make a market analysis and has little, if any, competitive value and should not be protected from disclosure.

AmeriCall contends that Exhibits B and C detail the investment of AmeriCall in new equipment, network expansion, and working capital, which AmeriCall contends would also assist competitors in determining whether to enter the operator service market. A competitor, however, could easily obtain the cost information of new equipment by contacting manufacturers and suppliers of that equipment. Further, the cost of entering the operator service market would depend in large part on the extent of operator services that the new company intended to offer. Therefore, the information contained in Exhibit B should not be protected from disclosure. However, Exhibit C does identify AmeriCall's specific routes and the capacity along those routes. Knowledge of AmeriCall's capacity would be of significant value to AmeriCall's competitors and would unfairly provide them with information developed at AmeriCall's expense; therefore, the

information contained in Exhibit C, as it relates to specific route information, should be protected from disclosure.

Exhibit D is two of seven pages of a mechanized balance sheet of AmeriCall's Dial-O Services, Inc. AmeriCall states that Exhibit D contains sensitive financial information regarding AmeriCall operations and working capital resources committed to providing operator services. AmeriCall contends that this information could be used by competitors to determine the degree of market penetration by AmeriCall and the volume and profitability of operator services it is providing, and that it also furnishes competitors with knowledge of the resources that are necessary to maintain operator services in a competitive environment.

Exhibit D is an incomplete balance sheet that does not contain sufficient information to determine the degree of market penetration by AmeriCall in providing operator services, nor the volume and profitability of such services. Therefore, it has no competitive value for any of those purposes.

With regard to the contention that the exhibit furnishes information concerning the resources necessary to maintain operator services in a competitive environment, clearly different levels of operator services will require different levels of resources. Since all companies may not participate in the operator services market to the same degree, one company's requirements may be totally different than another. Total costs are the result of many interrelated factors which are peculiar to

any given company. Thus, it is unlikely that a competitor could make any reasonable conclusions regarding the resources it will find necessary to sustain operator services from knowledge of the resources committed by AmeriCall to provide such service. Therefore, the information has no competitive value and should not be protected from disclosure.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition to protect information contained in Exhibits A, B, and D filed pursuant to the Commission's Order of December 8, 1989 be and it is hereby denied.

2. The petition for confidential protection of the information contained in Exhibit C filed by AmeriCall in response to the Commission's Order of December 8, 1989 be and is hereby granted. The information shall be withheld from public disclosure and retained by the Commission as confidential and shall not be open for public inspection.

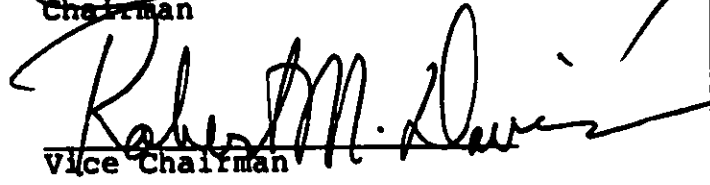
3. The information sought to be protected from disclosure in Exhibits A, B, and D shall be held as confidential and proprietary for a period of 5 working days from the date of this Order, at the expiration of which time it shall be placed in the public record.

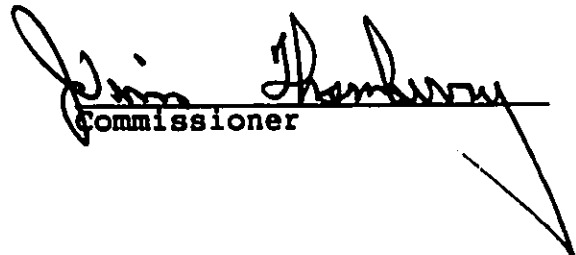
4. AmeriCall shall, within 10 days of the date of this Order, file an edited copy of Exhibit C with the confidential material obscured for inclusion in the public record, with copies to all parties of record.

Done at Frankfort, Kentucky, this 11th day of April, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director

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 October 27, 1989 pursuant to 807 KAR 5:001, Section 7, for confidential protection of certain responses to requests for information propounded by the Commission at the hearing on this matter, on the grounds that disclosure of the information will result in competitive injury to AmeriCall, and it appearing to this Commission as follows:

At the conclusion of the most recent hearing in this matter the Commission directed AmeriCall to furnish additional information concerning its operations. By this petition AmeriCall seeks to protect from disclosure its responses to Data Requests 1, 2, 6, 7, 9, 14, and 26, and Exhibit 5 to Data Request 12, Exhibit 3 to Data Request 3, Exhibit 4 to Data Request 11, Exhibit 6 to Data Request 15, and Exhibit 7 to Data Request 21.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure will result in competitive injury to the person from whom the information is

obtained. To satisfy this requirement 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 is likely to cause substantial harm to the competitive position of the person possessing the information.

The response to Data Request 1 and the information in Exhibit 5 to Data Request 12 contain the investment AmeriCall has made to provide operator services. This information is not furnished in sufficient detail to assist competitors and potential competitors of AmeriCall; therefore, the petition to protect this information from disclosure should be denied.

The response to Data Requests 6 and 14 concerns the revenues from operator services received by AmeriCall and AmeriCall Dial-O Services Inc. ("Dial-O"). This information is provided in broad, general terms and knowledge of the information contained in the response would provide no benefit to competitors and potential competitors of AmeriCall and Dial-O. Therefore, the petition to protect this information from disclosure should be denied.

The response to Data Request 7 also concerns AmeriCall and Dial-O revenues from operator services. However, this information is more specific in that it shows the revenues from operator charges and the revenues from measured toll charges. This information could be used by potential competitors to estimate demand quantities from which informed judgements concerning the viability of providing a particular service could be made. This

information, therefore, has competitive value and the petition to protect it from public disclosure should be granted.

Data Request 9 is a request to AmeriCall to provide a copy of the contract between Dial-O and Integretel, Inc. for billing and collection services. The petition does not demonstrate how knowledge of the terms and conditions of this contract would benefit Dial-O competitors; therefore, the petition should be denied.

The response to Data Request 2 provides the percentage breakdown between intrastate intraLATA service to intrastate interLATA service provided by AmeriCall in March 1989. This information will not allow competitors to gauge volume and determine profitability of operator services and would be of no competitive value. Therefore, the petition to protect this information from disclosure should be denied.

The response to Data Request 26 furnishes a number of WATS lines leased from South Central Bell Telephone Company. The information requested represents only a portion of AmeriCall's leased network and would provide no insight into AmeriCall's and Dial-O's operations. Therefore, the information should not be protected from disclosure, and the petition should be denied.

The response to Data Request 11, attached as Exhibit 4, contains contracts that Dial-O has executed with its customers. Knowledge of the terms and conditions of the contractual arrangements between Dial-O and its customers would not be of significant value to Dial-O's customers and is not entitled to

protection from public disclosure. Therefore, the petition to protect that information from disclosure should be denied. However, the identities of those customers would be of significant value to Dial-O's competitors and, except for those that are public agencies who are required by law to maintain their contracts as public records, the names and identities of Dial-O customers in those contracts should be protected from public disclosure.

The response to Data Request 21, attached as Exhibit 7, contains customer billing information. The billing information does not provide sufficient information to be of competitive value, and the petition to protect the billing information should be denied. However, the response also identifies customers of Dial-O's which would be of competitive value and should be protected from disclosure.

The response to Exhibit 3 to Data Request 3 provides copies of AmeriCall's access billing for South Central Bell and contains traffic volumes for WATS and Feature Groups A, B, and D usage. Competitors could use this information to reconstruct the nature of AmeriCall's operations, as well as to gain insight into AmeriCall's strategic planning. By analyzing the actual amounts of use of the Feature Groups and WATS, competitors could determine AmeriCall's and Dial-O's market shares and operational characteristics and devise marketing strategies accordingly. This information would, therefore, have significant value to competitors, and the petition to protect it should be granted.

The response to Data Request 15, attached as Exhibit 6, contains copies of Dial-0's internal training manuals. These manuals, developed at AmeriCall's expense, would be of significant value to competitors in devising plans for their own training programs. Therefore, this information should be protected from public disclosure.

And this Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition to protect from public disclosure the responses to Data Requests 1, 2, 6, 9, 14, 26 and Exhibit 5 to Data Request 12 be and is hereby denied.

2. The petition for confidential protection of the responses to Exhibit 3 to Data Request 3 and Data Request 7, and Exhibit 6 to Data Request 15 be and is hereby granted.

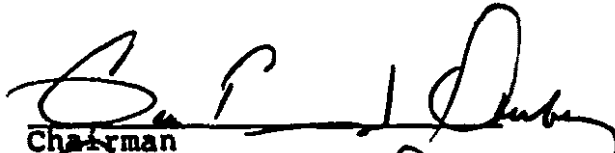
3. The petition to protect from disclosure the information in Exhibit 4 to Data Request 11 and Exhibit 7 to Data Request 21 be and is hereby denied, except that the information contained in those responses identifying the names, addresses, and telephone numbers of customers, who are not governmental agencies required to maintain their contracts as public records, shall be protected from public disclosure.

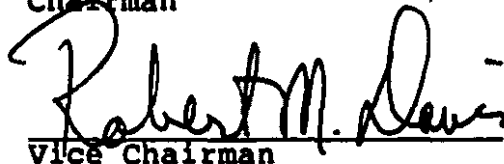
4. The information sought to be protected from disclosure, for which the petitions have been denied herein, shall be held as confidential and proprietary for a period of five working days from the date of this Order, at the expiration of which time it shall be placed in public record.

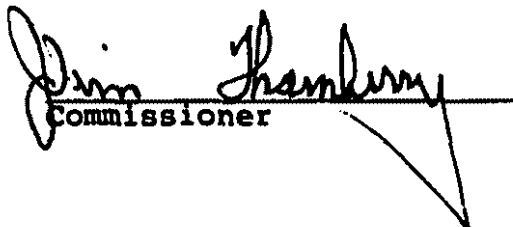
5. AmeriCall shall, within 10 days of this Order, file edited copies of the information protected by this Order from public disclosure, with the confidential material obscured for inclusion in the public record, with copies to all parties of record.

Done at Frankfort, Kentucky, this 11th day of April, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director