

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE LESLIE COUNTY)	
TELEPHONE COMPANY, INC. FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE)	CASE NO. 90-225
AND NECESSITY AUTHORIZING IT TO)	
CONSTRUCT ADDITIONAL FACILITIES)	

O R D E R

This matter arising upon petition of Leslie County Telephone Company, Inc. ("Leslie County Telephone") filed February 5, 1991 and supplemented on February 25, 1991 for confidential protection of an Engineering Service Contract between American Communications Consultants, Inc. ("ACC") and Logan Telephone Cooperative, Inc. ("Logan Telephone") on the grounds that Logan Telephone has not consented to making the contract a part of the public record, and it appearing to this Commission as follows:

In its Order of November 16, 1990, the Commission requested Leslie County Telephone to provide documentation demonstrating that the amounts charged under its contract with ACC for engineering services are consistent with the amounts charged by ACC to other telephone companies. In response to that request, ACC has filed, on behalf of Leslie County Telephone, a copy of its Engineering Service Contract with Logan Telephone, and has requested that the contract be protected as confidential because Logan does not wish it to be made a part of the public record.

Kentucky statutes, however, do not permit the Commission to comply with that request.

KRS 61.872 of the Kentucky Open Records Act requires that all public records filed with a public agency be open for inspection unless specifically exempted from disclosure under the provisions of the act. As a public agency, as defined by KRS 61.870, all documentary materials filed with this Commission must be open for public inspection unless specifically exempted by KRS 61.878(1). That section exempts 10 categories of information, including certain forms of commercial information that are confidentially disclosed to the agency. To qualify for the exemption, it must be established that disclosure of the information is likely to cause competitive injury to the party from whom the information was obtained. Since the petition in this case makes no claim that disclosure of the contract between ACC and Logan Telephone will affect the competitive position of Leslie County Telephone, from whom the contract was obtained, the petition cannot be granted.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:


1. The petition to protect as confidential ACC's Engineering Service Contract with Logan Telephone be and is hereby denied.


2. The contract between Logan Telephone and ACC shall be held and retained by this Commission as confidential for a period of five working days from the date hereof, at the expiration of which, it shall be placed in the public record.


3. During the five working day period, Leslie County Telephone may, in accordance with 807 KAR 5:001, Section 7(7)(c), request the return of the contract in its entirety.

Done at Frankfort, Kentucky, this 26th day of March, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director