

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SOUTH CENTRAL BELL TELEPHONE)
COMPANY'S PROPOSED AREA CALLING) CASE NO. 91-250
SERVICE TARIFF)

O R D E R

This matter arising upon petition of South Central Bell Telephone Company ("South Central Bell") filed January 13, 1992 for confidential protection of Exhibit 1 to its Reply Brief on the grounds that disclosure of the information is likely to cause South Central Bell competitive injury, and upon request of the Attorney General of the Commonwealth of Kentucky, by and through his Utility and Rate Intervention Division ("Attorney General"), filed January 7, 1992 that the Commission withdraw protection from disclosure of similar material filed earlier in these proceedings, and it appearing to this Commission as follows:

On December 16, 1991, South Central Bell filed its Reply Brief in these proceedings. Attached to the Reply Brief as Exhibit 1 was a table containing the revenue effect per line expected by South Central Bell from its proposed Area Calling Service tariff, generally referred to as a price-out study. Previously in these proceedings, such information had been granted confidential protection. However, when the Reply Brief was filed, South Central Bell inadvertently failed to request that the information in the exhibit be maintained as confidential and

unedited copies were served with the Reply Brief upon the Attorney General and all parties of record. By this petition, South Central Bell requests that the materials be removed from the public record and that the parties who received the information be directed to retain it as confidential.

Prior to South Central Bell filing its petition herein, the Attorney General on January 7, 1992 requested that the confidential protection of price-out studies filed earlier in these proceedings be withdrawn by the Commission. In support of this request, the Attorney General contends that the grant of confidential protection affects the way it is able to use the information and communicate its concerns to the Commission.

Under the Kentucky Open Records Act, as codified in KRS 61.870 et seq, all information filed with a public agency is required to be open for public inspection unless specifically exempted by statute. The exemptions from public inspection are provided in KRS 61.878 which permits public agencies to deny access to 10 categories of information. To qualify for this exemption, however, the information must be confidential.

When the Reply Brief was filed with the Commission with no accompanying petition for confidential protection, it was placed in the Commission's public records and thereby made available for public inspection. In addition, in accordance with Commission rules, copies were served upon all parties of record to this proceeding, at least one of whom is a public agency also subject to the provisions of the Kentucky Open Records Act. Thus, the

confidential nature of this information was lost and it could no longer qualify for protection under the Act.

The loss of confidentiality of the information contained in Exhibit 1, however, does not affect the confidential nature of similar information filed earlier in these proceedings. Therefore, such information is entitled to continued protection from disclosure.

Furthermore, the Attorney General's contention that the grant of confidential protection affects its ability to use the information is not relevant to the question of whether it is entitled to protection from public disclosure. While the confidential nature of the information could affect its discoverability, the Attorney General has not been denied the information and has not been restricted from using the information in any way it deems necessary, provided that it protects the confidentiality of the material. Therefore, the request to withdraw the confidential protection afforded the material should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:


1. The petition to protect as confidential Exhibit 1 to South Central Bell's Reply Brief be and is hereby denied.
2. The request of the Attorney General to withdraw the confidential protection granted to price-out studies earlier in these proceedings be and is hereby denied.

Done at Frankfort, Kentucky, this 24th day of February, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director