

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE BILLING AND COLLECTION SERVICE            )  CASE NO.  
TARIFF FILING OF GTE SOUTH INCORPORATED    )  90-090

O R D E R

This matter arising upon petition of GTE South Incorporated ("GTE South") filed July 9, 1990, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the responses of GTE South to Item 1a of AmeriCall's data request on the grounds that public disclosure is likely to cause GTE South competitive injury, AmeriCall having filed a response objecting to the petition on July 20, 1990, and it appearing to this Commission as follows:

GTE South seeks to protect as confidential its responses to Item 1a of AmeriCall's data request. In that data request, AmeriCall asks GTE South to explain how the price points were derived in tariff section 8.1.5(a)(7) relating to rates and charges for message-billed services and to provide any cost justification. The information requested concerns GTE South's cost information segmented into detailed cost elements, including carrier-specific volumes.

The information sought to be protected is not known outside of GTE South, is not disseminated within GTE South except to those employees who have a legitimate business need to know and act upon

the information, and GTE South seeks to preserve the confidentiality of the information through all appropriate means.

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

In support of its objection to the petition, AmeriCall states that the petition fails because it does not explain how AmeriCall could be considered a competitor of GTE South in the provision of billing services for LEC subscriber accounts and because the petition does not show how disclosure of the requested information could cause competitive harm to GTE South. In addition, AmeriCall states that to grant the petition would render its participation in this docket meaningless because it would not provide AmeriCall with the information it needs to protect its interests.

To a certain extent AmeriCall misconstrues the allegations of the petition. GTE South does not allege that AmeriCall is a competitor in the provision of billing services for LEC subscriber accounts. The petition merely alleges that GTE South's competitors generally could use the information to obtain an unfair advantage. The petition, however, is deficient in that it does not identify the competitors who could use this information, nor

does it explain how such competitors could use the information to gain an advantage. Therefore, the petition cannot be granted on the basis of the allegations made therein and GTE South should be permitted to supplement its petition to provide the required proof.

Concerning the allegation that granting confidential protection will render AmeriCall's participation in this proceeding meaningless, that allegation is not relevant to the issue of whether the information is entitled to confidential protection. If the Commission rules that the information is entitled to such protection and AmeriCall believes the information is essential to protect its interest, it should seek appropriate relief under 807 KAR 5:001, Section 7(4)(a) and (b).

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

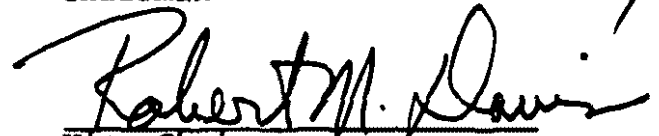
1. The petition by GTE South for confidential protection of its response to Item 1a of AmeriCall's data request shall be held in abeyance to allow GTE South to supplement its petition by identifying its competitors who would benefit from the information and describing how those competitors could use the information to gain an unfair business advantage over GTE South.

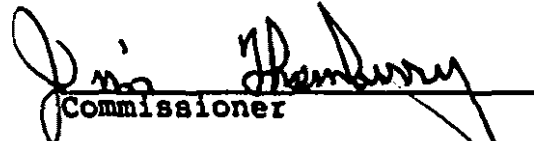
2. If such supplement is not filed within 20 days of the date of this Order, the petition for confidentiality shall, without further Orders herein, be denied.

Done at Frankfort, Kentucky, this 29th day of August, 1990.

**PUBLIC SERVICE COMMISSION**

  
Chairman

  
Vice Chairman

  
Commissioner

**ATTEST:**

  
Executive Director