

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF DANBURY CELLULAR )  
TELEPHONE COMPANY FOR ISSUANCE OF A )  
CERTIFICATE OF PUBLIC CONVENIENCE )  
AND NECESSITY TO PROVIDE DOMESTIC )  
PUBLIC CELLULAR RADIO )  
TELECOMMUNICATIONS SERVICE TO THE )  
PUBLIC IN THE KENTUCKY RURAL )  
SERVICE AREA WHICH INCLUDES )  
MADISON, ROCKCASTLE, LAUREL, )  
GARRARD, BOYLE, LINCOLN, CASEY AND )  
PULASKI COUNTIES, KENTUCKY, FOR )  
APPROVAL OF FINANCING, AND FOR )  
ESTABLISHMENT OF INITIAL RATES )

CASE NO. 90-391

O R D E R

This matter arising upon petition of Danbury Cellular Telephone Company ("Danbury Cellular") filed January 22, 1991 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its construction cost estimate and pro forma income statement for 1991, and protection of details regarding construction plans and timing on the grounds that disclosure of the information is likely to cause Danbury Cellular competitive injury, and it appearing to this Commission as follows:

In this proceeding, Danbury Cellular seeks a Certificate of Public Convenience and Necessity to provide cellular radio service in the Kentucky rural service area which includes Madison, Rockcastle, Laurel, Garrard, Boyle, Lincoln, Casey and Pulaski counties. In support of its application, Danbury Cellular has filed an updated construction cost estimate and pro forma income

statement for 1991 as Confidential Exhibit 52. This exhibit contains capital costs for the proposed cellular system, including costs for cell site construction and other expenses of establishing and operating the proposed cellular system. The exhibit updates the information provided in Confidential Exhibit 8 to the application.

In addition, Danbury Cellular has filed details regarding construction plans and timing as Confidential Exhibit 53. This exhibit includes a listing of significant purchase orders and estimates of the size and timing of draws on the proposed financing.

The information sought to be protected is not known outside of Danbury Cellular and is not disclosed to Danbury Cellular's employees except on a need-to-know basis. Danbury Cellular seeks to protect the confidentiality of the information by all appropriate means.

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.

Operators of cellular telephone systems such as Danbury Cellular face competition from wireline permittees who are

authorized to provide service in the same markets. In this case, Danbury Cellular faces competition from Contel of Kentucky, Inc. and BellSouth Mobility, Inc. in the rural service area covered by its application. These competitors could use the information sought to be protected in structuring their rates and marketing their competing services. Thus, disclosure of the information is likely to cause Danbury Cellular competitive injury, and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the updated construction cost estimate and pro forma income statement for 1991 (Confidential Exhibit 52) and the details regarding construction plans and timing (Confidential Exhibit 53), which Danbury Cellular has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 11th day of February, 1991.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director