

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF ONE CALL)	
COMMUNICATIONS, INC. d/b/a OPTICOM,)	
FOR A CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY TO OPERATE AS AN)	CASE NO. 90-171
INTEREXCHANGE TELECOMMUNICATIONS)	
RESALE CARRIER AND OPERATOR SERVICES)	
PROVIDER WITHIN THE STATE OF KENTUCKY)	

O R D E R

This matter arising upon petition of One Call Communications, Inc., d/b/a Opticom, a division of One Call Communications, Inc. ("Opticom"), filed June 19, 1990 pursuant to 807 KAR 5:001, Section 7, and KRS 61.878(1)(a) and (b), for confidential protection of Exhibits H and I to its application for a Certificate of Public Convenience and Necessity on the grounds that public disclosure of the information is likely to cause Opticom competitive injury, and that the information is of a personal nature where the public disclosure would constitute an unwarranted invasion of personal privacy, and it appearing to this Commission as follows:

Opticom has applied for a Certificate of Public Convenience and Necessity to operate as an interexchange telecommunications resale carrier and operator services provider. As part of its application Opticom has filed as Exhibit H an analysis of its current financial status and as Exhibit I its projected financial statements for 1990, 1991, and 1992. The information sought to be

protected is available only to a limited group of individuals, all of whom are shareholders, directors, or personal advisors of the company, and is not normally the sort of information which Opticom would disclose to the public at large.

KRS 61.878(1)(a) exempts information from public disclosure under the Kentucky Open Records Act when disclosure would constitute an unwarranted invasion of personal privacy. Opticom maintains that as a Subchapter S corporation with a limited number of shareholders, the financial information of the corporation that is found in Exhibit H is "personally intertwined" with the financial condition of the shareholders and that the potential harm to the privacy interests of the individual shareholders outweighs the interests of the general public in disclosure of the information.

The purpose of the exemption provided in KRS 61.878(1)(a) is to protect from disclosure information that relates to the intimate details of a person's private life. Though the information contained in Exhibit H provides an insight into the financial resources of the shareholders by revealing collectively some of their assets and liabilities, the schedules do not contain sufficient information about any shareholder in particular to constitute an unwarranted invasion of that shareholder's privacy. Therefore, the information is not entitled to confidential protection under this exemption.

807 KAR 5:001, Section 7, derives its authority from KRS 61.878(1)(b). That section 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.

Opticom maintains that Exhibit H, as a financial statement of the company, and Exhibit I, as a projected financial statement, evaluate the abilities of Opticom to provide service to its customers which knowledgeable competitors could use to market competing services. The information, however, is presented by Opticom in summary form and it does not contain sufficient detail to provide any benefit to Opticom competitors. Therefore no competitive harm has been established and the petition for confidential protection should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition for confidential protection of Exhibits H and I to Opticom's application for a Certificate of Public Convenience and Necessity be and it is hereby denied.


2. The information sought to be protected from disclosure 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 the public record.

Done at Frankfort, Kentucky, this 6th day of August, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director