

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CONTEL CELLULAR OF)
LOUISVILLE, INC. FOR ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE AND) CASE NO.
NECESSITY TO PROVIDE DOMESTIC PUBLIC) 91-408
CELLULAR RADIO TELECOMMUNICATIONS IN)
KENTUCKY RURAL SERVICE AREA NO. 6(B1))

O R D E R

This matter arising upon petition of Contel Cellular of Louisville, Inc. ("Contel") filed November 4, 1991 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its pro forma financial statements and its loan commitment to finance construction on the grounds that public disclosure of the information is likely to cause Contel competitive injury, and it appearing to this Commission as follows:

Contel has applied for a Certificate of Public Convenience and Necessity to provide domestic public cellular telecommunications service to the public in Rural Service Area No. 6. In support of its application, Contel has attached, as Exhibit C, a copy of its loan commitment to finance the construction and operation of the cellular system and, as Exhibit D, a copy of its pro forma financial statements for its first year of operation. Contel contends that disclosure of the information contained in the exhibits is likely to cause it competitive injury and has petitioned that the information be protected as confidential.

The information sought to be protected is not generally known outside of Contel and is disclosed only to those Contel employees who have a legitimate business need to know and act upon the information.

Under 807 KAR 5:001, Section 7, information is protected 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.

The cellular telephone market is a competitive industry and Contel will have competition in the Rural Service Area in which it proposes to construct its system. Potential competitors could use the information sought to be protected to structure their rates and market their services in a manner that would preclude Contel from competing effectively for customers. Thus, the information is entitled to protection as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. Contel's loan commitment to finance construction and operation of its cellular system and its pro forma financial statements for its first year of operation, which Contel 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.

2. Contel shall, within 10 days of the date of this Order, file an edited copy of the exhibits with the confidential material obscured for inclusion in the public record, with copies to all parties of record.

Done at Frankfort, Kentucky, this 21st day of November, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:



Executive Director