

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT APPLICATION OF LITEL)
TELECOMMUNICATIONS CORPORATION AND)
CHARTER NETWORK COMPANY FOR)
AUTHORITY TO ENTER INTO THE \$25) CASE NO. 90-016
MILLION REVOLVING CREDIT FACILITY,)
TO EXECUTE CROSS-GUARANTIES, AND)
FOR AUTHORITY TO EXECUTE RELATED)
DOCUMENTATION)

O R D E R

This matter arising upon joint petition of Charter Network Company ("Charter") and LiTel Telecommunications Corporation ("LiTel") filed January 24, 1990, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the pro forma income statements and balance sheets filed with the Commission on the grounds that disclosure of the information is likely to result in competitive injury, and it appearing to this Commission as follows:

Charter and LiTel have applied jointly for authority to enter into a \$25 million revolving credit facility. As part of the application, LiTel has filed three separate pro forma income statements and three separate balance sheets as exhibits to the application, and Charter has also filed an income statement and balance sheet as an exhibit to the application.

LiTel provides telecommunications services in 15 states outside this state, and Charter provides telecommunications services to several cities in four states. At least 25 other companies presently compete in whole or in part with LiTel and Charter in serving the same markets. Charter and LiTel contend that the information sought to be protected demonstrates the ability of Charter and LiTel to expand their services, acquire other carriers, and meet pricing challenges from competitors. They further contend that to the extent that this information is made public, it would enable competitors of Charter and LiTel to unfairly compete with them in pricing, offering of services, and acquiring other providers of telecommunications services. The information sought to be protected is generally not disclosed within the petitioners' businesses, and the petitioners have expended substantial sums of money in developing the information.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure is likely to cause substantial competitive injury 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.

The petition establishes that Charter and LiTel face competition from other telecommunications companies to provide

service in the areas they presently serve and to acquire existing companies that provide similar services. However, the petition does not demonstrate how the information sought to be protected would enable LiTel's and Charter's competitors to unfairly compete with them in pricing, in the offering of services, and the acquisition of other providers of telecommunications services. Therefore, Charter and LiTel have not established that disclosure of the information is likely to cause them competitive injury and the petition fails on that account.

Further, the information sought to be protected is substantially the same information that Charter and LiTel are required to file in their annual reports. Therefore, the information is available from other public records and is not entitled to protection.

This Commission being otherwise sufficiently advised,

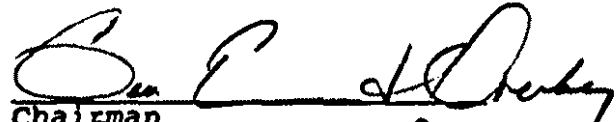
IT IS ORDERED that:


1. The petition to protect from public disclosure the pro forma income statements and balance sheets (Confidential Exhibits 11-A, 11-B, 12-A, and 12-B), the income statement and balance sheet for LiTel (Exhibits 13-A and 13-B), and the income statement and balance sheet for Charter Network Company (Exhibits 14-A and 14-B) is denied.

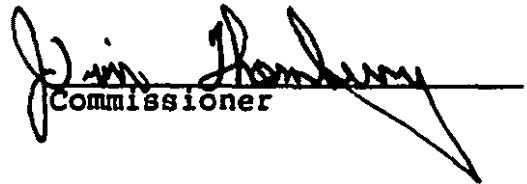
2. The information sought to be protected shall be held and retained by the Commission as confidential for a period of five working days, at the expiration of which it shall be placed in the public record.

Done at Frankfort, Kentucky, this 10th day of April, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director