

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT APPLICATION OF DANBURY	)	
CELLULAR TELEPHONE CO. AND PETRY	)	
TELEVISION, INC. FOR APPROVAL OF	)	
THE TRANSFER OF THE JURISDICTIONAL	)	CASE NO.
ASSETS AND LIABILITIES OF PETRY	)	91-443
TELEVISION, INC. TO DANBURY	)	
CELLULAR TELEPHONE CO. AND OF	)	
RELATED FINANCING TRANSACTIONS	)	

O R D E R

This matter arising upon petition of Danbury Cellular Telephone Co. ("Danbury Cellular") and Petry Television, Inc. ("Petry Television") filed November 27, 1991 pursuant to 807 KAR 5:001, Section 7, and KRS 61.878(1)(b), for confidential protection of the Purchase Agreement between Danbury Cellular and Petry Television (Exhibit 1); the pro forma balance sheet reflecting the status of the RSA 8 System immediately after its transfer and two-year cash flow projection for the RSA 8 System (Exhibit 2); and the Commitment Letter between Central Trust Company and Danbury Cellular (Exhibit 3), which outlines the terms and conditions of the transfer financing, and it appearing to this Commission as follows:

Danbury Cellular and Petry Television have applied to the Commission for approval of the transfer of the jurisdictional assets and liabilities of Petry Television to Danbury Cellular. In support of the application, Danbury Cellular and Petry

Television have filed the Purchase Agreement dated June 18, 1991, which contains the terms and conditions of the transfer; the pro forma balance sheet reflecting the status of the RSA 8 System immediately after the transfer and two-year cash flow projection for the RSA 8 System; and the Commitment Letter between Central Trust Company and Danbury Cellular, which outlines the terms and conditions of the transfer financing, including the principal amount of the loan and all other terms and conditions of the Commitment Letter not set forth in the application. Danbury Cellular and Petry Television contend that disclosure of the information is likely to cause competitive injury and have petitioned that the information be protected as confidential.

The information sought to be protected is not generally known outside of the businesses of either Danbury Cellular or Petry Television and known only by their employees who have a legitimate business need to know the information. Both parties have sought to preserve and protect the confidentiality of the information by all appropriate means.

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 Danbury Cellular will have competition in the rural service area which it seeks to acquire from Petry Television. The information sought to be protected would disclose to Danbury Cellular's competitors information which would assist them in determining the rates which Danbury Cellular must charge for its service after the transfer in order to break even and would thereby allow those competitors to undercut Danbury Cellular's rates in the marketplace. Thus, disclosure of the information is likely to cause Danbury Cellular competitive injury and the information is entitled to protection as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:


1. The Purchase Agreement between Danbury Cellular and Petry Television dated June 18, 1991 (Exhibit 1); the pro forma balance sheet reflecting status of the RSA 8 System immediately after the transfer and two-year cash flow projection for the RSA 8 System (Exhibit 2); and the Commitment Letter between Central Trust Company and Danbury, which outlines the terms and conditions of the transfer financing, including the principal amount of the loan and all other terms and conditions of the Commitment Letter not set forth in the application (Exhibit 3), which Danbury Cellular and Petry Television have 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. Danbury Cellular and Petry Television shall, within 10 days of the date of this Order, file an edited copy of the

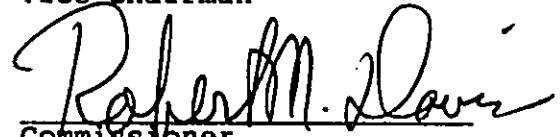
exhibits with the confidential material obscured for inclusion in the public record, with copies to any parties of record.

Done at Frankfort, Kentucky, this 9th day of January, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director